

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED

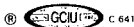
HOUSE BILL No. 4716

(By Delegate & Manuel and Stator)



Passed March 7 1992

In Effect Ninety Days From Passage



OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1992 APR - 1 PM 4: 41

RECEIVED

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 ^{of one percent or more} 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

2 exempted, may drive any motor vehicle upon a street or
3 highway in this state or upon any subdivision street, as
4 used in article twenty-four, chapter eight of this code,
5 when the use of such subdivision street is generally used
6 by the public unless the person has a valid driver's
7 license under the provisions of this code for the type or
8 class of vehicle being driven.

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

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

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

23 (1) Class A, B, or C license shall be issued to those
24 persons eighteen years of age or older with two years
25 driving experience and who have qualified for the
26 commercial driver's license established by chapter
27 seventeen-e of this code and the federal commercial
28 motor vehicle safety act of 1986, Title XII of public law
29 99870 and subsequent rules, and have paid the required
30 fee.

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

42 described in this section or chapter seventeen-e of this
43 code or federal law or rule.

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

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

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

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

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

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

71 (C) Has reached the age of sixteen years;

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

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

78 (2) The nondriver identification card shall contain the

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

84 (3) The identification card shall be surrendered to the
85 division when the holder is issued a driver's license. The
86 division may issue an identification card to an applicant
87 whose privilege to operate a motor vehicle has been
88 refused, cancelled, suspended or revoked under the
89 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.**

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

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

1 The following persons are exempt from license
2 hereunder:

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

6 (2) A nonresident who is at least sixteen years of age

7 and who has in his immediate possession a valid driver's
8 license issued to such person in such person's home state
9 or country may operate a motor vehicle in this state only
10 as an operator for a period not to exceed ninety days in
11 any one calendar year;

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

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

40 (5) Any person who is a student, properly enrolled and
41 registered in an accredited school, college or university
42 in this state, who is at least sixteen years of age and who
43 has in such person's immediate possession a valid
44 driver's license issued to such person in such person's
45 home state, notwithstanding the limitations of subdivi-
46 sions (2) and (3) of this section may operate a motor
47 vehicle in this state only as an operator: *Provided, That*

48 the state of which such person is a resident shall extend
49 the same privileges to residents of this state. This
50 exemption shall be cancelled immediately when such
51 student is graduated from school, college or university
52 or is expelled or ceases to be a student.

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

1 The division shall not issue any license hereunder:

2 (1) To any person, as an operator, who is under the
3 age of eighteen years: *Provided*, That under rules and
4 regulations to be established by the commissioner and
5 in accordance with the provisions hereinafter set forth
6 in this subdivision (1), a junior driver's license may be
7 issued to any person between the ages of sixteen and
8 eighteen years, who complies with section eleven, article
9 eight, chapter eighteen of this code and is not otherwise
10 disqualified by law, upon application therefor on a form
11 prescribed by the commissioner and successful comple-
12 tion of all examinations and driving tests required by
13 law for the issuance of a driver's license to a person
14 eighteen years of age or older. The commissioner may
15 impose reasonable conditions or restrictions on the
16 operation of a motor vehicle by a person holding such
17 junior driver's license, which conditions or restrictions
18 shall be printed on each such license. In addition to all
19 other provisions of this chapter for which a driver's
20 license may be revoked, suspended or cancelled, when-
21 ever a person holding such a junior driver's license (A)
22 does not comply with the provisions of section eleven,
23 article eight, chapter eighteen of this code, (B) operates
24 a motor vehicle in violation of the conditions or
25 restrictions set forth on such license, or (C) has a record
26 of two convictions for moving violations of the traffic
27 regulations and laws of the road, which convictions have
28 become final, the junior driver's license of such person
29 shall be permanently revoked, with like effect as if such
30 person had never held a junior driver's license: *Pro-*
31 *vided*, That a junior driver's license shall be suspended
32 for noncompliance with the provisions of section eleven,
33 article eight, chapter eighteen of this code, and may be
34 reinstated upon compliance: *Provided, however*, That
35 such junior driver's license shall be revoked upon one

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 certifi-
75 cate of the superintendent of such institution that such

76 person is competent, and not then unless the commis-
77 sioner is satisfied that such person is competent to
78 operate a motor vehicle with a sufficient degree of care
79 for the safety of persons or property;

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

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

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

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

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

1 Any person who is at least fifteen years of age may
2 apply to the division for an instruction permit. The
3 division may, in its discretion, after the applicant has
4 appeared before the department of public safety and
5 successfully passed all parts of the examination other
6 than the driving test and presented documentation of
7 compliance with the provisions of section eleven, article
8 eight, chapter eighteen of this code, issue to the
9 applicant an instruction permit which shall entitle the
10 applicant while having such permit in such person's
11 immediate possession to drive a motor vehicle upon the
12 public highways when accompanied by a licensed driver
13 of at least twenty-one years of age or a driver's education

14 or driving school instructor that is acting in an official
15 capacity as an instructor, who is occupying a seat beside
16 the driver, except in the event the permittee is operating
17 a motorcycle, but in no event shall the permittee be
18 allowed to operate a motorcycle upon a public highway
19 until reaching sixteen years of age. Any such instruction
20 permit issued to a person under the age of sixteen years
21 shall expire sixty days after the permittee reaches
22 sixteen years of age: *Provided*, That only permittees who
23 have reached their sixteenth birthday are eligible to
24 take the driving examination as provided in section six
25 of this article. The instruction permit may be renewed
26 for one additional period of sixty days. Any such permit
27 issued to a person who has reached the age of sixteen
28 years shall be valid for a period of sixty days and may
29 be renewed for an additional period of sixty days or a
30 new permit issued. The fee for such instruction permit
31 shall be four dollars, one dollar of which shall be paid
32 into the state treasury and credited to the state road
33 fund, and the other three dollars of which shall be paid
34 into the state treasury and credited to the general fund
35 to be appropriated to the department of public safety for
36 application in the enforcement of the road law.

37 Any person sixteen years of age or older may apply
38 to the division for a motorcycle instruction permit. The
39 division of motor vehicles may, in its discretion, after the
40 applicant has appeared before the division of public
41 safety and successfully passed all parts of the motorcycle
42 examination other than the driving test, and presented
43 documentation of compliance with the provisions of
44 section eleven, article eight, chapter eighteen of this
45 code, issue to the applicant an instruction permit which
46 entitles the applicant while having such permit in such
47 person's immediate possession to drive a motorcycle
48 upon the public streets or highways for a period of sixty
49 days, during the daylight hours between sunrise and
50 sunset only. No holder of a motorcycle instruction
51 permit shall operate a motorcycle while carrying any
52 passenger on the vehicle. A motorcycle instruction
53 permit is not renewable, but a qualified applicant may
54 apply for a new permit. The fee for a motorcycle
55 instruction permit shall be five dollars, which shall be

56 paid into a special fund in the state treasury known as
57 the motorcycle license examination fund as established
58 in section seven-c, article two of this chapter.

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

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

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

§17B-2-7. Examination of applicants.

1 (a) Upon the presentment by the applicant under the
2 age of eighteen years of the applicant's birth certificate,
3 or a certified copy thereof, as evidence that the applicant
4 is of lawful age, the division of public safety shall
5 examine every applicant for a license to operate a motor
6 vehicle in this state, except as otherwise provided in this
7 section. Such examination shall include a test of the
8 applicant's eyesight, the applicant's ability to read and
9 understand highway signs regulating, warning, and
10 directing traffic, the applicant's knowledge of the traffic
11 laws of this state, and the applicant's knowledge of the
12 effects of alcohol upon persons and the dangers of
13 driving a motor vehicle under the influence of alcohol,
14 and shall include an actual demonstration of ability to
15 exercise ordinary and reasonable control in the opera-

16 tion of a motor vehicle, and such further physical and
17 mental examination as the division of motor vehicles and
18 the division of public safety deems necessary to deter-
19 mine the applicant's fitness to operate a motor vehicle
20 safely upon the highways.

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

**§17B-2-7b. Separate examination and endorsement for a
license valid for operation of motorcycle.**

1 The division of public safety shall administer a
2 separate motorcycle examination for applicants for a
3 license valid for operation of a motorcycle. Any appli-
4 cant for a license valid for operation of a motorcycle
5 shall be required to successfully complete the motorcy-
6 cle examination, which shall be in addition to the
7 examination administered pursuant to section seven of
8 this article: *Provided*, That the commissioner of motor
9 vehicles may exempt an applicant for a motorcycle
10 driver license or endorsement from all or part of the
11 motorcycle license examination as provided in section
12 six, article one-d of this chapter. The motorcycle
13 examination shall test the applicant's knowledge of the
14 operation of a motorcycle and of any traffic laws
15 specifically relating thereto and shall include an actual
16 demonstration of the ability to exercise ordinary and
17 reasonable control in the operation of a motorcycle. An
18 applicant for a license valid for the operation of only a
19 motorcycle shall be tested as provided in this section and
20 in section seven of this article, but need not demonstrate
21 actual driving ability in any vehicle other than a
22 motorcycle. The examination provided in this section
23 shall not be made a condition upon the renewal of the

24 license of any person under this section.

25 For an applicant who successfully completes the
26 motorcycle examination, upon payment of the required
27 fee, the division shall issue a motorcycle endorsement on
28 the driver's license of the applicant, or shall issue a
29 special motorcycle-only license if the applicant does not
30 possess a driver's license.

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

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

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

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

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

1 (1) The division shall, upon payment of the required

2 fee, issue to every applicant qualifying therefor a
3 driver's license, which shall indicate the type or general
4 class or classes of vehicle or vehicles the licensee may
5 operate in accordance with this chapter, or chapter
6 seventeen-e of this code, or motorcycle-only license. Each
7 license shall contain a coded number assigned to the
8 licensee, the full name, date of birth, residence address,
9 a brief description and a color photograph of the licensee
10 and either a facsimile of the signature of the licensee
11 or a space upon which the signature of the licensee shall
12 be written with pen and ink immediately upon receipt
13 of the license. No license shall be valid until it has been
14 so signed by the licensee: *Provided*, That the commis-
15 sioner may issue a valid without-photo license for
16 applicants temporarily out of state. A driver's license
17 which is valid for operation of a motorcycle shall contain
18 a motorcycle endorsement. The division shall use such
19 process or processes in the issuance of licenses that will,
20 insofar as possible, prevent any alteration, counterfeit-
21 ing, duplication, reproduction, forging or modification
22 of, or the superimposition of a photograph on, such
23 license.

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

§17B-2-9. License to be carried and exhibited on demand.

1 Every licensee shall have his or her driver's license
2 in such person's immediate possession at all times when
3 operating a motor vehicle and shall display the same,

4 upon demand of a magistrate, municipal judge, circuit
5 court judge, peace officer, or an employee of the division.
6 However, no person charged with violating this section
7 shall be convicted if such person produces in court or
8 the office of the arresting officer a driver's license
9 theretofore issued to such person and valid at the time
10 of such person's arrest.

§17B-2-10. Restricted licenses.

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

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

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

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

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

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

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

1 (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.

7 (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.

17 (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

5 the reasons for such denial;

6 (2) All applications granted; and

7 (3) The name of every licensee whose license has been
8 suspended or revoked by the division and after each
9 such name a notation of the reasons for such action.

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

§17B-2-15. Authority for regulations.

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

7 (b) The superintendent of the division of public safety
8 is authorized to promulgate such legislative rules as are
9 necessary to carry out the provisions relating to the
10 issuance of an instruction permit and conducting the
11 license qualifying examinations provided for in this
12 chapter in accordance with the provisions of chapter
13 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.**

1 The division shall suspend the license of any resident
2 of this state or the privilege of a nonresident to drive
3 a motor vehicle in this state upon receiving notice from
4 a magistrate court or municipal court of this state,
5 pursuant to subsection (b), section two-a, article three,

6 chapter fifty or subsection (b), section two-a, article ten,
7 chapter eight of this code, that such person has
8 defaulted on the payment of costs, fines, forfeitures or
9 penalties, which were imposed on the person by the
10 magistrate court or municipal court upon conviction of
11 any motor vehicle violation, after ninety days following
12 such conviction, or that such person has failed to appear
13 in court when charged with a motor vehicle violation.
14 For the purposes of this section, section two-a, article
15 three, chapter fifty and section two-a, article ten,
16 chapter eight, "motor vehicle violation" shall be defined
17 as any violation designated in chapter seventeen-a,
18 seventeen-b, seventeen-c, seventeen-d or seventeen-e of
19 this code, or the violation of any municipal ordinance
20 relating to the operation of a motor vehicle for which
21 the violation thereof would result in a fine or penalty:
22 *Provided*, That any parking violation or other violation
23 for which a citation may be issued to an unattended
24 vehicle shall not be considered a motor vehicle violation
25 for the purposes of this section, section two-a, article
26 three, chapter fifty or section two-a, article ten, chapter
27 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.

1 (a) An insurance company shall provide the division
2 of motor vehicles with a cancellation notice within ten
3 days of the effective date of cancellation whenever the
4 company issues or causes to be issued a cancellation
5 under the provisions of subsections (b) through (e),
6 section one, article six-a, chapter thirty-three of this
7 code. Unless the division of motor vehicles by legislative
8 rule allows for an alternative to suspension, the division
9 shall then suspend the driver license of the owner of
10 such vehicle for a period of thirty days and shall suspend
11 the motor vehicle registration until proof of insurance
12 is presented to the division. If, within the thirty-day
13 period a license or registration is suspended, the owner

14 shows proof of insurance, the owner's license and
15 registration shall be immediately removed from suspen-
16 sion. If a license or registration is not suspended as
17 result of the cancellation of insurance, the owner of the
18 motor vehicle shall submit a statement under penalty of
19 false swearing, that the cancellation will not result in
20 the operation of an uninsured motor vehicle upon the
21 highways of this state, and this verification shall be sent
22 to the commissioner within twenty days of the notice of
23 cancellation.

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

36 (c) No policy of motor vehicle liability insurance
37 issued or delivered for issuance in this state shall be
38 contracted for a period of less than ninety days:
39 *Provided*, That the insurance commissioner may estab-
40 lish exceptions thereto by rules and regulations to
41 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.

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

8 (1) *Classifications:*

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

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

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

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

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

28 (2) *Endorsements and restrictions:*

29 The commissioner upon issuing a commercial driver's
30 license shall have the authority to impose such endor-
31 sements or restrictions as the commissioner may
32 determine to be appropriate to assure the safe operation
33 of a motor vehicle, and to comply with the Federal
34 Motor Vehicle Act of 1986 and Federal Rules imple-
35 menting such act.

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

42 (4) *Notification of license issuance* — Within ten days
43 after issuing a commercial driver's license, the commis-
44 sioner shall notify the commercial driver's license
45 information system of that fact, providing all informa-

46 tion required to ensure identification of the person.

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

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

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

59 (6) *License renewal procedures.* — When applying for
60 renewal of a commercial driver's license, the applicant
61 must complete the application form, and provide
62 updated information and required certifications. If the
63 applicant wishes to retain a hazardous materials
64 endorsement, the written test for a hazardous materials
65 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 one percent} or more; refusal of preliminary breath test to determine alcohol content of blood; criminal penalties.

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

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

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

10 (b) Upon conviction of an offense described in
11 subsection (a) of this section:

12 (1) For a violation of subdivision (1) thereof, such
13 person shall be fined not more than one hundred dollars;
14 for a second offense of subdivision (1) thereof, such
15 person shall be fined not less than one hundred dollars
16 nor more than three hundred dollars or confined in the
17 county jail for a period not to exceed thirty days, and,
18 for a third or any subsequent offense, shall be fined not
19 less than five hundred dollars nor more than one
20 thousand dollars and shall be confined in the county jail
21 for a period of time of not less than twenty-four hours
22 and not more than thirty days.

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

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

40 (d) In addition to any other penalties provided by this
41 code, a person who drives, operates or is in physical
42 control of a commercial motor vehicle having any
43 measurable alcohol in such person's system or who
44 refuses to take a preliminary breath test to determine
45 such person's blood alcohol content as provided by
46 section fifteen of this article must be placed out of
47 service for twenty-four hours.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Samuel Secor

 Chairman Senate Committee

Ernest C. Moore

 Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harrell Edwards

 Clerk of the Senate

Donald Y. Kopp

 Clerk of the House of Delegates

Walter Brundage

 President of the Senate

Robert C. Bell

 Speaker of the House of Delegates

The within *is appended* this the *15th*
 day of *April*, 1992.

Yaston Caperton

 Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/92

Time 2:45 pm