

HB 2295

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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999

ENROLLED

House Bill No. 2295

(By Delegates Johnson, Fleischauer, Hutchins,
Rowe, Tillis, Riggs, and Trump)

Passed February 9, 1999

In Effect March 1, 1999.

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COMMITTEE SUBSTITUTE

FOR

H. B. 2295

(BY DELEGATES JOHNSON, FLEISCHAUER, HUTCHINS,
ROWE, TILLIS, RIGGS AND TRUMP)

[Passed February 9, 1999; in effect March 1, 1999.]

AN ACT to amend and reenact section one, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article nine of said chapter; to amend and reenact sections one and nine, article two, chapter seventeen-b of said code; to amend and reenact sections four, four-a, four-b and six, article three, chapter seventeen-c of said code; to amend and reenact sections three-a and five, article six of said chapter; to amend and reenact sections one, two, three, five, six, seven, eight, nine, eleven and twelve, article seven of said chapter; to amend and reenact sections two, three, four, six and eight, article eight of said chapter; to amend article nine of said chapter by adding thereto a new section, designated section six; to amend article ten of said chapter by adding thereto a new section, designated section seven; to amend and reenact section six, article twelve of said chapter; to amend and reenact sections one, three and four, article thirteen of said chapter; to amend and reenact sections one, two, four, five, six, seven, eight, nine, ten and thirteen, article fourteen of said chapter; to amend and reenact section thirty-six-a,

article fifteen of said chapter; to amend said article by adding thereto a new section, designated section six; to amend and reenact sections four and nine, article two-a, chapter seventeen-d of said code; to amend and reenact section thirty-one, article two, chapter twenty of said code; to amend and reenact section twenty-six, article seven of said chapter; to amend and reenact section nine, article six, chapter sixty of said code; and to amend and reenact section thirty-nine-a, article three, chapter sixty-one of said code; all relating to eliminating the jail penalty for certain offenses; eliminating the jail penalty for first convictions of driving or moving or for allowing one's motor vehicle to be driven or moved when such motor vehicle is not registered or for which a certificate of title has not been issued or applied for or for which the appropriate fee has not been paid; eliminating the jail penalty for first convictions of operating a motor vehicle without evidence of registration; eliminating the jail penalty for first convictions of driving a motor vehicle without obtaining a valid driver's license; eliminating the jail penalty for driving a motor vehicle without possessing a driver's license for immediate display; eliminating the jail penalty for failing to obey instructions of official traffic control devices; eliminating the jail penalty for failing to obey law-enforcement officers or persons authorized by the commissioner of highways or by proper local authorities to operate traffic control devices; eliminating the jail penalty for exceeding the posted speed restriction or traffic restriction at a construction site; eliminating the jail penalty for violating the pedestrian walk and wait signals; eliminating the jail penalty for violating the minimum speed limit; eliminating the jail penalty for violating special speed limitations; eliminating the jail penalty for violating the restrictions on driving on the right side of the roadway; eliminating the jail penalty for violating the restrictions on passing vehicles proceeding in the opposite direction; eliminating the jail penalty for violating the restrictions on overtaking passing vehicles proceeding in the same direction; eliminating the jail penalty for violating the restrictions on overtaking on the left; eliminating the jail penalty for violating the restrictions on driving to the left of the center of the roadway; eliminating the jail penalty for violating the restrictions on no-passing zones; eliminating the jail penalty for violating the restrictions on one-

way roadways and rotary traffic islands; eliminating the jail penalty for violating the restrictions on driving on roadways laned for traffic; eliminating the jail penalty for violating the restrictions on driving on divided highways; eliminating the jail penalty for driving onto or from controlled-access roadways; eliminating the jail penalty for violating the restrictions on making right turns; eliminating the jail penalty for violating the restrictions on making left turns; eliminating the jail penalty for violating the restrictions on making left turns on other than two-way roadways; eliminating the jail penalty for violating the restrictions on turning on a curve or the crest of a grade; eliminating the jail penalty for violating the restrictions on turning movements and required signals; eliminating the jail penalty for violating the provisions outlining the right-of-way; eliminating the jail penalty for violating the provisions outlining the pedestrians' rights and duties; eliminating the jail penalty for stopping before emerging from an alley or private driveway; eliminating the jail penalty for violating the restrictions on stopping, standing or parking outside a business or residence district; eliminating the jail penalty for stopping, standing or parking in specified places; eliminating the jail penalty for violating restrictions on parking; eliminating the jail penalty for violating the restrictions on leaving a motor vehicle unattended; eliminating the jail penalty for violating the limitations on backing; eliminating the jail penalty for violating the restrictions on obstruction of the driver's view or driving mechanisms; eliminating the jail penalty for violating the restrictions on passengers in the seat with the driver; eliminating the jail penalty for violating the restrictions on passengers on the running board; eliminating the jail penalty for violating the restrictions on driving on mountain highways; eliminating the jail penalty for violating the restrictions on coasting; eliminating the jail penalty for violating the restrictions on following authorized emergency vehicles; eliminating the jail penalty for violating the restrictions on crossing fire hoses; eliminating the jail penalty for violating the restrictions on parking on private property; eliminating the jail penalty on violating the restrictions on necessary equipment on motor vehicles; eliminating the jail penalty on violating the restrictions on sun screening devices; eliminating the jail penalty on first convictions for the failure to carry and furnish

proof of insurance; eliminating the jail penalty for first convictions of altering, mutilating or defacing any department of natural resources license, tag or permit, or the entries thereon; eliminating the jail penalty for second convictions for littering; eliminating the jail penalty for first convictions of being intoxicated in public; eliminating the jail penalty for first convictions of drinking alcohol in public; eliminating the jail penalty for first convictions of tendering alcohol to another person in public or possessing alcohol in amounts in excess of ten gallons without the proper authorization; and eliminating the jail penalty for first and second convictions of making a worthless check.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article nine of said chapter be amended and reenacted; that sections one and nine, article two, chapter seventeen-b of said code be amended and reenacted; that sections four, four-a, four-b and six, article three, chapter seventeen-c of said code be amended and reenacted; that sections three-a and five, article six of said chapter be amended and reenacted; that sections one, two, three, five, six, seven, eight, nine, eleven and twelve, article seven of said chapter be amended and reenacted; that sections two, three, four, six and eight, article eight of said chapter be amended and reenacted; that article nine of said chapter be amended by adding thereto a new section, designated section six; that article ten of said chapter be amended by adding thereto a new section, designated section seven; that section six, article twelve of said chapter be amended and reenacted; that sections one, three and four, article thirteen of said chapter be amended and reenacted; that sections one, two, four, five, six, seven, eight, nine, ten and thirteen, article fourteen of said chapter be amended and reenacted; that section thirty-six-a, article fifteen of said chapter be amended and reenacted; that said article be amended by adding thereto a new section, designated section six; that sections four and nine, article two-a, chapter seventeen-d of said code be amended and reenacted; that section thirty-one, article two, chapter twenty of said code be amended and reenacted; that section twenty-six, article seven of said chapter be amended and reenacted; that section nine, article six, chapter sixty of

said code be amended and reenacted; and that section thirty-nine-a, article three, chapter sixty-one 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 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE
OF CERTIFICATES OF TITLE.**

§17A-3-1. Misdemeanor to violate provisions of article; penalty.

1 (a) It is unlawful for any person to drive or move or for an
2 owner knowingly to permit to be driven or moved upon any
3 highway any vehicle of a type required to be registered under
4 this article which is not registered or for which a certificate of
5 title has not been issued or applied for or for which the appro-
6 priate fee has not been paid when and as required under this
7 article, except as otherwise permitted by the provisions of this
8 chapter: *Provided*, That in the event of the sale of a vehicle by
9 a person other than a registered dealer, the person purchasing
10 the same may, for a period of not more than ten days, operate
11 such vehicle under the registration of its previous owner and
12 display the registration thereof: *Provided further*, That he or she
13 shall have and display on the demand of any proper officer the
14 consent in writing of such previous owner so to use such
15 registration.

16 (b) Unless otherwise provided for in this article, any person
17 violating the provisions of this article is guilty of a misde-
18 meanor and, upon conviction thereof, shall be fined not more
19 than five hundred dollars; and upon a second or subsequent
20 conviction thereof, shall be fined not more than five hundred
21 dollars, or confined in the county or regional jail not more than
22 six months, or both.

**ARTICLE 9. OFFENSES AGAINST REGISTRATION LAWS AND SUSPEN-
SION OR REVOCATION OF REGISTRATION.**

**§17A-9-2. Operation of vehicles without evidences of registration;
use of temporary facsimile; penalty.**

1 (a) No person shall operate, nor shall an owner knowingly
2 permit to be operated, upon any highway any vehicle required
3 to be registered under this article unless there shall be attached
4 thereto and displayed thereon or shall be in the possession of
5 the operator when and as required by this chapter a valid
6 registration card and registration plate or plates issued therefor
7 by the department for the current registration year, except as
8 otherwise expressly permitted in this chapter.

9 (b) In the event that the registration plate or plates origi-
10 nally issued are lost, destroyed or stolen, a temporary facsimile
11 of the plate or plates, showing the number of the same, may be
12 attached to the vehicle by the owner for a period of not more
13 than fifteen days, or until a new plate or plates are issued by the
14 department, whichever is earlier: *Provided*, That no such
15 facsimile shall be used and no such vehicle shall be driven upon
16 the highways of this state, until the owner shall have notified in
17 writing the West Virginia state police of the loss of such
18 registration plate or plates.

19 (c) Any person violating the provisions of this section is
20 guilty of a misdemeanor and, upon conviction thereof, shall be
21 fined not more than five hundred dollars; and upon a second or
22 subsequent conviction thereof, shall be fined not more than five
23 hundred dollars, or confined in the county or regional jail not
24 more than six months, or both.

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; motor- cycle driver license; identification cards; penalty.

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

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

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

18 (c) Driver's licenses issued by the division shall be classi-
 19 fied in the following manner:

20 (1) Class A, B or C license shall be issued to those persons
 21 eighteen years of age or older with two years driving experience
 22 and who have qualified for the commercial driver's license
 23 established by chapter seventeen-e of this code and the federal
 24 Commercial Motor Vehicle Safety Act of 1986, Title XII of
 25 public law 99870 and subsequent rules, and have paid the
 26 required fee.

27 (2) Class D license shall be issued to those persons eighteen
 28 years and older with one year driving experience who operate
 29 motor vehicles other than those types of vehicles which require
 30 the operator to be licensed under the provisions of chapter
 31 seventeen-e of this code and federal law and rule and whose
 32 primary function or employment is the transportation of persons
 33 or property for compensation or wages and have paid the
 34 required fee. For the purposes of the regulation of the operation
 35 of a motor vehicle, wherever the term chauffeur's license is
 36 used in this code, it shall be construed to mean the Class A, B,
 37 C or D license described in this section or chapter seventeen-e
 38 of this code or federal law or rule: *Provided*, That anyone who
 39 is not required to be licensed under the provisions of chapter
 40 seventeen-e of this code and federal law or rule and who
 41 operates a motor vehicle which is registered or which is
 42 required to be registered as a Class A motor vehicle as that term
 43 is defined in section three, article ten, chapter seventeen-a of
 44 this code with a gross vehicle weight rating of less than eight

45 thousand one pounds, is not required to obtain a Class D
46 license.

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

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

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

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

67 (A) Is a resident of this state in accordance with the
68 provisions of section one-a, article three, chapter seventeen-a of
69 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, That*
73 such fee is not required if the applicant is sixty-five years or
74 older or is legally blind; and

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

78 (2) The nondriver identification card shall contain the same
79 information as a driver's license except that such identification

80 card shall be clearly marked as identification card. The identifi-
81 cation card shall expire every four years. It may be renewed on
82 application and payment of the fee required by this section.

83 (A) After the thirtieth day of June, one thousand nine
84 hundred ninety-six, every identification card issued to persons
85 who have attained their twenty-first birthday shall expire on the
86 last day of the month in which the applicant's birthday occurs
87 in those years in which the applicant's age is evenly divisible
88 by five. Except as provided in paragraph (B) of this subdivision,
89 no identification card may be issued for less than three years
90 nor more than seven years and such identification card shall be
91 renewed in the month in which the applicant's birthday occurs
92 and shall be valid for a period of five years expiring in the
93 month in which the applicant's birthday occurs and in a year in
94 which the applicant's age is evenly divisible by five.

95 (B) Every identification card issued to persons who have
96 not attained their twenty-first birthday shall expire on the last
97 day of the month in the year in which the applicant attains the
98 age of twenty-one years.

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

104 (f) Any person violating the provisions of this section is
105 guilty of a misdemeanor and, upon conviction thereof, shall be
106 fined not more than five hundred dollars; and upon a second or
107 subsequent conviction, shall be fined not more than five
108 hundred dollars, or confined in the county or regional jail not
109 more than six months, or both.

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

1 (a) Every licensee shall have his or her driver's license in
2 such person's immediate possession at all times when operating
3 a motor vehicle and shall display the same, upon demand of a
4 magistrate, municipal judge, circuit court judge, peace officer,
5 or an employee of the division.

6 (b) Any person violating the provisions of this section is
7 guilty of a misdemeanor and, upon conviction thereof, shall be
8 fined not more than five hundred dollars: *Provided*, That no
9 person charged with violating this section shall be convicted if
10 such person produces in court or at the office of the arresting
11 officer a driver's license issued to such person and valid at the
12 time of such person's arrest.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 3. TRAFFIC SIGNS, SIGNALS AND MARKINGS.

§17C-3-4. Obedience to traffic-control devices; official signs to be in proper position, etc; penalty.

1 (a) The driver of any vehicle and the operator of any
2 streetcar shall obey the instructions of any official traffic-
3 control device applicable thereto placed in accordance with the
4 provisions of this chapter, unless otherwise directed by a traffic
5 or police officer, subject to the exceptions granted the driver of
6 an authorized emergency vehicle in this chapter.

7 (b) Any person violating the provisions of this section is
8 guilty of a misdemeanor and, upon conviction thereof, shall be
9 fined not more than one hundred dollars; upon a second
10 conviction within one year thereafter, shall be fined not more
11 than two hundred dollars; and upon a third or subsequent
12 conviction, shall be fined not more than five hundred dollars.

13 (c) No provision of this chapter for which signs are required
14 shall be enforced against an alleged violator if at the time and
15 place of the alleged violation an official sign is not in proper
16 position and sufficiently legible to be seen by an ordinarily
17 observant person. Whenever a particular section does not state
18 that signs are required, such section shall be effective even
19 though no signs are erected or in place.

§17C-3-4a. Obedience to traffic-control instructions at site of street or highway construction or maintenance; penalty.

1 (a) The driver of any vehicle shall obey the traffic-control
2 instructions of any law-enforcement officer or persons autho-

3 rized by the commissioner of highways or by proper local
4 authorities to operate traffic-control devices, act as flagmen or
5 operate authorized vehicles engaged in work at or near the site
6 of street or highway construction maintenance work, for the
7 purpose of regulating, warning or guiding traffic, subject to the
8 exceptions granted the driver of an authorized emergency
9 vehicle in this chapter.

10 (b) Any person failing to comply with the requirements of
11 this section is guilty of a misdemeanor and, upon conviction
12 thereof, shall be fined not more than one hundred dollars; upon
13 a second conviction within one year thereafter, shall be fined
14 not more than two hundred dollars; and upon a third or subse-
15 quent conviction, shall be fined not more than five hundred
16 dollars.

**§17C-3-4b. Traffic violations in construction zones; posting
requirement; criminal penalty.**

1 (a) At each and every location where street or highway
2 construction work is to be conducted a sign shall be posted at
3 least one thousand feet from the construction site, or as close to
4 one thousand feet from the construction site as is practicable
5 given the location of the site when workers are present,
6 notifying all motorists as to the speed limit and displaying the
7 words "construction work".

8 (b) Any person who exceeds any posted speed restriction or
9 traffic restriction at a construction site referred to in subsection
10 (a) of this section is guilty of a misdemeanor and, upon convic-
11 tion thereof, shall be fined not less than one hundred dollars nor
12 more than five hundred dollars.

13 (c) Nothing in this section shall be construed to preclude
14 prosecution of any operator of a motor vehicle who commits a
15 violation of any other provision of this code for such violation.

§17C-3-6. Pedestrian walk and wait signals; penalty.

1 (a) Whenever special pedestrian-control signals exhibiting
2 the words "Walk" or "Wait" are in place such signals shall
3 indicate as follows:

4 (1) *Walk.* — Pedestrians facing such signal may proceed
5 across the roadway in the direction of the signal and shall be
6 given the right-of-way by the drivers of all vehicles.

7 (2) *Wait.* — No pedestrian shall start to cross the roadway
8 in the direction of such signal, but any pedestrian who has
9 partially completed his or her crossing on the walk signal shall
10 proceed to a sidewalk or safety island while the wait signal is
11 showing.

12 (b) Any person violating the provisions of this section is
13 guilty of a misdemeanor and, upon conviction thereof, shall be
14 fined not more than one hundred dollars; upon a second
15 conviction within one year thereafter, shall be fined not more
16 than two hundred dollars; and upon a third or subsequent
17 conviction, shall be fined not more than five hundred dollars.

ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-3a. Minimum speed regulations; penalty.

1 (a) No person shall drive a motor vehicle at such a slow
2 speed as to impede the normal and reasonable movement of
3 traffic except when reduced speed is necessary for safe opera-
4 tion or in compliance with law.

5 (b) Whenever the commissioner or local authorities within
6 their respective jurisdiction determine on the basis of an
7 engineering and traffic investigation that slow speeds on any
8 part of the highway consistently impede the normal and
9 reasonable movement of traffic, the commissioner or such local
10 authority may determine and declare a minimum speed limit
11 below which no person shall drive a vehicle except when
12 necessary for safe operation or in compliance with law.

13 (c) Any person who violates the provisions of this section
14 is guilty of a misdemeanor, and, upon conviction thereof, shall
15 be fined not more than one hundred dollars; upon a second
16 conviction within one year thereafter, shall be fined not more
17 than two hundred dollars; and upon a third or subsequent
18 conviction within two years thereafter, shall be fined not more
19 than five hundred dollars.

§17C-6-5. Special speed limitations; penalty.

1 (a) No person shall drive any vehicle equipped with other
2 than pneumatic tires at a speed greater than a maximum of ten
3 miles per hour.

4 (b) No person shall drive a vehicle over any bridge or other
5 elevated structure constituting a part of a highway at a speed
6 which is greater than the maximum speed which can be
7 maintained with safety to such bridge or structure, when such
8 structure is signposted as provided in this section.

9 (c) The commissioner of highways upon request from any
10 local authority shall, or upon its own initiative may, conduct an
11 investigation of any bridge or other elevated structure constitut-
12 ing a part of a highway, and if it shall thereupon find that such
13 structure cannot with safety to itself withstand vehicles travel-
14 ing at the speed otherwise permissible under this chapter, the
15 commissioner shall determine and declare the maximum speed
16 of vehicles which such structure can withstand, and shall cause
17 or permit suitable signs stating such maximum speed to be
18 erected and maintained at a distance of one hundred feet before
19 each end of such structure.

20 (d) Upon the trial of any person charged with a violation of
21 this section, proof of said determination of the maximum speed
22 by said commissioner and the existence of said signs shall
23 constitute conclusive evidence of the maximum speed which
24 can be maintained with safety to such bridge or structure.

25 (e) Any person violating the provisions of this section is
26 guilty of a misdemeanor and, upon conviction thereof, shall be
27 fined not more than one hundred dollars; upon a second
28 conviction within one year thereafter, shall be fined not more
29 than two hundred dollars; and upon a third or subsequent
30 conviction, shall be fined not more than five hundred dollars.

**ARTICLE 7. DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING
AND PASSING, ETC.**

§17C-7-1. Driving on right side of roadway; exceptions; penalty.

1 (a) Upon all roadways of sufficient width a vehicle shall be
2 driven upon the right half of the roadway, except as follows:

3 (1) When overtaking and passing another vehicle proceed-
4 ing in the same direction under the rules governing such
5 movement;

6 (2) When the right half of a roadway is closed to traffic
7 while under construction or repair;

8 (3) Upon a roadway divided into three marked lanes for
9 traffic under the rules applicable thereon; or

10 (4) Upon a roadway designated and signposted for one-way
11 traffic.

12 (b) Upon all roadways any vehicle proceeding at less than
13 the normal speed of traffic at the time and place and under the
14 conditions then existing shall be driven in the right-hand lane
15 then available for traffic, or as close as practicable to the right-
16 hand curb or edge of the roadway, except when overtaking and
17 passing another vehicle proceeding in the same direction or
18 when preparing for a left turn at an intersection or into a private
19 road or driveway.

20 (c) Any person violating the provisions of this section is
21 guilty of a misdemeanor and, upon conviction thereof, shall be
22 fined not more than one hundred dollars; upon a second
23 conviction within one year thereafter, shall be fined not more
24 than two hundred dollars; and upon a third or subsequent
25 conviction, shall be fined not more than five hundred dollars.

**§17C-7-2. Passing vehicles proceeding in opposite directions;
penalty.**

1 (a) Drivers of vehicles proceeding in opposite directions
2 shall pass each other to the right, and upon roadways having
3 width for not more than one line of traffic in each direction each
4 driver shall give to the other at least one half of the main-
5 traveled portion of the roadway as nearly as possible.

6 (b) Any person violating the provisions of this section is
7 guilty of a misdemeanor and, upon conviction thereof, shall be
8 fined not more than one hundred dollars; upon a second
9 conviction within one year thereafter, shall be fined not more
10 than two hundred dollars; and upon a third or subsequent

11 conviction, shall be fined not more than five hundred dollars.

§17C-7-3. Overtaking and passing vehicle proceeding in same direction — Passing on the left generally; penalty.

1 (a) The following rules shall govern the overtaking and
2 passing of vehicles proceeding in the same direction, subject to
3 these limitations, exceptions, and special rules hereinafter
4 stated.

5 (1) The driver of a vehicle overtaking another vehicle
6 proceeding in the same direction shall give an audible signal
7 and pass to the left thereof at a safe distance and shall not again
8 drive to the right side of the roadway until safely clear of the
9 overtaken vehicle.

10 (2) Except when overtaking and passing on the right is
11 permitted, the driver of an overtaken vehicle shall give way to
12 the right in favor of the overtaking vehicle on audible signal
13 and shall not increase the speed of his or her vehicle until
14 completely passed by the overtaking vehicle.

15 (b) Any person violating the provisions of this section is
16 guilty of a misdemeanor and, upon conviction thereof, shall be
17 fined not more than one hundred dollars; upon a second
18 conviction within one year thereafter, shall be fined not more
19 than two hundred dollars; and upon a third or subsequent
20 conviction, shall be fined not more than five hundred dollars.

§17C-7-5. Same — Limitations on overtaking on the left; penalty.

1 (a) No vehicle shall be driven to the left side of the center
2 of the roadway in overtaking and passing another vehicle
3 proceeding in the same direction unless such left side is clearly
4 visible and is free of oncoming traffic for a sufficient distance
5 ahead to permit such overtaking and passing to be completely
6 made without interfering with the safe operation of any vehicle
7 approaching from the opposite direction or any vehicle over-
8 taken. In every event the overtaking vehicle must return to the
9 right-hand side of the roadway before coming within one
10 hundred feet of any vehicle approaching from the opposite
11 direction.

12 (b) Any person violating the provisions of this section is
13 guilty of a misdemeanor and, upon conviction thereof, shall be
14 fined not more than one hundred dollars; upon a second
15 conviction within one year thereafter, shall be fined not more
16 than two hundred dollars; and upon a third or subsequent
17 conviction, shall be fined not more than five hundred dollars.

**§17C-7-6. Same — Further limitations on driving to left of center
of roadway; penalty.**

1 (a) No vehicle shall at any time be driven to the left side of
2 the roadway under the following conditions:

3 (1) When approaching the crest of a grade or upon a curve
4 in the highway where the driver's view is obstructed within
5 such distance as to create a hazard in the event another vehicle
6 might approach from the opposite direction;

7 (2) When approaching within one hundred feet of or
8 traversing any intersection or railroad grade crossing;

9 (3) When the view is obstructed upon approaching within
10 one hundred feet of any bridge, viaduct, or tunnel.

11 (b) The foregoing limitations shall not apply upon a one-
12 way roadway.

13 (c) Any person violating the provisions of this section is
14 guilty of a misdemeanor and, upon conviction thereof, shall be
15 fined not more than one hundred dollars; upon a second
16 conviction within one year thereafter, shall be fined not more
17 than two hundred dollars; and upon a third or subsequent
18 conviction, shall be fined not more than five hundred dollars.

§17C-7-7. Same — No-passing zones; penalty.

1 (a) The commissioner of highways is hereby authorized to
2 determine those portions of any highway where overtaking and
3 passing or driving to the left of the roadway would be espe-
4 cially hazardous and may by appropriate signs or markings on
5 the roadway indicate the beginning and end of such zones and
6 when such signs or markings are in place and clearly visible to
7 an ordinarily observant person every driver of a vehicle shall
8 obey the directions thereof.

9 (b) Any person violating the provisions of this section is
10 guilty of a misdemeanor and, upon conviction thereof, shall be
11 fined not more than one hundred dollars; upon a second
12 conviction within one year thereafter, shall be fined not more
13 than two hundred dollars; and upon a third or subsequent
14 conviction, shall be fined not more than five hundred dollars.

§17C-7-8. One-way roadways and rotary traffic islands; penalty.

1 (a) The commissioner of highways may designate any
2 highway or any separate roadway under its jurisdiction for one-
3 way traffic and shall erect appropriate signs giving notice
4 thereof.

5 (b) Upon a roadway designated and signposted for one-way
6 traffic a vehicle shall be driven only in the direction designated.

7 (c) A vehicle passing around a rotary traffic island shall be
8 driven only to the right of such island.

9 (d) Any person violating the provisions of this section is
10 guilty of a misdemeanor and, upon conviction thereof, shall be
11 fined not more than one hundred dollars; upon a second
12 conviction within one year thereafter, shall be fined not more
13 than two hundred dollars; and upon a third or subsequent
14 conviction, shall be fined not more than five hundred dollars.

§17C-7-9. Driving on roadways laned for traffic; penalty.

1 (a) Whenever any roadway has been divided into two or
2 more clearly marked lanes for traffic the following rules in
3 addition to all others consistent herewith shall apply:

4 (1) A vehicle shall be driven as nearly as practicable
5 entirely within a single lane and shall not be moved from such
6 lane until the driver has first ascertained that such movement
7 can be made with safety.

8 (2) Upon a roadway which is divided into three lanes a
9 vehicle shall not be driven in the center lane which is clearly
10 marked as a left turn lane except in preparation for a left turn or
11 where such center lane is at the time allocated exclusively to
12 traffic moving in the direction the vehicle is proceeding and is
13 signposted to give notice of such allocation.

14 (3) Official signs may be erected directing slow-moving
15 traffic to use a designated lane or designating those lanes to be
16 used by traffic moving in a particular direction regardless of the
17 center of the roadway and drivers of vehicles shall obey the
18 directions of every such sign.

19 (b) Any person violating the provisions of this section is
20 guilty of a misdemeanor and, upon conviction thereof, shall be
21 fined not more than one hundred dollars; upon a second
22 conviction within one year thereafter, shall be fined not more
23 than two hundred dollars; and upon a third or subsequent
24 conviction, shall be fined not more than five hundred dollars.

§17C-7-11. Driving on divided highways; penalty.

1 (a) Whenever any highway has been divided into two
2 roadways by leaving an intervening space or by a physical
3 barrier or clearly indicated dividing section so constructed as to
4 impede vehicular traffic, every vehicle shall be driven only
5 upon the right-hand roadway and no vehicle shall be driven
6 over, across, or within any such dividing space, barrier, or
7 section, except through an opening in such physical barrier or
8 dividing section or space or at a crossover or intersection
9 established by public authority.

10 (b) Any person violating the provisions of this section is
11 guilty of a misdemeanor and, upon conviction thereof, shall be
12 fined not more than one hundred dollars; upon a second
13 conviction within one year thereafter, shall be fined not more
14 than two hundred dollars; and upon a third or subsequent
15 conviction, shall be fined not more than five hundred dollars.

**§17C-7-12. Controlled-access roadway — Driving onto or from;
penalty.**

1 (a) No person shall drive a vehicle onto or from any
2 controlled-access roadway except at such entrances and exits as
3 are established by public authority.

4 (b) Any person violating the provisions of this section is
5 guilty of a misdemeanor and, upon conviction thereof, shall be
6 fined not more than one hundred dollars; upon a second

7 conviction within one year thereafter, shall be fined not more
8 than two hundred dollars; and upon a third or subsequent
9 conviction, shall be fined not more than five hundred dollars.

**ARTICLE 8. TURNING AND STARTING AND SIGNALS ON STOPPING
AND TURNING.**

§17C-8-2. Right turns; penalty.

1 (a) Both the approach for a right turn and a right turn shall
2 be made as close as practicable to the right-hand curb or edge
3 of the roadway.

4 (b) Any person violating the provisions of this section is
5 guilty of a misdemeanor and, upon conviction thereof, shall be
6 fined not more than one hundred dollars; upon a second
7 conviction within one year thereafter, shall be fined not more
8 than two hundred dollars; and upon a third or subsequent
9 conviction, shall be fined not more than five hundred dollars.

§17C-8-3. Left turns on two-way roadways; penalty.

1 (a) At any intersection where traffic is permitted to move in
2 both directions on each roadway entering the intersection, an
3 approach for a left turn shall be made in that portion of the right
4 half of the roadway nearest the center line thereof and by
5 passing to the right of such center line where it enters the
6 intersection and after entering the intersection the left turn shall
7 be made so as to leave the intersection to the right of the center
8 line of the roadway being entered. Whenever practicable the left
9 turn shall be made in that portion of the intersection to the left
10 of the center of the intersection.

11 (b) Any person violating the provisions of this section is
12 guilty of a misdemeanor and, upon conviction thereof, shall be
13 fined not more than one hundred dollars; upon a second
14 conviction within one year thereafter, shall be fined not more
15 than two hundred dollars; and upon a third or subsequent
16 conviction, shall be fined not more than five hundred dollars.

§17C-8-4. Left turns on other than two-way roadways; penalty.

1 (a) At any intersection where traffic is restricted to one
2 direction on one or more of the roadways, the driver of a

3 vehicle intending to turn left at any such intersection shall
4 approach the intersection in the extreme left-hand lane lawfully
5 available to traffic moving in the direction of travel of such
6 vehicle and after entering the intersection the left turn shall be
7 made so as to leave the intersection, as nearly as practicable, in
8 the left-hand lane lawfully available to traffic moving in such
9 direction upon the roadway being entered.

10 (b) Any person violating the provisions of this section is
11 guilty of a misdemeanor and, upon conviction thereof, shall be
12 fined not more than one hundred dollars; upon a second
13 conviction within one year thereafter, shall be fined not more
14 than two hundred dollars; and upon a third or subsequent
15 conviction, shall be fined not more than five hundred dollars.

§17C-8-6. Turning on curve or crest of grade prohibited; penalty.

1 (a) No vehicle shall be turned so as to proceed in the
2 opposite direction upon any curve, or upon the approach to, or
3 near the crest of a grade, where such vehicle cannot be seen by
4 the driver of any other vehicle approaching from either direc-
5 tion within five hundred feet.

6 (b) Any person violating the provisions of this section is
7 guilty of a misdemeanor and, upon conviction thereof, shall be
8 fined not more than one hundred dollars; upon a second
9 conviction within one year thereafter, shall be fined not more
10 than two hundred dollars; and upon a third or subsequent
11 conviction, shall be fined not more than five hundred dollars.

§17C-8-8. Turning movements and required signals; penalty.

1 (a) No person shall turn a vehicle at an intersection unless
2 the vehicle is in proper position upon the roadway as required
3 in sections two, three, four or five of this article, or turn a
4 vehicle to enter a private road or driveway or otherwise turn a
5 vehicle from a direct course or move right or left upon a
6 roadway unless and until such movement can be made with
7 reasonable safety. No person shall so turn any vehicle without
8 giving an appropriate signal in the manner hereinafter provided
9 in the event any other traffic may be affected by such move-
10 ment.

11 (b) A signal of intention to turn right or left when required
12 shall be given continuously during not less than the last one
13 hundred feet traveled by the vehicle before turning.

14 (c) No person shall stop or suddenly decrease the speed of
15 a vehicle without first giving an appropriate signal in the
16 manner provided herein to the driver of any vehicle immedi-
17 ately to the rear when there is opportunity to give such signal.

18 (d) Any person violating the provisions of this section is
19 guilty of a misdemeanor and, upon conviction thereof, shall be
20 fined not more than one hundred dollars; upon a second
21 conviction within one year thereafter, shall be fined not more
22 than two hundred dollars; and upon a third or subsequent
23 conviction, shall be fined not more than five hundred dollars.

ARTICLE 9. RIGHT-OF-WAY.

§17C-9-6. Misdemeanor to violate provisions of article; penalty.

1 Any person violating the provisions of this article is guilty
2 of a misdemeanor and, upon conviction thereof, shall be fined
3 not more than one hundred dollars; upon a second conviction
4 within one year thereafter, shall be fined not more than two
5 hundred dollars; and upon a third or subsequent conviction,
6 shall be fined not more than five hundred dollars.

ARTICLE 10. PEDESTRIANS' RIGHTS AND DUTIES.

§17C-10-7. Penalty for pedestrians violating the provisions of this article.

1 Any person violating the provisions of this article is guilty
2 of a misdemeanor and, upon conviction thereof, shall be fined
3 not more than one hundred dollars; upon a second conviction
4 within one year thereafter, shall be fined not more than two
5 hundred dollars; and upon a third or subsequent conviction,
6 shall be fined not more than five hundred dollars.

ARTICLE 12. SPECIAL STOPS REQUIRED.

§17C-12-6. Stopping before emerging from alley or private driveway; penalty.

1 (a) The driver of a vehicle within a business or residence
2 district emerging from any alley, driveway, or building shall

3 stop such vehicle immediately prior to driving onto a sidewalk
4 or onto the sidewalk area extending across any alleyway or
5 private driveway, and shall yield the right-of-way to any
6 pedestrian as may be necessary to avoid collision, and upon
7 entering the roadway shall yield the right-of-way to all vehicles
8 approaching on said roadway.

9 (b) Any person violating the provisions of this section is
10 guilty of a misdemeanor and, upon conviction thereof, shall be
11 fined not more than one hundred dollars; upon a second
12 conviction within one year thereafter, shall be fined not more
13 than two hundred dollars; and upon a third or subsequent
14 conviction, shall be fined not more than five hundred dollars.

ARTICLE 13. STOPPING, STANDING AND PARKING.

**§17C-13-1. Stopping, standing or parking outside of business or
residence districts; penalty.**

1 (a) Upon any highway outside of a business or residence
2 district no person shall stop, park, or leave standing any vehicle,
3 whether attended or unattended, upon the paved or main-
4 traveled part of the highway when it is practicable to stop, park,
5 or so leave such vehicle off such part of said highway, but in
6 every event an unobstructed width of the highway opposite a
7 standing vehicle shall be left for the free passage of other
8 vehicles and a clear view of such stopped vehicles shall be
9 available from a distance of two hundred feet in each direction
10 upon such highway.

11 (b) Any person violating the provisions of this section is
12 guilty of a misdemeanor and, upon conviction thereof, shall be
13 fined not more than one hundred dollars; upon a second
14 conviction within one year thereafter, shall be fined not more
15 than two hundred dollars; and upon a third or subsequent
16 conviction, shall be fined not more than five hundred dollars.

17 (c) This section shall not apply to the driver of any vehicle
18 which is disabled while on the paved or main-traveled portion
19 of a highway in such manner and to such extent that it is
20 impossible to avoid stopping and temporarily leaving such
21 disabled vehicle in such position.

§17C-13-3. Stopping, standing or parking prohibited in specified places; penalty.

1 (a) No person shall stop, stand or park a vehicle, except
2 when necessary to avoid conflict with other traffic or in
3 compliance with law or the directions of a police officer or
4 traffic-control device, in any of the following places:

5 (1) On a sidewalk;

6 (2) In front of a public or private driveway;

7 (3) Within an intersection;

8 (4) Within fifteen feet of a fire hydrant;

9 (5) In a properly designated fire lane;

10 (6) On a crosswalk;

11 (7) Within twenty feet of a crosswalk at an intersection;

12 (8) Within thirty feet upon the approach to any flashing
13 beacon, stop sign or traffic-control signal located at the side of
14 a roadway;

15 (9) Between a safety zone and the adjacent curb or within
16 thirty feet of points on the curb immediately opposite the ends
17 of a safety zone, unless a different length is indicated by signs
18 or markings;

19 (10) Within fifty feet of the nearest rail of a railroad
20 crossing;

21 (11) Within twenty feet of the driveway entrance to any fire
22 station and on the side of a street opposite the entrance to any
23 fire station within seventy-five feet of the entrance (when
24 properly signposted);

25 (12) Alongside or opposite any street excavation or
26 obstruction when stopping, standing or parking would obstruct
27 traffic;

28 (13) On the roadway side of any vehicle stopped or parked
29 at the edge or curb of a street;

30 (14) On any bridge or other elevated structure on a highway
31 or within a highway tunnel;

32 (15) At any place where official signs prohibit stopping;

33 (16) Within twenty feet of any mail receptacle served
34 regularly by a carrier using a motor vehicle for daily deliveries,
35 if the parking interferes with or causes delay in the carrier's
36 schedule;

37 (17) On any controlled-access highway;

38 (18) At any place on any highway where the safety and
39 convenience of the traveling public is thereby endangered;

40 (19) In front of a wheelchair accessible ramp or curb cut
41 which is part of a sidewalk designed for use by the general
42 public when the ramp or curb cut is properly marked with
43 yellow paint.

44 (b) No person shall move a vehicle not lawfully under his
45 or her control into any prohibited area or away from a curb such
46 distance as is unlawful.

47 (c) Any person violating the provisions of this section is
48 guilty of a misdemeanor and, upon conviction thereof, shall be
49 fined not more than one hundred dollars; upon a second
50 conviction within one year thereafter, shall be fined not more
51 than two hundred dollars; and upon a third or subsequent
52 conviction, shall be fined not more than five hundred dollars.

**§17C-13-4. Right and left parallel parking; angle parking; high-
way signs restricting parking, etc; penalty.**

1 (a) Except as otherwise provided in this section, every
2 vehicle stopped or parked upon a roadway where there are
3 adjacent curbs shall be so stopped or parked with the right-hand
4 wheels of such vehicle parallel to and within eighteen inches of
5 the right-hand curb. Any person violating the provisions of this
6 subsection is guilty of a misdemeanor and, upon conviction
7 thereof, shall be fined not more than one hundred dollars; upon
8 a second conviction within one year thereafter, shall be fined
9 not more than two hundred dollars; and upon a third or subse-

10 quent conviction, shall be fined not more than five hundred
11 dollars.

12 (b) Local authorities may by ordinance permit parking of
13 vehicles with the left-hand wheels adjacent to and within
14 eighteen inches of the left-hand curb of a one-way roadway.

15 (c) Local authorities may by ordinance permit angle
16 parking on any roadway, except that angle parking shall not be
17 permitted on any federal-aid or state highway unless the
18 division of highways has determined by resolution or order
19 entered in its minutes that the roadway is of sufficient width to
20 permit angle parking without interfering with the free move-
21 ment of traffic.

22 (d) The division of highways with respect to highways
23 under its jurisdiction may place signs prohibiting or restricting
24 the stopping, standing, or parking of vehicles on any highway
25 where in its opinion, as evidenced by resolution or order
26 entered in its minutes, such stopping, standing, or parking is
27 dangerous to those using the highway or where the stopping,
28 standing, or parking of vehicles would unduly interfere with the
29 free movement of traffic thereon. Such signs shall be official
30 signs and no person shall stop, stand, or park any vehicle in
31 violation of the restrictions stated on such signs. Any person
32 violating the provisions of this subsection is guilty of a misde-
33 meanor and, upon conviction thereof, shall be fined not more
34 than one hundred dollars; upon a second conviction within one
35 year thereafter, shall be fined not more than two hundred
36 dollars; and upon a third or subsequent conviction, shall be
37 fined not more than five hundred dollars.

ARTICLE 14. MISCELLANEOUS RULES.

§17C-14-1. Unattended motor vehicle; penalty.

1 (a) No person driving or in charge of a motor vehicle shall
2 permit it to stand unattended without first stopping the engine,
3 locking the ignition, removing the key, and effectively setting
4 the brake thereon and, when standing upon any grade, turning
5 the front wheels to the curb or side of the highway.

6 (b) Any person violating the provisions of this section is
7 guilty of a misdemeanor and, upon conviction thereof, shall be

8 fined not more than one hundred dollars; upon a second
9 conviction within one year thereafter, shall be fined not more
10 than two hundred dollars; and upon a third or subsequent
11 conviction, shall be fined not more than five hundred dollars.

§17C-14-2. Limitations on backing; penalty.

1 (a) The driver of a vehicle shall not back the same unless
2 such movement can be made with reasonable safety and without
3 interfering with other traffic.

4 (b) Any person violating the provisions of this section is
5 guilty of a misdemeanor and, upon conviction thereof, shall be
6 fined not more than one hundred dollars; upon a second
7 conviction within one year thereafter, shall be fined not more
8 than two hundred dollars; and upon a third or subsequent
9 conviction, shall be fined not more than five hundred dollars.

§17C-14-4. Obstruction to driver's view or driving mechanism; penalty.

1 (a) No person shall drive a vehicle when it is so loaded as
2 to obstruct the view of the driver to the front or sides of the
3 vehicle or as to interfere with the driver's control over the
4 driving mechanism of the vehicle.

5 (b) No passenger in a vehicle or streetcar shall ride in such
6 position as to interfere with the driver's or operator's view
7 ahead or to the sides, or to interfere with his or her control over
8 the driving mechanism of the vehicle or streetcar.

9 (c) Any person violating the provisions of this section is
10 guilty of a misdemeanor and, upon conviction thereof, shall be
11 fined not more than one hundred dollars; upon a second
12 conviction within one year thereafter, shall be fined not more
13 than two hundred dollars; and upon a third or subsequent
14 conviction, shall be fined not more than five hundred dollars.

§17C-14-5. Passengers in seat with operator; penalty.

1 (a) No more than three persons including the operator shall
2 ride or be permitted by such operator to ride in the seat with the
3 operator of any motor vehicle while said motor vehicle is being

4 operated on the streets or highways of this state: *Provided*, That
5 the limitation of this section shall not apply to a truck cab or
6 truck crew compartment properly designed for the occupancy
7 of four persons including the operator, and so designated on the
8 registration card by the division of motor vehicles.

9 (b) Any person violating the provisions of this section is
10 guilty of a misdemeanor and, upon conviction thereof, shall be
11 fined not more than one hundred dollars; upon a second
12 conviction within one year thereafter, shall be fined not more
13 than two hundred dollars; and upon a third or subsequent
14 conviction, shall be fined not more than five hundred dollars.

§17C-14-6. Passengers on running board; penalty.

1 (a) No passenger shall ride nor shall the operator permit any
2 passenger to ride on the running boards of any motor vehicle
3 while such vehicle is being operated on the streets or highways
4 of this state.

5 (b) Any person violating the provisions of this section is
6 guilty of a misdemeanor and, upon conviction thereof, shall be
7 fined not more than one hundred dollars; upon a second
8 conviction within one year thereafter, shall be fined not more
9 than two hundred dollars; and upon a third or subsequent
10 conviction, shall be fined not more than five hundred dollars.

§17C-14-7. Driving on mountain highways; penalty.

1 (a) The driver of a motor vehicle traveling through defiles
2 or canyons or on mountain highways shall hold such motor
3 vehicle under control and as near the right-hand edge of the
4 highway as reasonably possible and, upon approaching any
5 curve where the view is obstructed within a distance of two
6 hundred feet along the highway, shall give audible warning
7 with the horn of such motor vehicle.

8 (b) Any person violating the provisions of this section is
9 guilty of a misdemeanor and, upon conviction thereof, shall be
10 fined not more than one hundred dollars; upon a second
11 conviction within one year thereafter, shall be fined not more
12 than two hundred dollars; and upon a third or subsequent
13 conviction, shall be fined not more than five hundred dollars.

§17C-14-8. Coasting prohibited; penalty.

1 (a) The driver of any motor vehicle when traveling upon a
2 down grade shall not coast with the gears of such vehicle in
3 neutral.

4 (b) The driver of a commercial motor vehicle when
5 traveling upon a down grade shall not coast with the clutch
6 disengaged.

7 (c) Any person violating the provisions of this section is
8 guilty of a misdemeanor and, upon conviction thereof, shall be
9 fined not more than one hundred dollars; upon a second
10 conviction within one year thereafter, shall be fined not more
11 than two hundred dollars; and upon a third or subsequent
12 conviction, shall be fined not more than five hundred dollars.

§17C-14-9. Following authorized emergency vehicles; penalty.

1 (a) The driver of any vehicle other than one on official
2 business may not follow any authorized emergency vehicle
3 traveling in response to a fire alarm or other emergency closer
4 than five hundred feet or drive into or park such vehicle within
5 the block where such authorized emergency vehicle has stopped
6 in answer to a fire alarm or other emergency.

7 (b) Any person violating the provisions of this section is
8 guilty of a misdemeanor and, upon conviction thereof, shall be
9 fined not more than one hundred dollars; upon a second
10 conviction within one year thereafter, shall be fined not more
11 than two hundred dollars; and upon a third or subsequent
12 conviction, shall be fined not more than five hundred dollars.

§17C-14-10. Crossing fire hose; penalty.

1 (a) No streetcar or vehicle shall be driven over any unpro-
2 tected hose of a fire department when laid down on any street,
3 private driveway, or streetcar track, to be used at any fire or
4 alarm of fire, without the consent of the fire department official
5 in command.

6 (b) Any person violating the provisions of this section is
7 guilty of a misdemeanor and, upon conviction thereof, shall be

8 fined not more than one hundred dollars; upon a second
 9 conviction within one year thereafter, shall be fined not more
 10 than two hundred dollars; and upon a third or subsequent
 11 conviction, shall be fined not more than five hundred dollars.

§17C-14-13. Vehicles parked on private property; penalty.

1 (a) It shall be unlawful for any driver of a vehicle to stop,
 2 park or leave standing unattended any vehicle on a private road
 3 or driveway or on private property without having express or
 4 implied permission from the owner, tenant or lessee of such
 5 land.

6 (b) Any person violating the provisions of this section is
 7 guilty of a misdemeanor and, upon conviction thereof, shall be
 8 fined not more than one hundred dollars; upon a second
 9 conviction within one year thereafter, shall be fined not more
 10 than two hundred dollars; and upon a third or subsequent
 11 conviction, shall be fined not more than five hundred dollars.

12 (c) The owner, tenant or lessee of such private road or
 13 driveway or private property may move, or have moved, any
 14 vehicle stopped, parked or left standing unattended on his or her
 15 private road, driveway, or private property as above prohibited
 16 without any liability for the cost of moving any vehicle, nor
 17 shall he or she be liable to the owner of the vehicle for any
 18 damage done to such vehicle in moving it, unless the owner,
 19 tenant or lessee of such private road or driveway or private
 20 property was negligent in removing or authorizing the removal
 21 of the vehicle. The owner of such vehicle shall be responsible
 22 to the persons removing such vehicle for paying all removal
 23 costs. Any person who removes any vehicle under the provi-
 24 sions of this section shall notify the West Virginia state police
 25 of such action, and, if such vehicle is removed within a munici-
 26 pality, shall, in addition notify the police department of such
 27 municipality.

ARTICLE 15. EQUIPMENT.

§17C-15-6. Penalty for violations of the provisions of this article.

1 (a) Unless otherwise provided for in this article and, except
 2 as otherwise provided in subsection (b) of this section, any

3 person violating the provisions of this article is guilty of a
4 misdemeanor and, upon conviction thereof, shall be fined not
5 more than one hundred dollars; upon a second conviction within
6 one year thereafter, shall be fined not more than two hundred
7 dollars; and upon a third or subsequent conviction, shall be
8 fined not more than five hundred dollars.

9 (b) Any person violating the provisions of sections thirty-
10 one or thirty-two of this article is guilty of a misdemeanor and,
11 upon conviction thereof, shall be fined not more than one
12 hundred dollars, or confined in the county or regional jail for
13 not more than ten days, or both; upon a second conviction
14 within one year thereafter, shall be fined not more than two
15 hundred dollars, or confined in the county or regional jail for
16 not more than twenty days, or both; and upon a third or subse-
17 quent conviction, shall be fined not more than five hundred
18 dollars, or confined in the county or regional jail not more than
19 six months, or both.

§17C-15-36a. Sun screening devices; penalty.

1 (a) No person may operate a motor vehicle that is registered
2 or required to be registered in the state on any public highway,
3 road or street that has a sun screening device on the windshield,
4 the front side wings and side windows adjacent to the right and
5 left of the driver and windows adjacent to the rear of the driver
6 that do not meet the requirements of this section.

7 (b) A sun screening device when used in conjunction with
8 the windshield must be nonreflective and may not be red,
9 yellow or amber in color. A sun screening device may be used
10 only along the top of the windshield and may not extend
11 downward beyond the ASI line or more than five inches from
12 the top of the windshield whichever is closer to the top of the
13 windshield.

14 (c) A sun screening device when used in conjunction with
15 the automotive safety glazing materials of the side wings or
16 side windows located at the immediate right and left of the
17 driver shall be a nonreflective type with reflectivity of not more
18 than twenty percent and have a light transmission of not less

19 than thirty-five percent. The side windows behind the driver
20 and the rear most windows may have a sun screening device
21 that is designed to be used on automotive safety glazing
22 materials that has a light transmission of not less than
23 thirty-five percent and a reflectivity of not more than twenty
24 percent. If a sun screening device is used on glazing behind the
25 driver, one right and one left outside rear view mirror is
26 required.

27 (d) Each manufacturer shall:

28 (1) Certify to the West Virginia state police and division of
29 motor vehicles that a sun screening device used by it is in
30 compliance with the reflectivity and transmittance requirements
31 of this section;

32 (2) Provide a label not to exceed one and one-half square
33 inches in size, with a means for the permanent and legible
34 installations between the sun screening material and each
35 glazing surface to which it is applied that contains the manufac-
36 turer's name and its percentage of light transmission; and

37 (3) Include instructions with the product or material for
38 proper installation, including the affixing of the label specified
39 in this section. The labeling or marking must be placed in the
40 left lower corner of each glazing surface when facing the
41 vehicle from the outside.

42 (e) No person may:

43 (1) Offer for sale or for use any sun screening product or
44 material for motor vehicle use not in compliance with this
45 section; or

46 (2) Install any sun screening product or material on vehicles
47 intended for use on public roads without permanently affixing
48 the label specified in this section.

49 (f) The provisions of this section do not apply to a motor
50 vehicle registered in this state in the name of a person, or the
51 person's legal guardian, who has an affidavit signed by a
52 physician or an optometrist licensed to practice in this state that
53 states that the person has a physical condition that makes it

54 necessary to equip the motor vehicle with sun screening
55 material which would be of a light transmittance or luminous
56 reflectance in violation of this section. The affidavit must be in
57 the possession of the person so afflicted, or the person's legal
58 guardian, at all times while being transported in the motor
59 vehicle.

60 (g) The light transmittance requirement of this section does
61 not apply to windows behind the driver on trucks, buses,
62 trailers, mobile homes and multipurpose passenger vehicles.

63 (h) As used in this section:

64 (1) "Bus" means a motor vehicle with motive power, except
65 a trailer, designed for carrying more than ten persons.

66 (2) "Light transmission" means the ratio of the amount of
67 total light to pass through a product or material to the amount
68 of the total light falling on the product or material.

69 (3) "Luminous reflectants" means the ratio of the amount
70 of total light that is reflected outward by the product or material
71 to the amount of the total light falling on the product or
72 materials.

73 (4) "Manufacturer" means any person engaged in the
74 manufacturing or assembling of sun screening products or
75 materials designed to be used in conjunction with vehicle
76 glazing materials for the purpose of reducing the effects of the
77 sun.

78 (5) "Motor homes" means vehicular units designed to
79 provide temporary living quarters built into and an integral part
80 of or permanently attached to a self-propelled motor vehicle
81 chassis.

82 (6) "Multipurpose passenger vehicle" means a motor
83 vehicle with motive power, except a trailer, designed to carry
84 ten persons or less which is constructed either on a truck chassis
85 or with special features for occasional off-road operation.

86 (7) "Nonreflective" means a product or material designed
87 to absorb light rather than to reflect it.

88 (8) "Passenger car" means a motor vehicle with motive
89 power, except a multipurpose passenger vehicle, motorcycle or
90 trailer, designed for carrying ten persons or less.

91 (9) "Sun screening device" means film material or device
92 that is designed to be used in conjunction with motor vehicle
93 safety glazing materials for reducing the effects of the sun.

94 (10) "Truck" means a motor vehicle with motive power,
95 except a trailer, designed primarily for the transportation of
96 property or special purpose equipment.

97 (i) Any person violating the provisions of this section is
98 guilty of a misdemeanor and, upon conviction thereof, shall be
99 fined not more than two hundred dollars.

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.

§17D-2A-4. Certificate of insurance.

1 (a) All insurance carriers transacting insurance in this state
2 shall supply a certificate to the insured or to any person subject
3 to the registration provisions of article three, chapter seventeen-
4 a of this code, certifying that there is in effect a motor vehicle
5 liability policy upon such motor vehicle in accordance with the
6 provisions of article three, chapter seventeen-a of this code. The
7 certificate shall give its effective date and the effective date of
8 the policy and, unless the policy is issued to a person who is not
9 the owner of a motor vehicle, must designate by explicit
10 description, in such detail as the commissioner of the division
11 of motor vehicles shall by rule require, all motor vehicles
12 covered and all replacement vehicles of similar classification:
13 *Provided*, That on and after the first day of July, one thousand
14 nine hundred eighty-four, insurance companies shall supply a
15 certificate of insurance in duplicate for each policy term and for
16 each vehicle included in a policy, except for those listed in a
17 fleet policy. Each such certificate of insurance shall list the
18 name of the policyholder and the name of the vehicle owner if
19 different from the policyholder.

20 The certificate must specify for each vehicle listed therein,
21 that there is a minimum liability insurance coverage not less
22 than the requirements of section two, article four, chapter
23 seventeen-d of this code.

24 (b) The certificate provided pursuant to the provisions of
25 this section or other proof of insurance shall be carried by the
26 insured in the appropriate vehicle for use as proof of security,
27 and must be presented at the time of vehicle inspection as
28 required by article sixteen, chapter seventeen-c of this code.
29 Any person violating the provisions of this subsection is guilty
30 of a misdemeanor and, upon conviction thereof, shall be fined
31 not less than two hundred dollars nor more than five thousand
32 dollars; and upon a second or subsequent conviction, shall be
33 fined not less than two hundred dollars nor more than five
34 thousand dollars, or confined in the county or regional jail for
35 not less than fifteen days nor more than one year, or both:
36 *Provided*, That an insured shall not be guilty of a violation of
37 this subsection (b) if he or she furnishes proof that such
38 insurance was in effect within seven days of being cited for not
39 carrying such certificate or other proof in such vehicle.

40 (c) As used in this section, proof of insurance means a
41 certificate of insurance, an insurance policy, a mechanically
42 reproduced copy of an insurance policy, a certificate of self-
43 insurance, or a copy of the current registration issued to a motor
44 carrier by the public service commission: (1) through the single
45 state registration system established pursuant to section
46 fourteen, article six-a, chapter twenty-four-a of this code; or (2)
47 pursuant to the provisions of section four, article six, chapter
48 twenty-four-a of this code.

§17D-2A-9. Criminal penalty.

1 In addition to any administrative penalty provided for
2 violation of any provision of this article, any person who
3 violates any provision of this article for which another penalty
4 is not provided in this article is guilty of a misdemeanor and,
5 upon conviction thereof, shall be fined not less than two
6 hundred dollars nor more than five thousand dollars, or con-
7 fined in the county or regional jail not less than fifteen days nor
8 more than one year, or both.

9 The arrest procedures authorized in section four, article
10 nineteen, chapter seventeen-c of this code shall apply to the
11 enforcement of the provisions of this article.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-31. Size and form of license and tag; contents; unlawful to alter licenses or permits; penalty.

1 (a) The size, content and form of all licenses, tags, and
2 permits shall be prescribed by the director. The information
3 which a licensee is required to furnish shall be placed upon the
4 license by the license issuing authority before delivery of such
5 license to the licensee.

6 (b) It shall be unlawful for any person to alter, mutilate, or
7 deface any license, tag, or permit, or the entries thereon, for the
8 purpose of evading the provisions of this chapter.

9 Any person violating the provisions of this subsection is
10 guilty of a misdemeanor and, upon conviction thereof, shall be
11 fined not less than twenty dollars nor more than three hundred
12 dollars; and upon a second and subsequent conviction thereof,
13 shall be fined not less than twenty dollars nor more than three
14 hundred dollars, or confined in the county or regional jail not
15 less than ten nor more than one hundred days, or both.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-26. Unlawful disposal of litter; civil and criminal penalty; litter control fund; evidence; notice violations; litter receptacle placement; penalty; duty to enforce violations.

1 (a) (1) Any person who places, deposits, dumps or throws
2 or causes to be placed, deposited, dumped or thrown any litter
3 as defined in section twenty-four of this article, in or upon any
4 public or private highway, road, street or alley, or upon any
5 private property without the consent of the owner, or in or upon
6 any public park or other public property other than in such
7 place as may be set aside for such purpose by the governing
8 body having charge thereof, is guilty of a misdemeanor, and,

9 upon his or her first conviction, shall be fined not less than fifty
10 dollars nor more than five hundred dollars: *Provided*, That a
11 person shall not be held responsible for the actions of animals
12 under their direct control. At the request of the defendant or in
13 the discretion of the court, the court may sentence the defendant
14 to pick up and remove from any public highway, road, street,
15 alley or any other public park or public property as designated
16 by the court, any and all litter, garbage, refuse, trash, cans,
17 bottles, papers, ashes, carcass of any dead animal or any part
18 thereof, offal or any other offensive or unsightly matter placed,
19 deposited, dumped or thrown contrary to the provisions of this
20 section by anyone prior to the date of such conviction. For the
21 first offense, the alternative sentence of litter pickup shall be
22 not less than eight hours nor more than sixteen hours in lieu of
23 a fine. For purposes of this subdivision, the term "court"
24 includes circuit, magistrate and municipal courts.

25 (2) Upon his or her second conviction, such person shall be
26 fined not less than two hundred fifty dollars nor more than one
27 thousand dollars: *Provided*, That a person shall not be held
28 responsible for the actions of animals under their direct control.
29 At the request of the defendant or in the discretion of the court,
30 the court may sentence the defendant to pick up and remove
31 from any public highway, road, street, alley or any other public
32 park or public property as designated by the court, any and all
33 litter, garbage, refuse, trash, cans, bottles, papers, ashes, carcass
34 of any dead animal or any part thereof, offal or any other
35 offensive or unsightly matter placed, deposited, dumped or
36 thrown contrary to the provisions of this section by anyone
37 prior to the date of such conviction. For the second offense, the
38 alternative sentence of litter pickup shall be not less than
39 sixteen hours nor more than thirty-two hours in lieu of a fine.
40 For purposes of this subdivision, the term "court" shall include
41 circuit and magistrate courts.

42 (3) Upon such person's third and successive conviction, he
43 or she shall be fined not less than five hundred dollars nor more
44 than two thousand dollars and confined in the county or
45 regional jail not less than forty-eight hours nor more than one
46 year: *Provided*, That a person shall not be held responsible for

47 the actions of animals under their direct control. At the request
48 of the defendant or in the discretion of the court, the court may
49 sentence the defendant to pick up and remove from any public
50 highway, road, street, alley or any other public park or public
51 property as designated by the court, any and all litter, garbage,
52 refuse, trash, cans, bottles, papers, ashes, carcass of any dead
53 animal or any part thereof, offal or any other offensive or
54 unsightly matter placed, deposited, dumped or thrown contrary
55 to the provisions of this section by anyone prior to the date of
56 such conviction. Upon a third conviction, the alternative
57 sentence of litter pickup shall be not less than thirty-two hours
58 nor more than sixty-four hours in lieu of such fine or incarceration,
59 but not both. For purposes of this subdivision, the term
60 "court" includes circuit and magistrate courts.

61 (4) The alternative sentence of litter pickup herein set forth
62 shall be verified by the conservation officers from the division
63 of natural resources or environmental inspectors from the
64 division of environmental protection or a regional engineering
65 technician from the division of environmental protection
66 pollution prevention and open dumps program (PPOD) of the
67 county in which the offense occurred. Any defendant receiving
68 the herein specified alternative sentence of litter pickup shall
69 provide within a time to be set by the court written acknowledgment
70 from said conservation officers or environmental officers
71 that the sentence has been completed.

72 (5) Any person who has been found by the court to have
73 willfully failed to comply with the terms of an alternative
74 sentence imposed by the court pursuant to this section is subject
75 at the discretion of the court to up to twice the original penalty
76 provisions available to the court at the time of conviction.

77 (6) If any litter is thrown or cast from a motor vehicle or
78 boat, such action is prima facie evidence that the driver of such
79 motor vehicle or boat intended to violate the provisions of this
80 section. If any litter is dumped or discharged from a motor
81 vehicle or boat, such action is prima facie evidence that the
82 owner and driver of such motor vehicle or boat intended to
83 violate the provisions of this section.

84 (b) Any litter found on any public or private property with
85 any indication of ownership on it will be evidence creating a
86 rebuttable inference it was deposited improperly by the person
87 whose identity is indicated, and any person who improperly
88 disposes of litter is subject to either a civil fine of up to five
89 hundred dollars for such litter or required to pay the costs of
90 removal of such litter if the removal of such litter is required to
91 be done by the division, at the discretion of the director. All
92 such fines and costs shall be deposited to the litter control fund:
93 *Provided*, That no inference shall be drawn solely from the
94 presence of any logo, trademark, trade name or other similar
95 mass reproduced identifying character appearing on litter found.

96 (c) Every person who is convicted of or pleads guilty to
97 disposing of litter in violation of subsection (a) of this section
98 shall pay the sum of not less than fifty dollars nor more than
99 five hundred dollars as costs for clean-up, investigation and
100 prosecution in such case, in addition to any other court costs
101 that the court is otherwise required by law to impose upon such
102 convicted person.

103 The clerk of the circuit court, magistrate court or municipal
104 court wherein such additional costs are imposed shall, on or
105 before the last day of each month, transmit all such costs
106 received under this subsection to the state treasurer for deposit
107 in the state treasury to the credit of a special revenue fund to be
108 known as the litter control fund which is hereby continued.
109 Expenditures for purposes set forth in this section are not
110 authorized from collections but are to be made only in accor-
111 dance with appropriation and in accordance with the provisions
112 of article three, chapter twelve of this code and upon fulfillment
113 of the provisions set forth in article two, chapter five-a of this
114 code: *Provided*, That for the fiscal year ending the thirtieth day
115 of June, one thousand nine hundred ninety-three, expenditures
116 shall be authorized from collections. Amounts collected which
117 are found from time to time to exceed the funds needed for the
118 purposes set forth in this article may be transferred to other
119 accounts or funds and redesignated for other purposes by
120 appropriation of the Legislature.

121 (d) (1) The commissioner of the division of motor vehicles,
122 upon registering a motor vehicle or issuing an operator's or
123 chauffeur's license, shall issue to the owner or licensee, as the
124 case may be, a copy of subsection (a) of this section.

125 (2) The commissioner of the division of highways shall
126 cause appropriate signs to be placed at the state boundary on
127 each primary and secondary road, and at other locations
128 throughout the state, informing those entering the state of the
129 maximum penalty provided for disposing of litter in violation
130 of subsection (a) of this section.

131 (e) Any state agency or political subdivision that owns,
132 operates or otherwise controls any public area as may be
133 designated by the director by rule promulgated pursuant to
134 subdivision (8), subsection (a), section twenty-five of this
135 article, shall procure and place litter receptacles at its own
136 expense upon its premises and shall remove and dispose of litter
137 collected in such litter receptacles. After receiving two written
138 warnings from any law-enforcement officer or officers to
139 comply with this subsection or the said rules of the director, any
140 person who fails to place and maintain such litter receptacles
141 upon his or her premises in violation of this subsection or the
142 rules of the director shall be fined fifteen dollars per day of
143 such violation.

144 (f) No portion of this section shall be construed to restrict
145 a private owner in the use of the owner's own private property
146 in any manner otherwise authorized by law.

147 (g) Any law-enforcement officer who shall observe a
148 person violating the provisions of this section has a mandatory
149 duty to arrest or otherwise prosecute the violator to the limits
150 provided herein. The West Virginia division of highways shall
151 investigate and cause to be prosecuted violations of this section
152 occurring upon the highways of the state as the term "high-
153 ways" is defined in chapter seventeen of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-9. Intoxication or drinking in public places; illegal possession of alcoholic liquor; arrests by sheriffs or their deputies for violation in their presence; penalty.

1 (a) A person shall not:

2 (1) Appear in a public place in an intoxicated condition;

3 (2) Drink alcoholic liquor in a public place;

4 (3) Drink alcoholic liquor in a motor vehicle on any
5 highway, street, alley or in a public garage;

6 (4) Tender a drink of alcoholic liquor to another person in
7 a public place;

8 (5) Possess alcoholic liquor in the amount in excess of ten
9 gallons, in containers not bearing stamps or seals of the
10 commissioner, without having first obtained written authority
11 from the said commissioner therefor; or

12 (6) Possess any alcoholic liquor which was manufactured
13 or acquired in violation of the provisions of this chapter.

14 (b) Any law-enforcement officer may arrest without a
15 warrant and take the following actions against a person who, in
16 his or her presence, violates subdivision (1) of subsection (a) of
17 this section: (1) If there is some nonintoxicated person who will
18 accept responsibility for the intoxicated person, the officer may
19 issue the intoxicated person a citation specifying a date for
20 appearance before a judicial officer and release him or her to
21 the custody of the individual accepting responsibility: *Provided,*
22 That the issuance of a citation shall be used whenever feasible;
23 (2) if it does not impose an undue burden on the officer, he or
24 she may, after issuance of such a citation, transport the individ-
25 ual to the individual's present residence or arrange for such
26 transportation; (3) if the individual is incapacitated or the
27 alternatives provided in subdivisions (1) and (2) of this subsec-
28 tion are not possible, the officer shall transport or arrange for
29 transportation to the appropriate judicial officer as defined by
30 section seventeen, article eleven, chapter twenty-seven of this
31 code; or (4) if the individual is incapacitated and, in the law-
32 enforcement officer's judgment, is in need of acute medical

33 attention, that officer shall arrange for transportation by
34 ambulance or otherwise to a hospital emergency room. The
35 officer shall accompany the individual until he or she is
36 discharged from the emergency room or admitted to the
37 hospital. If the individual is released from the emergency room,
38 the officer may proceed as described in subdivisions (1), (2)
39 and (3) of this subsection. If the individual is admitted to the
40 hospital, the officer shall issue a citation to the individual
41 specifying a date for appearance before a judicial officer.

42 (c) Upon presentment before the proper judicial officer, the
43 law-enforcement officer shall serve as the chief complaining
44 witness. The judicial officer must make a finding that there is
45 probative evidence that the individual may be guilty of the
46 charge of public intoxication. If such evidence is not presented,
47 the charge shall be dismissed and the individual released. If
48 sufficient evidence is presented, the judicial officer shall issue
49 a warrant and establish bail or issue a summons to the individ-
50 ual. Once a warrant or summons has been issued, the following
51 actions may be taken: (1) If the individual is no longer incapaci-
52 tated, he or she may be released; (2) if the individual is still
53 incapacitated but a nonintoxicated person is available to accept
54 responsibility for him or her, he or she may be released to the
55 responsible person; or (3) if the individual is still incapacitated
56 and no responsible person is available, the judicial officer shall
57 proceed under the provisions of article five or six-a, chapter
58 twenty-seven of this code.

59 (d) Any law-enforcement officer is hereby authorized and
60 empowered to arrest and hold in custody, without a warrant,
61 until complaint may be made before a judicial officer and a
62 warrant or summons issued, any person who in the presence of
63 the law-enforcement officer violates any one or more of
64 subdivisions (1) through (6), subsection (a) of this section:
65 *Provided*, That the law-enforcement officer may use reasonable
66 force to prevent harm to himself or herself, the individual
67 arrested or others in carrying out the provisions of this section.

68 (e) Any person who violates subdivision (1), subsection (a)
69 of this section shall be guilty of a misdemeanor, and, upon

70 conviction thereof, shall be sentenced by a judicial officer in
71 accordance with the following options: (1) Upon first offense,
72 a fine of not less than five dollars nor more than one hundred
73 dollars. If the individual, prior to conviction, agrees to volun-
74 tarily attend an alcohol education program of not more than six
75 hours duration at the nearest community mental health —
76 mental retardation center, the judicial officer may delay
77 sentencing until the program is completed and upon completion
78 may dismiss the charges; (2) upon conviction for a second
79 offense, a fine of not less than five dollars nor more than one
80 hundred dollars and not more than sixty days in the county or
81 regional jail or completion of not less than five hours of
82 alcoholism counseling at the nearest community mental health
83 — mental retardation center; (3) upon third and subsequent
84 convictions, a fine of not less than five dollars nor more than
85 one hundred dollars and not less than five nor more than sixty
86 days in county or regional jail or a fine of not less than five
87 dollars nor more than one hundred dollars and completion of
88 not less than five hours of alcoholism counseling at the nearest
89 community mental health — mental retardation center: *Pro-*
90 *vided*, That three convictions for public intoxication within the
91 preceding six months shall be considered evidence of alcohol-
92 ism: *Provided, however*, That for the educational counseling
93 programs described in this subsection the community mental
94 health — mental retardation center may charge each participant
95 its usual and customary fee and shall certify in writing to the
96 referring judicial officer the completion or failure to complete
97 the prescribed program for each individual.

98 (f) A person charged with a violation of subdivision (1),
99 subsection (a) of this section who is an alcoholic shall be found
100 not guilty by reason of addiction and proper disposition made
101 pursuant to articles five and six-a, chapter twenty-seven of this
102 code.

103 (g) Any person who violates subdivision (2), subsection (a)
104 of this section shall be guilty of a misdemeanor, and, upon
105 conviction thereof, shall be fined not less than five nor more
106 than one hundred dollars; and upon a second or subsequent
107 conviction thereof, shall be fined not less than five nor more

108 than one hundred dollars, or confined in the county or regional
109 jail not more than sixty days, or both.

110 (h) Any person who violates subdivision (3), subsection (a)
111 of this section shall be guilty of a misdemeanor, and, upon
112 conviction thereof, shall be fined not less than five nor more
113 than one hundred dollars, or confined in the county or regional
114 jail not more than sixty days, or both.

115 (i) Any person who violates subdivision (4) or (5), subsec-
116 tion (a) of this section shall be guilty of a misdemeanor and,
117 upon his or her first conviction, shall be fined not less than one
118 hundred dollars nor more than five hundred dollars; and upon
119 conviction of second or subsequent offense, he or she shall be
120 guilty of a felony and shall be confined in the penitentiary of
121 this state for a period of not less than one year nor more than
122 three years.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-39a. Making, issuing, etc., worthless checks; penalty.

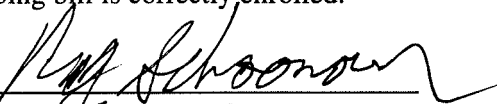
1 (a) It shall be unlawful for any person, firm or corporation
2 to make, draw, issue, utter or deliver any check, draft or order
3 for the payment of money or its equivalent upon any bank or
4 other depository, knowing or having reason to know there is not
5 sufficient funds on deposit in or credit with such bank or other
6 depository with which to pay the same upon presentation. The
7 making, drawing, issuing, uttering or delivering of any such
8 check, draft or order, for or on behalf of any corporation, or its
9 name, by any officer or agent of such corporation, shall subject
10 such officer or agent to the penalty of this section to the same
11 extent as though such check, draft or order was his or her own
12 personal act.

13 (b) This section shall not apply to any such check, draft or
14 order when the payee or holder knows or has been expressly
15 notified prior to the acceptance of same or has reason to believe
16 that the drawer did not have on deposit or to his or her credit
17 with the drawee sufficient funds to insure payment as aforesaid,
18 nor shall this section apply to any postdated check, draft or

19 order. This section shall not apply when such insufficiency of
20 funds or credit is caused by any adjustment to the drawer's
21 account by the bank or other depository without notice to the
22 drawer or is caused by the dishonoring of any check, draft or
23 order deposited in the account unless there is knowledge or
24 reason to believe that such check, draft or order would be so
25 dishonored.

26 (c) Any person who shall violate the provisions of this
27 section shall be guilty of a misdemeanor and, upon conviction
28 thereof, shall be fined not more than one hundred dollars; and
29 upon a third or subsequent conviction thereof, shall be fined not
30 more than one hundred dollars, or confined in the county or
31 regional jail not more than ten days, or both.

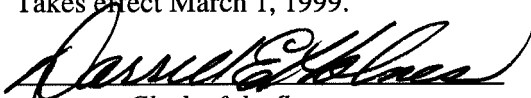
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

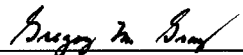

Chairman Senate Committee

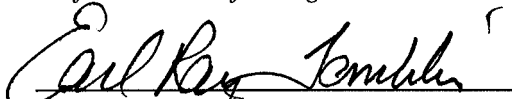

Chairman House Committee

Originating in the House.

Takes effect March 1, 1999.

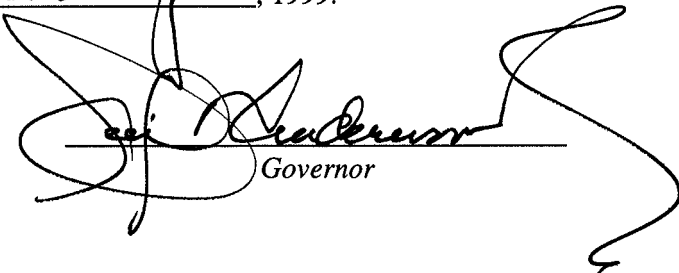

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 26th
day of February, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date

2/23/99

Time

3:55 pm