

HB 2258

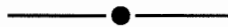
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WEST VIRGINIA LEGISLATURE

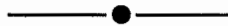
FIRST REGULAR SESSION, 1999



ENROLLED

House Bill No. 2258

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]



Passed March 11, 1999

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK
STATE OF WEST VIRGINIA

ENROLLED

H. B. 2258

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)
[BY REQUEST OF THE EXECUTIVE]

[Passed March 11, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article two, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article two, chapter seventeen-b of said code by adding thereto two new sections, designated sections one-b and five-a; to amend and reenact sections five, seven, seven-b, seven-c and fifteen of said article; and to amend and reenact sections nine and twenty-three, article one, chapter seventeen-e of said code, all relating to testing for driver's licenses; requiring the commissioner of motor vehicles to report possible or suspected violations of law to the state police; transfer of driver's licensing examination functions from the state police to the division of motor vehicles; delegation of responsibilities; authorizing the division of motor vehicles to administer the examinations of all applicants for motor vehicle licenses, motorcycle licenses and commercial driver's licenses; transferring the motorcycle license examination fund to the division of motor vehicles; authorizing the commissioner of said division to administer the funds; and providing for retention of commercial drivers license fees by the division.

Be it enacted by the Legislature of West Virginia:

That section nine, article two, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections five, seven, seven-b, seven-c and fifteen, article two, chapter seventeen-b of said code be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections one-b and five-a; and that sections nine and twenty-three, article one, chapter seventeen-e of said code be amended and reenacted, all to read as follows:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE,
AND ANTITHEFT PROVISIONS.**

ARTICLE 2. DEPARTMENT OF MOTOR VEHICLES.

§17A-2-9. Same — Powers and duties; rules; seal.

1 (a) The commissioner shall observe, administer and enforce
2 the provisions of this chapter and all laws the enforcement of
3 which is now or hereafter vested in the department: *Provided,*
4 That nothing in this chapter shall deprive the public service
5 commission of West Virginia of any of the duties or powers
6 now vested in it with regard to the regulation of motor vehicle
7 carriers.

8 (b) The commissioner may adopt and enforce any rules that
9 are necessary to carry out the provisions of this chapter and any
10 other laws the enforcement and administration of which are
11 vested in the department.

12 (c) The commissioner may adopt an official seal for the use
13 of the department.

14 (d) The commissioner shall, in instances where division
15 personnel become aware of a possible or suspected violation of
16 law where enforcement jurisdiction would be that of the West
17 Virginia state police, communicate the violation to the state
18 police.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1b. Transfer of driver's licensing examination function.

1 (a) Effective the first day of July, one thousand nine
2 hundred and ninety-nine, the responsibility for driver's licens-
3 ing examinations and civilian employees of the West Virginia
4 state police whose primary governmental duties as of the
5 thirtieth day of June, one thousand nine hundred ninety-nine,
6 involve the examination of applicants for instruction permits
7 and driver's licenses shall be transferred from the West Virginia
8 state police to the division of motor vehicles.

9 (b) Effective the first day of July, one thousand nine
10 hundred ninety-nine, until the thirty-first day of December, two
11 thousand, the commissioner of motor vehicles may delegate
12 responsibility for the supervision of the civilian employees and
13 the operation of the examination program to the superintendent
14 of the West Virginia state police pending the orderly transfer
15 and hiring of the necessary personnel, transfer and purchase of
16 necessary equipment and supplies and the establishment of
17 suitable examination locations. The commissioner may also
18 reimburse the West Virginia state police for the services of
19 personnel, equipment, supplies and office space at state police
20 facilities necessary to maintain the examination program at its
21 current level of service during the transfer period. The commis-
22 sioner may also utilize existing state police locations as
23 examination and licensing locations unless in his or her opinion,
24 more suitable locations are available. The commissioner shall
25 reimburse the West Virginia state police for that use.

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

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

11 years of age, a driver's education or driving school instructor
12 that is acting in an official capacity as an instructor, or a
13 certified division license examiner acting in an official capacity
14 as an examiner, who is occupying a seat beside the driver,
15 except in the event the permittee is operating a motorcycle. In
16 no event may the permittee operate a motorcycle upon a public
17 highway until reaching sixteen years of age.

18 Any instruction permit issued to a person under the age of
19 sixteen years expires sixty days after the permittee reaches
20 sixteen years of age: *Provided*, That only permittees who have
21 reached their sixteenth birthday may take the driving examina-
22 tion as provided in section six of this article. The instruction
23 permit may be renewed for one additional period of sixty days.
24 Any permit issued to a person who has reached the age of
25 sixteen years is valid for a period of sixty days and may be
26 renewed for an additional period of sixty days or a new permit
27 issued. The fee for the instruction permit is four dollars, one
28 dollar of which shall be paid into the state treasury and credited
29 to the state road fund, and the other three dollars of which shall
30 be paid into the state treasury and credited to the general fund
31 to be appropriated to the state police for application in the
32 enforcement of the road law.

33 (b) Any person sixteen years of age or older may apply to
34 the division for a motorcycle instruction permit. The division
35 may, in its discretion, after the applicant has successfully
36 passed all parts of the motorcycle examination other than the
37 driving test, and presented documentation of compliance with
38 the provisions of section eleven, article eight, chapter eighteen
39 of this code, issue to the applicant an instruction permit which
40 entitles the applicant while having the permit in his or her
41 immediate possession to drive a motorcycle upon the public
42 streets or highways for a period of ninety days, during the
43 daylight hours between sunrise and sunset only. No holder of a
44 motorcycle instruction permit shall operate a motorcycle while
45 carrying any passenger on the vehicle.

46 A motorcycle instruction permit is not renewable, but a
47 qualified applicant may apply for a new permit. The fee for a

48 motorcycle instruction permit is five dollars, which shall be
49 paid into a special fund in the state treasury known as the
50 motorcycle license examination fund as established in section
51 seven-c, article two of this chapter.

§17B-2-5a. Training, certification and monitoring of license examiners.

1 The commissioner shall train, certify and monitor those
2 employees of the division of motor vehicles designated by the
3 commissioner as license examiners regarding the administration
4 of licensing application and testing procedures for the purpose
5 of ensuring compliance with statutory and regulatory require-
6 ments.

§17B-2-7. Examination of applicants.

1 (a) Upon the presentment by the applicant under the age of
2 eighteen years of the applicant's birth certificate, or a certified
3 copy of the birth certificate, as evidence that the applicant is of
4 lawful age, the division of motor vehicles shall examine every
5 applicant for a license to operate a motor vehicle in this state,
6 except as otherwise provided in this section. The examination
7 shall include a test of the applicant's eyesight, the applicant's
8 ability to read and understand highway signs regulating,
9 warning, and directing traffic, the applicant's knowledge of the
10 traffic laws of this state, and the applicant's knowledge of the
11 effects of alcohol upon persons and the dangers of driving a
12 motor vehicle under the influence of alcohol. The examination
13 shall also include an actual demonstration of ability to exercise
14 ordinary and reasonable control in the operation of a motor
15 vehicle, and any further physical and mental examination as the
16 division of motor vehicles considers necessary to determine the
17 applicant's fitness to operate a motor vehicle safely upon the
18 highways.

19 (b) The commissioner shall propose legislative rules for
20 promulgation in accordance with the provisions of article three,
21 chapter twenty-nine-a of this code concerning the examination
22 of applicants for licenses and the qualifications required of
23 applicants, and the examination of applicants by the division

24 shall be in accordance with the rules. The rules shall provide for
25 the viewing of educational material or films on the medical,
26 biological, and psychological effects of alcohol upon persons,
27 the dangers of driving a motor vehicle while under the influence
28 of alcohol and the criminal penalties and administrative
29 sanctions for alcohol and drug related motor vehicle violations.

30 (c) After successful completion of the examination required
31 by this section or section seven-b of this article, and prior to the
32 issuance of a license pursuant to the provisions of section eight
33 of this article, every applicant for a driver's license, junior
34 driver's license or motorcycle-only license shall attend a
35 mandatory education class on the dangers and social conse-
36 quences of driving a motor vehicle while under the influence of
37 alcohol. To the extent practicable, the commissioner shall
38 utilize as lecturers at those classes persons who can relate
39 first-hand experiences as victims or family members of victims
40 of alcohol-related accidents or drivers who have been involved
41 in alcohol-related accidents which caused serious bodily injury
42 or death.

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

1 The state police shall administer a separate motorcycle
2 examination for applicants for a license valid for operation of
3 a motorcycle. On and after the first day of July, two thousand,
4 the division of motor vehicles shall administer the examination
5 provided for in this section. Any applicant for a license valid for
6 operation of a motorcycle shall be required to successfully
7 complete the motorcycle examination, which is in addition to
8 the examination administered pursuant to section seven of this
9 article: *Provided*, That the commissioner may exempt an
10 applicant for a motorcycle driver license or endorsement from
11 all or part of the motorcycle license examination as provided in
12 section six, article one-d of this chapter. The motorcycle
13 examination shall test the applicant's knowledge of the opera-
14 tion of a motorcycle and of any traffic laws specifically relating
15 to the operation of a motorcycle and shall include an actual
16 demonstration of the ability to exercise ordinary and reasonable

17 control in the operation of a motorcycle. An applicant for a
18 license valid for the operation of only a motorcycle shall be
19 tested as provided in this section and in section seven of this
20 article, but need not demonstrate actual driving ability in any
21 vehicle other than a motorcycle. The examination provided in
22 this section shall not be made a condition upon the renewal of
23 the license of any person under this section.

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

29 Every person, including those holding a valid driver's
30 license, is required to take the examination specified in this
31 section to obtain a motorcycle license or endorsement.

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

1 There is hereby created a special revolving fund in the state
2 treasury which shall be designated as the "motorcycle license
3 examination fund". The fund shall consist of all moneys
4 received from fees collected for motorcycle instruction permits
5 under this article and any other moneys specifically allocated to
6 the fund. The fund shall not be treated by the auditor or
7 treasurer as part of the general revenue of the state. The fund
8 shall be used and paid out upon order of the West Virginia state
9 police solely for the purposes specified in this article. On the
10 thirtieth day of June, two thousand, the special revolving fund
11 created in this section shall be established under the division of
12 motor vehicles and shall be paid out upon order of the commis-
13 sioner. Any unexpended balance remaining in the special
14 revolving fund on the thirtieth day of June, two thousand, shall
15 be transferred to the fund established under the division of
16 motor vehicles.

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

§17B-2-15. Authority for rules.

1 The commissioner may propose legislative rules for
2 promulgation that are necessary to carry out the examination,
3 license and endorsement provisions of this chapter and the
4 provisions regarding motor vehicle registration in accordance
5 with the provisions of article three, chapter twenty-nine-a of
6 this code.

**CHAPTER 17E. UNIFORM COMMERCIAL
DRIVER'S LICENSE ACT.****ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.****§17E-1-9. Commercial driver license qualification standards.**

1 (a) (1) *General.* — No person may be issued a commercial
2 driver's license unless that person is a resident of this state and
3 has passed a knowledge and skills test for driving a commercial
4 motor vehicle which complies with minimum federal standards
5 established by federal regulations enumerated in 49 C.F.R. part
6 383, sub-parts G and H, and has satisfied all other requirements
7 of the Federal Commercial Motor Vehicle Safety Act in
8 addition to other requirements imposed by state law or federal
9 regulations. The tests will be administered by the West Virginia
10 state police according to rules promulgated by the commis-
11 sioner. After the thirtieth day of June, two thousand, the tests
12 will be administered by the division of motor vehicles.

13 (2) *Third party testing.* — The commissioner may authorize
14 a person, including an agency of this or another state, an
15 employer, private individual or institution, department, agency
16 or instrumentality of local government, to administer the skills
17 test specified by this section: *Provided, That:* (i) The test is the
18 same which would otherwise be administered by the state; and
19 (ii) the party has entered into an agreement with the state which
20 complies with the requirements of 49 C.F.R. part 383.75.

21 (3) *Indemnification of driver examiners.* — No person who
22 has been officially trained and certified by the state as a driver
23 examiner, who administers a driving test, and no other person,
24 firm or corporation by whom or with which that person is
25 employed or is in any way associated, may be criminally liable

26 for the administration of the tests, or civilly liable in damages
27 to the person tested or other persons or property unless for gross
28 negligence or willful or wanton injury.

29 (4) The West Virginia state police shall monitor third party
30 testing according to rules promulgated by the commissioner.
31 After the thirtieth day of June, two thousand, the division shall
32 monitor third party testing.

33 (b) *Waiver of skills test.* — The commissioner may waive
34 the skills test specified in this section for a commercial driver
35 license applicant who meets the requirements of 49 C.F.R. part
36 383.77 and those requirements specified by the commissioner.

37 (c) *Limitations on issuance of license.* — A commercial
38 driver's license or commercial driver's instruction permit may
39 not be issued to a person while the person is subject to a
40 disqualification from driving a commercial motor vehicle, or
41 while the person's driver's license is suspended, revoked or
42 canceled in any state; nor may a commercial driver's license be
43 issued by any other state unless the person first surrenders all
44 such licenses to the department, which must be returned to the
45 issuing state(s) for cancellation. The division shall issue a
46 restricted commercial driver's license to a person who has
47 failed to pay overdue child support or comply with subpoenas
48 or warrants relating to paternity or child support proceedings,
49 if a circuit court orders restrictions of the person's license as
50 provided in article five-a, chapter forty-eight-a of this code.

51 (d) *Commercial driver's instruction permit.* — (1) A
52 commercial driver's instruction permit may be issued to an
53 individual who holds a valid operator or Class "D" driver
54 license who has passed the vision and written tests required for
55 issuance of a commercial driver license. (2) The commercial
56 instruction permit may not be issued for a period to exceed six
57 months. Only one renewal or reissuance may be granted within
58 a two-year period. The holder of a commercial driver's instruc-
59 tion permit may drive a commercial motor vehicle on a
60 highway only when accompanied by the holder of a commercial
61 driver license valid for the type of vehicle driven who occupies
62 a seat beside the individual for the purpose of giving instruction

63 or testing. (3) A commercial driver's instruction permit may
64 only be issued to an individual who is at least eighteen years of
65 age and has held an operator's or junior operator's license for
66 at least two years. (4) The applicant for a commercial driver's
67 instruction permit shall also be otherwise qualified to hold a
68 commercial driver's license.

§17E-1-23. Funding for the commercial driver's license fees.

1 Each application for a commercial driver's license shall be
2 accompanied by the fees provided for in this section and the
3 fees shall be deposited in a special revolving fund for the
4 operation by the division of its functions established by this
5 chapter.

6 The fee for a commercial driver's license shall be estab-
7 lished by the commissioner to cover all necessary costs for
8 program administration. The fees for knowledge and road
9 testing shall also be established by the commissioner to cover
10 all program costs projected to be incurred by the division and
11 the West Virginia state police. The commissioner shall transfer
12 into a special revolving fund under the control of the superin-
13 tendent of the West Virginia state police those amounts
14 required by the West Virginia state police and determined by
15 the commissioner as necessary to administer its responsibilities
16 under this article until the first day of July, two thousand.

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



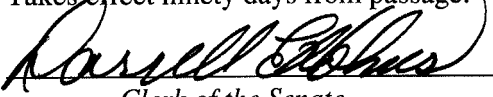
Chairman Senate Committee



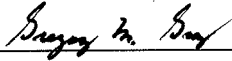
Chairman House Committee

Originating in the House.

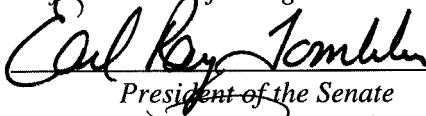
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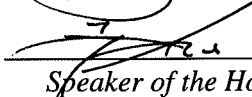
Clerk of the Senate



Clerk of the House of Delegates

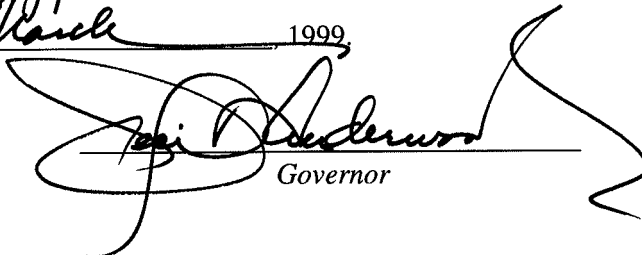


President of the Senate



Speaker of the House of Delegates

The within approved this the 3rd
day of March 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/99

Time 3:50am