WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED

HOUSE BILL No. 4716

(By Delegate Manuel and Stater)

Passed March 7, 1992
In Effect Ninety Days From Passage
ENROLLED

H. B. 4716

(By Delegates Manuel and Staton)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, one-a, two, three, four, five, six, seven, seven-b, seven-c, eight, nine, ten, eleven, twelve, thirteen, fourteen and fifteen, article two, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three-a, article three of said chapter seventeen-b; to amend and reenact section five, article two-a, chapter seventeen-d; and to amend and reenact sections twelve and fourteen, article one, chapter seventeen-e of said code, all relating to driver's licenses generally; classification of driver's licenses; nonoperator identification cards and fees therefor; surrender of driver's licenses issued by other states; removal of lawful authority to retain certain commercial driver's licenses issued by another state; persons exempt from requirement of driver's license; persons to whom the issuance of driver's licenses are prohibited and exceptions; persons prohibited from driving school buses or transporting persons or property for compensation; instruction permits; applications; examinations and legislative rules therefor; motorcycle examinations and endorsements; window for receiving motorcycle endorsement without examination; motorcycle license examination fund; issuance and contents of driver's licenses and fees therefor; removal of requirement that division of motor vehicles mark reissued driver's licenses with information of prior suspensions; requirement that
driver's licenses be in the immediate possession of operator of motor vehicle and that the same be displayed upon demand; restricted licenses; duplicate permits and licenses; expiration of driver's licenses; renewals of driver's licenses and fees therefor; notice of change of name or address; records to be kept by the division of motor vehicles; removal of requirement that the division of motor vehicles file all accident reports; legislative rules necessary to implement certain provisions of chapter; suspension of driver's licenses for failure to pay municipal or magistrate court fines or costs; cancellations of insurance policy; suspension of registration; minimum policy term; classifications of commercial driver's licenses and endorsements or restrictions thereon; and criminal penalties for persons who, having been issued a commercial driver's license, operate a commercial motor vehicle while having any measurable alcohol in such person's system or while having an alcohol concentration of blood, breath or urine of four hundredths, or who refuse to take a breath test.

Be it enacted by the Legislature of West Virginia:

That sections one, one-a, two, three, four, five, six, seven, seven-b, seven-c, eight, nine, ten, eleven, twelve, thirteen, fourteen and fifteen, article two, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three-a, article three of said chapter seventeen-b be amended and reenacted; that section five, article two-a, chapter seventeen-d be amended and reenacted; and that sections twelve and fourteen, article one, chapter seventeen-e of said code be amended and reenacted, all to read as follows:

CHAPTER 17B.
MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

1 (a) No person, except those hereinafter expressly
exempted, may drive any motor vehicle upon a street or
highway in this state or upon any subdivision street, as
used in article twenty-four, chapter eight of this code,
when the use of such subdivision street is generally used
by the public unless the person has a valid driver's
license under the provisions of this code for the type or
class of vehicle being driven.

Any person licensed to operate a motor vehicle as
provided in this code may exercise the privilege thereby
granted as provided in this code and, except as other-
wise provided by law, shall not be required to obtain any
other license to exercise such privilege by any county,
municipality or local board or body having authority to
adopt local police regulations.

(b) The division, upon issuing a driver's license shall
indicate on the license the type or general class or
classes of vehicle or vehicles the licensee may operate
in accordance with the provisions of this code, federal
law or rule.

(c) Driver's licenses issued by the division shall be
classified in the following manner:

(1) Class A, B, or C license shall be issued to those
persons eighteen years of age or older with two years
driving experience and who have qualified for the
commercial driver's license established by chapter
seventeen-e of this code and the federal commercial
motor vehicle safety act of 1986, Title XII of public law
99870 and subsequent rules, and have paid the required
fee.

(2) Class D license shall be issued to those persons
eighteen years and older with one year driving expe-
rience who operate motor vehicles other than those types
of vehicles which require the operator to be licensed
under the provisions of chapter seventeen-e of this code
and federal law and rule for the transportation of
persons or property for compensation and have paid the
required fee. For the purposes of the regulation of the
operation of a motor vehicle, wherever the term
chauffeur's license is used in this code, it shall be
construed to mean the Class A, B, C or D license
described in this section or chapter seventeen-e of this code or federal law or rule.

(3) Class E license shall be issued to those persons who have qualified under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license and who have paid the required fee. The Class E license may be endorsed under the provisions of section seven-b, article two of this chapter for motorcycle operation.

(4) Class F license shall be issued to those persons who successfully complete the motorcycle examination procedure provided for by this chapter and have paid the required fee, but who do not possess a Class A, B, C and D or E driver's license.

(d) No person, except those hereinafter expressly exempted, shall drive any motorcycle upon a street or highway in this state or upon any subdivision street, as used in article twenty-four, chapter eight, when the use of such subdivision street is generally used by the public unless the person has a valid motorcycle license or a valid license which has been endorsed under section seven-b, article two of this chapter for motorcycle operation or has a valid motorcycle instruction permit.

(e)(1) A nonoperator identification card may be issued to any person who:

(A) Is a resident of this state in accordance with the provisions of section one-a, article three, chapter seventeen-a of this code;

(B) Does not have a valid driver's license;

(C) Has reached the age of sixteen years;

(D) Has paid the required fee of ten dollars: Provided, That such fee is not required if the applicant is sixty-five years or older or is legally blind; and

(E) Presents a birth certificate or other proof of age and identity acceptable to the division with a completed application on a form furnished by the division.

(2) The nondriver identification card shall contain the
same information as a driver's license, except that such
identification card shall be clearly marked as identifi-
cation card. The identification card shall expire every
four years. It may be renewed on application and
payment of the fee required by this section.

(3) The identification card shall be surrendered to the
division when the holder is issued a driver's license. The
division may issue an identification card to an applicant
whose privilege to operate a motor vehicle has been
refused, cancelled, suspended or revoked under the
provisions of this code.

§17B-2-1a. Surrender of license from other state or
jurisdiction prior to receipt of license from
this state; examination; fees required.

The division of motor vehicles shall not issue a driver's
license to a person who holds a valid license to operate
a motor vehicle issued by another state or jurisdiction
unless or until the applicant shall surrender to the
division the foreign license, or such person has signed
and submitted to the division an affidavit to the effect
that such person has surrendered all valid licenses
issued to him or her by other states or jurisdictions. Any
surrendered license issued by any other state or
jurisdiction shall be returned to the department of
motor vehicles or similar agency in that state or
jurisdiction together with a notice that the person who
surrendered the license has been licensed in this state.
It shall be unlawful for a person to possess more than
one valid driver's license at any time. All other
applicable provisions of this article relating to issuance,
fees, expiration and renewal of licenses, and driver
examination of applicants shall also apply to this section.

§17B-2-2. Persons exempt from license.

The following persons are exempt from license
hereunder:

(1) Any person while operating a motor vehicle in the
armed services of the United States while in the
performance of his official duties;

(2) A nonresident who is at least sixteen years of age
and who has in his immediate possession a valid driver's license issued to such person in such person's home state or country may operate a motor vehicle in this state only as an operator for a period not to exceed ninety days in any one calendar year;

(3) A nonresident who is at least sixteen years of age, who has in such person's immediate possession a valid driver's license issued to such person in such person's home state or country and who is employed in this state, or owns, maintains or operates a place or places of business in this state, or engages in any trade, profession or occupation in this state, in addition to the driving privileges extended under subdivision (2) of this section, may operate a motor vehicle in this state only as an operator in traveling to and from such person's place or places of employment, place or places of business or place or places at which such person engages in such trade, profession or occupation and in the discharge of the duties of such person's employment, business, trade, profession or occupation if such duties are such that, if performed by a resident of the state of West Virginia over the age of eighteen years of age, such resident would not be required under the provisions of this chapter to obtain a Class A, B, C or D driver's license;

(4) A nonresident who is at least eighteen years of age and who has in such person's immediate possession a valid commercial driver's license issued to such person in such person's home state or country may operate a motor vehicle in this state either as a commercial operator subject to the age limits applicable to commercial operators in this state, or as an operator subject to the limitations imposed on nonresident operators in subdivisions (2) and (3) of this section;

(5) Any person who is a student, properly enrolled and registered in an accredited school, college or university in this state, who is at least sixteen years of age and who has in such person's immediate possession a valid driver's license issued to such person in such person's home state, notwithstanding the limitations of subdivisions (2) and (3) of this section may operate a motor vehicle in this state only as an operator: Provided, That
the state of which such person is a resident shall extend
the same privileges to residents of this state. This
exemption shall be cancelled immediately when such
student is graduated from school, college or university
or is expelled or ceases to be a student.

§17B-2-3. What persons shall not be licensed; exceptions.

The division shall not issue any license hereunder:

(1) To any person, as an operator, who is under the
age of eighteen years: Provided, That under rules and
regulations to be established by the commissioner and
in accordance with the provisions hereinafter set forth
in this subdivision (1), a junior driver's license may be
issued to any person between the ages of sixteen and
eighteen years, who complies with section eleven, article
eight, chapter eighteen of this code and is not otherwise
disqualified by law, upon application therefor on a form
prescribed by the commissioner and successful comple-
tion of all examinations and driving tests required by
law for the issuance of a driver's license to a person
eighteen years of age or older. The commissioner may
impose reasonable conditions or restrictions on the
operation of a motor vehicle by a person holding such
junior driver's license, which conditions or restrictions
shall be printed on each such license. In addition to all
other provisions of this chapter for which a driver's
license may be revoked, suspended or cancelled, when-
ever a person holding such a junior driver's license (A)
does not comply with the provisions of section eleven,
article eight, chapter eighteen of this code, (B) operates
a motor vehicle in violation of the conditions or
restrictions set forth on such license, or (C) has a record
of two convictions for moving violations of the traffic
regulations and laws of the road, which convictions have
become final, the junior driver's license of such person
shall be permanently revoked, with like effect as if such
person had never held a junior driver's license: Pro-
vided, That a junior driver's license shall be suspended
for noncompliance with the provisions of section eleven,
article eight, chapter eighteen of this code, and may be
reinstated upon compliance: Provided, however, That
such junior driver's license shall be revoked upon one
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36 final conviction for any offense specified in section five, 37 article three of this chapter. Under no circumstances 38 shall such a license be revoked for convictions of offenses 39 in violation of any regulation or law governing the 40 standing or parking of motor vehicles. A person whose 41 junior driver’s license has been revoked shall not 42 thereafter receive a junior driver’s license, but such 43 person, upon attaining the age of eighteen, shall be 44 eligible, unless otherwise disqualified by law, for 45 examination and driver testing for a regular driver’s 46 license. No person shall receive a junior driver’s license 47 unless the application therefor is accompanied by a 48 writing, duly acknowledged, consenting to the issuance 49 of such junior driver’s license and executed by the 50 parents of the applicant; or if only one parent is living, 51 then by such parent; or if the parents be living separate 52 and apart, by the one to whom the custody of the 53 applicant was awarded; or if there is a guardian entitled 54 to the custody of the applicant, then by such guardian. 55 Upon attaining the age of eighteen years, a person 56 holding an unrevoked junior driver’s license shall, upon 57 payment of the prescribed fee, be entitled to receive a 58 regular driver’s license without further examination or 59 driver testing.

60 (2) To any person, as a Class A, B, C or D driver, who 61 is under the age of eighteen years;

62 (3) To any person, whose license has been suspended, 63 during such suspension, nor to any person whose license 64 (other than a junior driver’s license) has been revoked, 65 except as provided in section eight, article three of this 66 chapter;

67 (4) To any person who is an habitual drunkard or is 68 addicted to the use of narcotic drugs;

69 (5) To any person, as an operator or chauffeur, who 70 has previously been adjudged to be afflicted with or 71 suffering from any mental disability or disease and who 72 has not at the time of application been restored to 73 competency by judicial decree or released from a 74 hospital for the mentally incompetent upon the certif- 75 icate of the superintendent of such institution that such
person is competent, and not then unless the commis-
ioner is satisfied that such person is competent to
operate a motor vehicle with a sufficient degree of care
for the safety of persons or property;

(6) To any person who is required by this chapter to
take an examination, unless such person shall have
successfully passed such examination;

(7) To any person when the commissioner has good
cause to believe that the operation of a motor vehicle on
the highways by such person would be inimical to public
safety or welfare.

§17B-2-4. Persons prohibited from driving school buses
or transporting persons or property for
compensation.

No person who is under the age of eighteen years and
no person who has been convicted of an offense des-
cribed in section two, article five, chapter seventeen-c
of this code, and which conviction has become final shall
drive any school bus transporting school children or any
motor vehicle when in use for the transportation of
persons or property for compensation nor in either event
until such person has been licensed as a Class A, B, C
or D driver for either such purpose and the license so
indicates.

§17B-2-5. Qualifications, issuance and fee for instruction
permits.

Any person who is at least fifteen years of age may
apply to the division for an instruction permit. The
division may, in its discretion, after the applicant has
appeared before the department of public safety and
successfully passed all parts of the examination other
than the driving test and presented documentation of
compliance with the provisions of section eleven, article
eight, chapter eighteen of this code, issue to the
applicant an instruction permit which shall entitle the
applicant while having such permit in such person's
immediate possession to drive a motor vehicle upon the
public highways when accompanied by a licensed driver
of at least twenty-one years of age or a driver's education
or driving school instructor that is acting in an official
capacity as an instructor, who is occupying a seat beside
the driver, except in the event the permittee is operating
a motorcycle, but in no event shall the permittee be
allowed to operate a motorcycle upon a public highway
until reaching sixteen years of age. Any such instruction
permit issued to a person under the age of sixteen years
shall expire sixty days after the permittee reaches
sixteen years of age: Provided, That only permittees who
have reached their sixteenth birthday are eligible to
take the driving examination as provided in section six
of this article. The instruction permit may be renewed
for one additional period of sixty days. Any such permit
issued to a person who has reached the age of sixteen
years shall be valid for a period of sixty days and may
be renewed for an additional period of sixty days or a
new permit issued. The fee for such instruction permit
shall be four dollars, one dollar of which shall be paid
into the state treasury and credited to the state road
fund, and the other three dollars of which shall be paid
into the state treasury and credited to the general fund
to be appropriated to the department of public safety for
application in the enforcement of the road law.

Any person sixteen years of age or older may apply
to the division for a motorcycle instruction permit. The
division of motor vehicles may, in its discretion, after the
applicant has appeared before the division of public
safety and successfully passed all parts of the motorcycle
examination other than the driving test, and presented
documentation of compliance with the provisions of
section eleven, article eight, chapter eighteen of this
code, issue to the applicant an instruction permit which
entitles the applicant while having such permit in such
person's immediate possession to drive a motorcycle
upon the public streets or highways for a period of sixty
days, during the daylight hours between sunrise and
sunset only. No holder of a motorcycle instruction
permit shall operate a motorcycle while carrying any
passenger on the vehicle. A motorcycle instruction
permit is not renewable, but a qualified applicant may
apply for a new permit. The fee for a motorcycle
instruction permit shall be five dollars, which shall be
paid into a special fund in the state treasury known as
the motorcycle license examination fund as established
in section seven-c, article two of this chapter.

§17B-2-6. Application for license or instruction permit;
fee to accompany application.

Every application for an instruction permit or for a
driver's license shall be made upon a form furnished by
the division. Every application shall be accompanied by
the proper fee and payment of such fee shall entitle the
applicant to not more than three attempts to pass the
examination within a period of sixty days from the date
of application, except that no applicant may be exam-
ined twice within a period of one week.

Every said application shall state the full name, date
of birth, sex, and residence address of the applicant, and
briefly describe the applicant, and shall state whether
the applicant has theretofore been a licensed driver,
and, if so, when and by what state or country, and
whether any such license has ever been suspended or
revoked within the five years next preceding the date
of application, or whether an application has ever been
refused, and, if so, the date of and reason for such
suspension, revocation or refusal, and such other
pertinent information as the commissioner may require.

§17B-2-7. Examination of applicants.

(a) Upon the presentment by the applicant under the
age of eighteen years of the applicant's birth certificate,
or a certified copy thereof, as evidence that the applicant
is of lawful age, the division of public safety shall
examine every applicant for a license to operate a motor
vehicle in this state, except as otherwise provided in this
section. Such examination shall include a test of the
applicant's eyesight, the applicant's ability to read and
understand highway signs regulating, warning, and
directing traffic, the applicant's knowledge of the traffic
laws of this state, and the applicant's knowledge of the
effects of alcohol upon persons and the dangers of
driving a motor vehicle under the influence of alcohol,
and shall include an actual demonstration of ability to
exercise ordinary and reasonable control in the opera-
tion of a motor vehicle, and such further physical and
mental examination as the division of motor vehicles and
the division of public safety deems necessary to deter-
mine the applicant's fitness to operate a motor vehicle
safely upon the highways.

(b) The commissioner and superintendent of public
safety shall promulgate legislative rules in accordance
with the provisions of chapter twenty-nine-a of this code
concerning the examination of applicants for licenses
and the qualifications required of such applicants, and
the examination of such applicants by the division of
public safety shall be in accordance with such rules.
Such rules shall provide for the viewing of educational
material or films on the effects of alcohol upon persons
and the dangers of driving a motor vehicle while under
the influence of alcohol.

§ 7B-2-7b. Separate examination and endorsement for a
license valid for operation of motorcycle.

The division of public safety shall administer a
separate motorcycle examination for applicants for a
license valid for operation of a motorcycle. Any appli-
cant for a license valid for operation of a motorcycle
shall be required to successfully complete the motorcy-
CLE examination, which shall be in addition to the
examination administered pursuant to section seven of
this article: Provided, That the commissioner of motor
vehicles may exempt an applicant for a motorcycle
driver license or endorsement from all or part of the
motorcycle license examination as provided in section
six, article one-d of this chapter. The motorcycle
examination shall test the applicant's knowledge of the
operation of a motorcycle and of any traffic laws
specifically relating thereto and shall include an actual
demonstration of the ability to exercise ordinary and
reasonable control in the operation of a motorcycle. An
applicant for a license valid for the operation of only a
motorcycle shall be tested as provided in this section and
in section seven of this article, but need not demonstrate
actual driving ability in any vehicle other than a
motorcycle. The examination provided in this section
shall not be made a condition upon the renewal of the
For an applicant who successfully completes the motorcycle examination, upon payment of the required fee, the division shall issue a motorcycle endorsement on the driver's license of the applicant, or shall issue a special motorcycle-only license if the applicant does not possess a driver's license.

Any person who already holds a valid driver's license on or before the first day of April, one thousand nine hundred ninety-two, upon application and payment of the required fee to the division of motor vehicles at any time between the first day of April, one thousand nine hundred ninety-two, and the thirtieth day of June, one thousand nine hundred ninety-two, may be issued a motorcycle endorsement without being required to take the examination specified in this section. On or after the first day of July, one thousand nine hundred ninety-two, every person, including those holding valid driver's license, shall be required to take the examination specified in this section to obtain a motorcycle license or endorsement.

§17B-2-7c. Motorcycle license examination fund.

There is hereby created a special revolving fund in the state treasury which shall be designated as the "motorcycle license examination fund". The fund shall consist of all moneys received from fees collected for motorcycle instruction permits under this article and any other moneys specifically allocated to the fund. The fund shall not be treated by the auditor or treasurer as part of the general revenue of the state. The fund shall be a special revolving fund to be used and paid out upon order of the superintendent of public safety solely for the purposes specified in this article.

The fund shall be used by the division of public safety to defray the costs of implementing and administering a special motorcycle license examination, including a motorcycle driving test.

§17B-2-8. Issuance and contents of licenses; fees.

(1) The division shall, upon payment of the required
fee, issue to every applicant qualifying therefor a
driver's license, which shall indicate the type or general
class or classes of vehicle or vehicles the licensee may
operate in accordance with this chapter, or chapter
seventeen-e of this code, or motorcycle-only license. Each
license shall contain a coded number assigned to the
licensee, the full name, date of birth, residence address,
a brief description and a color photograph of the licensee
and either a facsimile of the signature of the licensee
or a space upon which the signature of the licensee shall
be written with pen and ink immediately upon receipt
of the license. No license shall be valid until it has been
so signed by the licensee: Provided, That the commis-
sioner may issue a valid without-photo license for
applicants temporarily out of state. A driver's license
which is valid for operation of a motorcycle shall contain
a motorcycle endorsement. The division shall use such
process or processes in the issuance of licenses that will,
insofar as possible, prevent any alteration, counterfei-
ting, duplication, reproduction, forging or modification
of, or the superimposition of a photograph on, such
license.

(2) The fee for the issuance of a Class E driver's
license shall be ten dollars and fifty cents. The fee for
issuance of a Class D driver's license shall be twenty-
five dollars and fifty cents. Fifty cents of each such fee
shall be deposited in the "combined voter registration
and driver's licensing fund", established pursuant to the
provisions of section twenty-two-a, article two, chapter
three of this code. The one-time only additional fee for
adding a motorcycle endorsement to a driver's license
shall be five dollars. The fee for issuance of a motorcy-
cle-only license shall be ten dollars. The fees for the
motorcycle endorsement or motorcycle-only license shall
be paid into a special fund in the state treasury known
as the motorcycle safety fund as established in section
seven, article one-d of this chapter.

§17B-2-9. License to be carried and exhibited on demand.
Every licensee shall have his or her driver's license
in such person's immediate possession at all times when
operating a motor vehicle and shall display the same,
upon demand of a magistrate, municipal judge, circuit
court judge, peace officer, or an employee of the division.
However, no person charged with violating this section
shall be convicted if such person produces in court or
the office of the arresting officer a driver's license
theretofore issued to such person and valid at the time
of such person's arrest.

§17B-2-10. Restricted licenses.

The division upon issuing a driver's license shall have
authority whenever good cause appears to impose
restrictions suitable to the licensee's driving ability with
respect to the type of or special mechanical control
devices required on a motor vehicle which the licensee
may operate or such other restrictions applicable to the
licensee as the division may determine to be appropriate
to assure the safe operation of a motor vehicle by the
licensee.

The division may either issue a special restricted
license or may set forth such restrictions upon the usual
license form.

The division may upon receiving satisfactory evidence
of any violation of the restrictions of such license
suspend or revoke the same but the licensee shall be
entitled to a hearing as upon a suspension or revocation
under this chapter.

It is a misdemeanor for any person to operate a motor
vehicle in any manner in violation of the restrictions
imposed in a restricted license issued to such person.

§17B-2-11. Duplicate permits and licenses.

In the event that an instruction permit or driver's
license issued under the provisions of this chapter is lost
or destroyed, the person to whom such permit or license
was issued may upon making proper application and
upon payment of a fee of five dollars obtain a duplicate
thereof upon furnishing proof satisfactory to the division
that such permit or license has been lost or destroyed.

§17B-2-12. Expiration of licenses; renewal; renewal fees.

(a) Every driver's license shall expire four years from
2 the date of its issuance, except that the driver's license
3 of any person in the armed forces shall be extended for
4 a period of six months from the date the person is
5 separated under honorable circumstances from active
6 duty in the armed forces.

(b) A person who allows such person's driver's license
8 to expire may apply to the division for renewal thereof.
9 Application shall be made upon a form furnished by the
10 division and shall be accompanied by payment of the fee
11 required by section eight of this article plus an
12 additional fee of five dollars. The commissioner shall
13 determine whether such person qualifies for a renewed
14 license and may, in the commissioner's discretion, renew
15 any expired license without examination of the
16 applicant.

(c) Each renewal of a driver's license shall contain a
18 new color photograph of the licensee. By first class mail
19 to the address last known to the division, the commis-
20 sioner shall notify each person who holds a valid driver
21 license of the expiration date of the license. The notice
22 shall be mailed at least thirty days prior to the
23 expiration date of the license and shall include a
24 renewal application form.

§17B-2-13. Notice of change of address or name.

1 Whenever any person after applying for or receiving
2 a driver's license moves from the address named in such
3 application or in the license issued to such person, or
4 when the name of a licensee is changed by marriage or
5 otherwise, such person shall within twenty days thereaf-
6 ter notify the division in writing of the old and new
7 addresses or of such former and new names and of the
8 number of any license then held by such person on the
9 forms prescribed by the division.

§17B-2-14. Records and indexes to be kept by the
division.

1 The division shall file every application for a license
2 received by it and shall maintain suitable indexes
3 containing, in alphabetical order:

4 (1) All applications denied and on each a notation of
the reasons for such denial;
(2) All applications granted; and
(3) The name of every licensee whose license has been suspended or revoked by the division and after each such name a notation of the reasons for such action.

The division shall also file all abstracts of court records of convictions received by it under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee shall be readily ascertainable and available for the consideration of the division upon any application for renewal of license and at other suitable times.

§17B-2-15. Authority for regulations.

(a) The commissioner of the division of motor vehicles is authorized to promulgate such legislative rules as are necessary to carry out the license and endorsement provisions of this chapter and the provisions regarding motor vehicle registration in accordance with the provisions of chapter twenty-nine-a of this code.

(b) The superintendent of the division of public safety is authorized to promulgate such legislative rules as are necessary to carry out the provisions relating to the issuance of an instruction permit and conducting the license qualifying examinations provided for in this chapter in accordance with the provisions of chapter twenty-nine-a of this code.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal court.

The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a magistrate court or municipal court of this state, pursuant to subsection (b), section two-a, article three,
chapter fifty or subsection (b), section two-a, article ten, chapter eight of this code, that such person has defaulted on the payment of costs, fines, forfeitures or penalties, which were imposed on the person by the magistrate court or municipal court upon conviction of any motor vehicle violation, after ninety days following such conviction, or that such person has failed to appear in court when charged with a motor vehicle violation. For the purposes of this section, section two-a, article three, chapter fifty and section two-a, article ten, chapter eight, "motor vehicle violation" shall be defined as any violation designated in chapter seventeen-a, seventeen-b, seventeen-c, seventeen-d or seventeen-e of this code, or the violation of any municipal ordinance relating to the operation of a motor vehicle for which the violation thereof would result in a fine or penalty: Provided, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a motor vehicle violation for the purposes of this section, section two-a, article three, chapter fifty or section two-a, article ten, chapter eight of this code.

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.

§17D-2A-5. Cancellation of insurance policy; suspension of registration; minimum policy term.

(a) An insurance company shall provide the division of motor vehicles with a cancellation notice within ten days of the effective date of cancellation whenever the company issues or causes to be issued a cancellation under the provisions of subsections (b) through (e), section one, article six-a, chapter thirty-three of this code. Unless the division of motor vehicles by legislative rule allows for an alternative to suspension, the division shall then suspend the driver license of the owner of such vehicle for a period of thirty days and shall suspend the motor vehicle registration until proof of insurance is presented to the division. If, within the thirty-day period a license or registration is suspended, the owner
shows proof of insurance, the owner's license and registration shall be immediately removed from suspension. If a license or registration is not suspended as result of the cancellation of insurance, the owner of the motor vehicle shall submit a statement under penalty of false swearing, that the cancellation will not result in the operation of an uninsured motor vehicle upon the highways of this state, and this verification shall be sent to the commissioner within twenty days of the notice of cancellation.

(b) On or before the fifteenth day of January, one thousand nine hundred eighty-five, the commissioner of motor vehicles shall report to the Legislature upon proceedings pursuant to this section. The report shall include the total number of statements selected for verification as required by section three, article three, chapter seventeen-a, the total number of notices received from insurers, the total number of notices of pending suspensions issued and the total number of cases in which cancellation was found to have resulted in a lapse of coverage upon a vehicle operated upon the highways of this state during the prior year.

(c) No policy of motor vehicle liability insurance issued or delivered for issuance in this state shall be contracted for a period of less than ninety days: Provided, That the insurance commissioner may establish exceptions thereto by rules and regulations to chapter twenty-nine-a.

CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-12. Classifications, endorsements and restrictions.

Commercial driver's licenses may be issued, with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles and vehicles which require an endorsement, unless the proper endorsement appears on the license:
(1) **Classifications:**

(A) **Class A** - Any combination of vehicles with a gross combined vehicle weight rating of twenty-six thousand one pounds or more, provided the gross vehicle weight rating of the vehicle(s) being towed is in excess of ten thousand pounds.

(B) **Class B** - Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, and any such vehicle towing a vehicle not in excess of ten thousand pounds.

(C) **Class C** - Any single vehicle or combination vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds comprising:

(i) Vehicles designed to transport sixteen or more passengers, including the driver; and

(ii) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 C.F.R., part 172, sub-part F.

(2) **Endorsements and restrictions:**

The commissioner upon issuing a commercial driver's license shall have the authority to impose such endorsements or restrictions as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle, and to comply with the Federal Motor Vehicle Act of 1986 and Federal Rules implementing such act.

(3) **Applicant record check.** — Before issuing a commercial driver's license, the commissioner must obtain driving record information through the commercial driver's license information system, the national driver register and from each state in which the person has been commercially licensed.

(4) **Notification of license issuance** — Within ten days after issuing a commercial driver's license, the commissioner shall notify the commercial driver's license information system of that fact, providing all informa-
tion required to ensure identification of the person.

(5) **Expiration of license.** — The commercial driver's license shall expire four years from date of issuance.

Commercial driver's licenses held by any person in the armed forces which expire while that person is on active duty shall remain valid for thirty days from the date on which that person reestablishes residence in West Virginia.

Any person applying to renew a commercial driver's license which has been expired for two years or more must follow the procedures for an initial issuance of a commercial driver's license, including the testing provisions.

(6) **License renewal procedures.** — When applying for renewal of a commercial driver's license, the applicant must complete the application form, and provide updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

§17E-1-14. **Commercial drivers prohibited from operating with any alcohol in system; driving with blood alcohol concentration of .04 or more; refusal of preliminary breath test to determine alcohol content of blood; criminal penalties.**

(a) In addition to any other penalties provided by this code, any person who:

(1) Drives, operates or is in physical control of a commercial motor vehicle while having any measurable alcohol in his or her system; or

(2) Drives, operates, or is in physical control of a commercial motor vehicle while having an alcohol concentration of his or her blood, breath or urine of four hundredths of one percent or more, by weight; or

(b) Upon conviction of an offense described in subsection (a) of this section:
(1) For a violation of subdivision (1) thereof, such person shall be fined not more than one hundred dollars; for a second offense of subdivision (1) thereof, such person shall be fined not less than one hundred dollars nor more than three hundred dollars or confined in the county jail for a period not to exceed thirty days, and, for a third or any subsequent offense, shall be fined not less than five hundred dollars nor more than one thousand dollars and shall be confined in the county jail for a period of time of not less than twenty-four hours and not more than thirty days.

(2) For a violation of subdivision (2) thereof, such person shall be imprisoned in the county jail for not less than twenty-four hours nor more than six months and shall be fined not less than one hundred dollars nor more than five hundred dollars. A person violating the provisions of subdivision (2) thereof shall be, for the second or any subsequent offense, guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail for a period of not less than six months nor more than one year, and the court may, in its discretion, impose a fine of not less than one thousand dollars.

(c) A person who violates the provisions of subdivision (2), subsection (a) of this section shall be taken immediately before a magistrate or court within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense.

(d) In addition to any other penalties provided by this code, a person who drives, operates or is in physical control of a commercial motor vehicle having any measurable alcohol in such person's system or who refuses to take a preliminary breath test to determine such person's blood alcohol content as provided by section fifteen of this article must be placed out of service for twenty-four hours.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April, 1992.

Governor
PRESENTED TO THE
GOVERNOR.

Date 3/30/92
Time 2:14:57 PM