WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1993

ENROLLED

Committee Substitute for
SENATE BILL NO. 133

(By Senators, By Request of the Executive)

PASSED April 10, 1993
In Effect 90 days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 133

(By Senators Burdette, Mr. President, and Boley,
By Request of the Executive)

[Passed April 10, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article three, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section twelve, all relating to motor vehicles; mandatory suspension for fraudulent use of driver license; and procedures.

Be it enacted by the Legislature of West Virginia:

That section six, article three, chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended; and that said article be further amended by adding thereto a new section, designated section twelve, all to read as follows:

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-6. Authority of division to suspend or revoke license; hearing.

1 (a) The division is hereby authorized to suspend the
driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction;

(2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;

(3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) Is an habitually reckless or negligent driver of a motor vehicle;

(5) Is incompetent to drive a motor vehicle;

(6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;

(7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures or penalties imposed by a magistrate court or municipal court within ninety days, as required by section two-a, article three, chapter fifty or section two-a, article ten, chapter eight of this code;

(8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article; or

(9) Is under the age of eighteen and has withdrawn either voluntarily or involuntarily from a secondary school, as provided in section eleven, article eight, chapter eighteen of this code.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:
(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures or penalties imposed by the applicable court has been made; or

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section, and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged;

(c) Any reinstatement of a license under subdivision (1) or (2), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the division shall either rescind its order of suspension or, good cause appearing therefor, may extend the suspension of such license or revoke such license.

§17B-3-12. Mandatory suspension for fraudulent use of driver's license.

(a) The commissioner shall suspend for a period of one year the driver's license of any person upon receipt of a sworn affidavit from any law-enforcement officer or employee of the division of motor vehicles stating that the person committed any one of the following acts:
(1) Displayed or caused or permitted to be displayed to any law-enforcement officer or employee of the division of motor vehicles or have in his or her possession any canceled, revoked, suspended, fictitious or fraudulently altered driver's license;

(2) Loaned or gave his or her driver's license to any other person or knowingly permit the use thereof by another for an unlawful or fraudulent purpose;

(3) Displayed or represented as one's own any driver's license not issued to him or her; or

(4) Used a false or fictitious name or birth date on any application for a driver's license or knowingly made a false statement, knowingly concealed a material fact or otherwise committed a fraud in making application for a driver's license.

(b) For the purposes of this section, "driver's license" means any permit, camera card, identification card or driver's license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon.

(c) No person shall have his or her driver's license suspended under any provision of this section unless he or she shall first be given written notice of such suspension sent by certified mail, return receipt requested, at least twenty days prior to the effective date of the suspension. Within ten days of the receipt of the notice of suspension, the person may submit a written request by certified mail for a hearing and request a stay of the suspension pending the results of the hearing. Upon receipt of the request for a hearing and request for a stay of the suspension, the commissioner shall grant a stay of the suspension pending the results of the hearing. If the commissioner shall after hearing make and enter an order affirming the earlier order of suspension, the person affected shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code and, pending the appeal, the court may grant a stay or supersedeas of such order. If the person does not appeal the suspension or the
suspension is affirmed by the court, the person shall 
surrender his or her driver's license or have the 
license impounded in the manner set forth and subject 
to the imposition of fees as provided in section nine of 
this article.

(d) The suspended driver's license shall be reinstat-
ed following the period of suspension and upon 
compliance with the conditions set forth in this 
chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 16th day of May, 1993.

Governor