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LEGISLATIVE SERVICES

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4125**

(By Delegate Warner)



Passed March 11, 2000

In Effect Ninety Days from Passage

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LEGISLATIVE SERVICES  
STATE OF WEST VIRGINIA

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COMMITTEE SUBSTITUTE

FOR

## H. B. 4125

(BY DELEGATE WARNER)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article five-a, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to deleting the present language regarding payment of enrollment fees and substituting a method for collecting and remitting the fees.

*Be it enacted by the Legislature of West Virginia:*

That section three, article five-a, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.**

**§17C-5A-3. Safety and treatment program; reissuance of license.**

1 (a) The division of motor vehicles, in cooperation with the  
2 department of health and human resources, the division of  
3 alcoholism and drug abuse, shall propose a legislative rule or  
4 rules for promulgation in accordance with the provisions of  
5 chapter twenty-nine-a of this code, establishing a comprehen-  
6 sive safety and treatment program for persons whose licenses  
7 have been revoked under the provisions of this article, or  
8 section seven, article five of this chapter, or subsection (6),  
9 section five, article three, chapter seventeen-b of this code, and  
10 shall likewise establish the minimum qualifications for mental  
11 health facilities or other public agencies or private entities  
12 conducting the safety and treatment program: *Provided*, That  
13 the commissioner may establish standards whereby the division  
14 will accept or approve participation by violators in another  
15 treatment program which provides the same or substantially  
16 similar benefits as the safety and treatment program established  
17 pursuant to this section. The program shall include, but not be  
18 limited to, treatment of alcoholism, alcohol and drug abuse,  
19 psychological counseling, educational courses on the dangers  
20 of alcohol and drugs as they relate to driving, defensive driving,  
21 or other safety driving instruction, and other programs designed  
22 to properly educate, train and rehabilitate the offender.

23 (b) (1) The division of motor vehicles, in cooperation with  
24 the department of health and human resources, the division of  
25 alcoholism and drug abuse, shall provide for the preparation of  
26 an educational and treatment program for each person whose  
27 license has been revoked under the provisions of this article or  
28 section seven, article five of this chapter, or subsection (6),  
29 section five, article three, chapter seventeen-b of this code,  
30 which shall contain the following: (A) A listing and evaluation  
31 of the offender's prior traffic record; (B) characteristics and  
32 history of alcohol or drug use, if any; (C) his or her amenability  
33 to rehabilitation through the alcohol safety program; and (D) a

34 recommendation as to treatment or rehabilitation, and the terms  
35 and conditions of the treatment or rehabilitation. The program  
36 shall be prepared by persons knowledgeable in the diagnosis of  
37 alcohol or drug abuse and treatment. The cost of the program  
38 shall be paid out of fees established by the commissioner of  
39 motor vehicles in cooperation with the department of health and  
40 human resources, division of alcohol and drug abuse. The  
41 program provider shall collect the established fee from each  
42 participant upon enrollment. The program provider shall also at  
43 the time of enrollment remit to the commissioner a portion of  
44 the collected fee established by the commissioner in coopera-  
45 tion with the department of health and human resources, which  
46 shall be deposited into an account designated the driver's  
47 rehabilitation fund, which was created by a prior enactment of  
48 this section and which is hereby continued, to be used for the  
49 administration of the program.

50 (2) The commissioner, after giving due consideration to the  
51 program developed for the offender, shall prescribe the neces-  
52 sary terms and conditions for the reissuance of the license to  
53 operate a motor vehicle in this state revoked under this article,  
54 or section seven, article five of this chapter, or subsection (6),  
55 section five, article three, chapter seventeen-b of this code,  
56 which shall include successful completion of the educational,  
57 treatment or rehabilitation program, subject to the following:

58 (A) When the period of revocation is six months, the  
59 license to operate a motor vehicle in this state shall not be  
60 reissued until (i) at least ninety days have elapsed from the date  
61 of the initial revocation, during which time the revocation was  
62 actually in effect, (ii) the offender has successfully completed  
63 the program, (iii) all costs of the program and administration  
64 have been paid, and (iv) all costs assessed as a result of a  
65 revocation hearing have been paid.

66 (B) When the period of revocation is for a period of years,  
67 the license to operate a motor vehicle in this state shall not be

68 reissued until (i) at least one half of such time period has  
69 elapsed from the date of the initial revocation, during which  
70 time the revocation was actually in effect, (ii) the offender has  
71 successfully completed the program, (iii) all costs of the  
72 program and administration have been paid, and (iv) all costs  
73 assessed as a result of a revocation hearing have been paid.

74 (C) When the period of revocation is for life, the license to  
75 operate a motor vehicle in this state shall not be reissued until  
76 (i) at least ten years have elapsed from the date of the initial  
77 revocation, during which time the revocation was actually in  
78 effect, (ii) the offender has successfully completed the program,  
79 (iii) all costs of the program and administration have been paid,  
80 and (iv) all costs assessed as a result of a revocation hearing  
81 have been paid.

82 (D) Notwithstanding any provision of this code or any rule,  
83 any mental health facilities or other public agencies or private  
84 entities conducting the safety and treatment program when  
85 certifying that a person has successfully completed a safety and  
86 treatment program, shall only have to certify that such person  
87 has successfully completed the program.

88 (c) (1) The division of motor vehicles, in cooperation with  
89 the department of health and human resources, division of  
90 alcoholism and drug abuse, shall provide for the preparation of  
91 an educational program for each person whose license has been  
92 suspended for sixty days pursuant to the provisions of subsec-  
93 tion (1), section two, article five-a of this chapter. The educa-  
94 tional program shall consist of not less than twelve nor more  
95 than eighteen hours of actual classroom time.

96 (2) When a sixty-day period of suspension has been  
97 ordered, the license to operate a motor vehicle shall not be  
98 reinstated until (A) at least sixty days have elapsed from the  
99 date of the initial suspension, during which time the suspension

100 was actually in effect, (B) the offender has successfully  
101 completed the educational program, (C) all costs of the program  
102 and administration have been paid, and (D) all costs assessed as  
103 a result of a suspension hearing have been paid.

104 (d) A required component of the rehabilitation program  
105 provided for in subsection (b) and the education program  
106 provided for in subsection (c) shall be participation by the  
107 violator with a victim impact panel program providing a forum  
108 for victims of alcohol and drug related offenses and offenders  
109 to share first-hand experiences on the impact of alcohol and  
110 drug related offenses in their lives. The commissioner shall  
111 propose legislative rules for promulgation in accordance with  
112 the provisions of chapter twenty-nine-a of this code to imple-  
113 ment victim impact panels where appropriate numbers of  
114 victims are available and willing to participate, and shall  
115 establish guidelines for other innovative programs which may  
116 be substituted where such victims are not available, so as to  
117 assist persons whose licenses have been suspended or revoked  
118 for alcohol and drug related offenses to gain a full understand-  
119 ing of the severity of their offenses in terms of the impact of  
120 such offenses on victims and offenders. The legislative rules  
121 proposed for promulgation by the commissioner shall require,  
122 at a minimum, discussion and consideration of the following:

123 (A) Economic losses suffered by victims or offenders;

124 (B) Death or physical injuries suffered by victims or  
125 offenders;

126 (C) Psychological injuries suffered by victims or offenders;

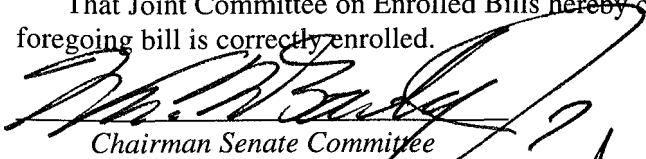
127 (D) Changes in the personal welfare or familial relation-  
128 ships of victims or offenders; and

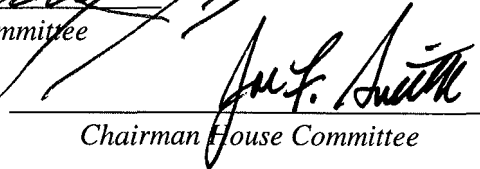
129 (E) Other information relating to the impact of alcohol and  
130 drug related offenses upon victims or offenders.

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131 Any rules promulgated pursuant to this subsection shall  
132 contain provisions which ensure that any meetings between  
133 victims and offenders shall be nonconfrontational and ensure  
134 the physical safety of the persons involved.

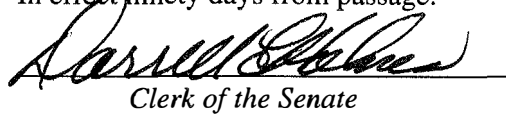
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

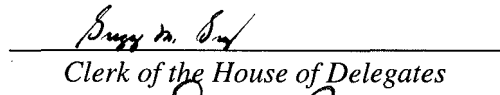
  
Chairman Senate Committee

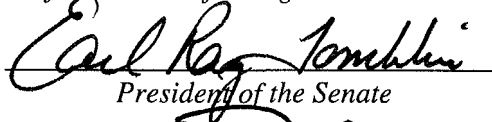
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

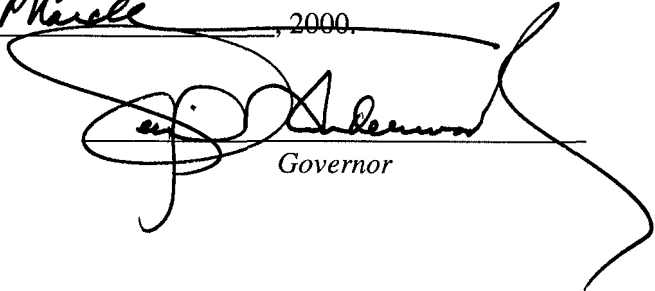
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 22nd  
day of March, 2000.

  
Governor



PRESENTED TO THE

GOVERNOR

Date: 3/18/02

Time: 12:40pm