WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4125

(By Delegate Warner)

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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.

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twenty-nine-a of this code, establishing a comprehensive safety and treatment program for persons whose licenses have been revoked under the provisions of this article, or section seven, article five of this chapter, or subsection (6), section five, article three, chapter seventeen-b of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

(b) (1) The division of motor vehicles, in cooperation with the department of health and human resources, the division of alcoholism and drug abuse, shall provide for the preparation of an educational and treatment program for each person whose license has been revoked under the provisions of this article or section seven, article five of this chapter, or subsection (6), section five, article three, chapter seventeen-b of this code, which shall contain the following: (A) A listing and evaluation of the offender’s prior traffic record; (B) characteristics and history of alcohol or drug use, if any; (C) his or her amenability to rehabilitation through the alcohol safety program; and (D) a
recommendation as to treatment or rehabilitation, and the terms and conditions of the treatment or rehabilitation. The program shall be prepared by persons knowledgeable in the diagnosis of alcohol or drug abuse and treatment. The cost of the program shall be paid out of fees established by the commissioner of motor vehicles in cooperation with the department of health and human resources, division of alcohol and drug abuse. The program provider shall collect the established fee from each participant upon enrollment. The program provider shall also at the time of enrollment remit to the commissioner a portion of the collected fee established by the commissioner in cooperation with the department of health and human resources, which shall be deposited into an account designated the driver's rehabilitation fund, which was created by a prior enactment of this section and which is hereby continued, to be used for the administration of the program.

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

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

(B) When the period of revocation is for a period of years, the license to operate a motor vehicle in this state shall not be
Enr. Com. Sub. for H. B. 4125] 4

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

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

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

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

(2) When a sixty-day period of suspension has been ordered, the license to operate a motor vehicle shall not be reinstated until (A) at least sixty days have elapsed from the date of the initial suspension, during which time the suspension
was actually in effect, (B) the offender has successfully completed the educational program, (C) all costs of the program and administration have been paid, and (D) all costs assessed as a result of a suspension hearing have been paid.

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

(A) Economic losses suffered by victims or offenders;

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

(C) Psychological injuries suffered by victims or offenders;

(D) Changes in the personal welfare or familial relationships of victims or offenders; and

(E) Other information relating to the impact of alcohol and drug related offenses upon victims or offenders.
Any rules promulgated pursuant to this subsection shall contain provisions which ensure that any meetings between victims and offenders shall be nonconfrontational and ensure 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: 3/18/82
Time: 18:45 pm