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OF THE WEST VIRGINIA
SECRETARY OF STATE 

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

Senate Bill No. 217

(By SENATORS JENKINS AND GUILLS)

[Passed March 6, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §8-10-2a of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-3a of said code; and to amend and reenact §50-3-2a of said code, all relating to resident and nonresident drivers' failure to pay costs, fines, forfeitures or penalties imposed upon conviction of a motor vehicle violation; and reducing the time period for nonresidents to pay costs, fines, forfeitures or penalties before the court sends notice to the Division of Motor Vehicles to suspend the nonresident offender's driver's privilege to drive in this state.

Be it enacted by the Legislature of West Virginia:

That §8-10-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17B-3-3a of said code be amended and reenacted; and that §50-3-2a of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2a. Payment of fines by credit cards or payment plan; suspension of driver's license for failure to pay motor vehicle violation fines or to appear in court.

1 (a) A municipal court may accept credit cards in
2 payment of all costs, fines, forfeitures or penalties. A
3 municipal court may collect a substantial portion of all
4 costs, fines, forfeitures or penalties at the time such
5 amount is imposed by the court so long as the court
6 requires the balance to be paid within one hundred
7 eighty days from the date of judgment and in
8 accordance with a payment plan: *Provided*, That all
9 costs, fines, forfeitures or penalties imposed by the
10 municipal court upon a nonresident of this state by
11 judgment entered upon a conviction for a motor vehicle
12 violation defined in section three-a, article three,
13 chapter seventeen-b of this code must be paid within
14 eighty days from the date of judgment. The payment
15 plan shall specify: (1) The number of additional
16 payments to be made; (2) the dates on which such
17 payments and amounts shall be made; and (3) amounts
18 due on such dates.

19 (b) If costs, fines, forfeitures or penalties imposed by
20 the municipal court for motor vehicle violations as
21 defined in section three-a, article three, chapter
22 seventeen-b of this code are not paid within the time
23 limits imposed pursuant to subsection (a) of this section,
24 or if a person fails to appear or otherwise respond in
25 court when charged with a motor vehicle violation as
26 defined in section three-a, article three, chapter
27 seventeen-b of this code, the municipal court must
28 notify the Commissioner of the Division of Motor
29 Vehicles of such failure to pay or failure to appear.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

§17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal court.

1 (a) The division shall suspend the license of any
2 resident of this state or the privilege of a nonresident to
3 drive a motor vehicle in this state upon receiving notice
4 from a magistrate court or municipal court of this state,
5 pursuant to subsection (b), section two-a, article three,
6 chapter fifty of this code or subsection (b), section
7 two-a, article ten, chapter eight of this code, that such
8 person has defaulted on the payment of costs, fines,
9 forfeitures or penalties which were imposed on the
10 person by the magistrate court or municipal court by
11 judgment entered upon conviction of any motor vehicle
12 violation or that such person has failed to respond or
13 appear in court when charged with a motor vehicle
14 violation.

15 (b) The magistrate court or municipal court shall
16 notify the division upon a default of payment as follows:

17 (1) For a resident of this state, after one hundred
18 eighty days following the date of judgment upon the
19 conviction; or

20 (2) For a nonresident of this state, after eighty days
21 following the date of judgment upon the conviction.

22 (c) For the purposes of this section, section two-a,
23 article three, chapter fifty of this code and section
24 two-a, article ten, chapter eight of this code, "motor
25 vehicle violation" shall be defined as any violation
26 designated in chapter seventeen-a, seventeen-b,
27 seventeen-c, seventeen-d or seventeen-e of this code or
28 the violation of any municipal ordinance relating to the
29 operation of a motor vehicle for which the violation
30 thereof would result in a fine or penalty: *Provided*, That
31 any parking violation or other violation for which a
32 citation may be issued to an unattended vehicle shall
33 not be considered a motor vehicle violation for the
34 purposes of this section, section two-a, article three,
35 chapter fifty of this code or section two-a, article ten,

36 chapter eight of this code.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-2a. Payment by credit card or payment plan; suspension of licenses for failure to make payments or appear or respond; restitution; liens.

1 (a) A magistrate court may accept credit cards in
2 payment of all costs, fines, fees, forfeitures, restitution
3 or penalties in accordance with rules promulgated by
4 the supreme court of appeals. Any charges made by the
5 credit company shall be paid by the person responsible
6 for paying the cost, fine, forfeiture or penalty.

7 (b) Unless otherwise required by law, a magistrate
8 court may collect a portion of any costs, fines, fees,
9 forfeitures, restitution or penalties at the time the
10 amount is imposed by the court so long as the court
11 requires the balance to be paid in accordance with a
12 payment plan which specifies: (1) The number of
13 payments to be made; (2) the dates on which the
14 payments are due; and (3) the amounts due for each
15 payment. The written agreement represents the
16 minimum payments and the last date those payments
17 may be made. The obligor or the obligor's agent may
18 accelerate the payment schedule at any time by paying
19 any additional portion of any costs, fines, fees,
20 forfeitures, restitution or penalties.

21 (c) (1) If any costs, fines, fees, forfeitures, restitution or
22 penalties imposed by the magistrate court in a criminal
23 case are not paid within one hundred eighty days from
24 the date of judgment and the expiration of any stay of
25 execution, the magistrate court clerk or, upon judgment
26 rendered on appeal, the circuit clerk shall notify the
27 Commissioner of the Division of Motor Vehicles of the
28 failure to pay: *Provided*, That in a criminal case in
29 which a nonresident of this state is convicted of a motor
30 vehicle violation defined in section three-a, article

31 three, chapter seventeen-b of this code, the appropriate
32 clerk shall notify the Division of Motor Vehicles of the
33 failure to pay within eighty days from the date of
34 judgment and expiration of any stay of execution. Upon
35 notice, the Division of Motor Vehicles shall suspend any
36 privilege the person defaulting on payment may have to
37 operate a motor vehicle in this state, including any
38 driver's license issued to the person by the Division of
39 Motor Vehicles, until all costs, fines, fees, forfeitures,
40 restitution or penalties are paid in full. The suspension
41 shall be imposed in accordance with the provisions of
42 section six, article three, chapter seventeen-b of this
43 code: *Provided*, That any person who has had his or her
44 license to operate a motor vehicle in this state
45 suspended pursuant to this subsection and his or her
46 failure to pay is based upon inability to pay, may, if he
47 or she is employed on a full or part-time basis, petition
48 to the circuit court for an order authorizing him or her
49 to operate a motor vehicle solely for employment
50 purposes. Upon a showing satisfactory to the court of
51 inability to pay, employment and compliance with other
52 applicable motor vehicle laws, the court shall issue an
53 order granting relief.

54 (2) In addition to the provisions of subdivision (1) of
55 this subsection, if any costs, fines, fees, forfeitures,
56 restitution or penalties imposed or ordered by the
57 magistrate court for a hunting violation described in
58 chapter twenty of this code are not paid within one
59 hundred eighty days from the date of judgment and the
60 expiration of any stay of execution, the magistrate court
61 clerk or, upon a judgment rendered on appeal, the
62 circuit clerk shall notify the Director of the Division of
63 Natural Resources of the failure to pay. Upon notice,
64 the Director of the Division of Natural Resources shall
65 suspend any privilege the person failing to appear or
66 otherwise respond may have to hunt in this state,
67 including any hunting license issued to the person by
68 the Division of Natural Resources, until all the costs,
69 fines, fees, forfeitures, restitution or penalties are paid
70 in full.

71 (3) In addition to the provisions of subdivision (1) of

72 this subsection, if any costs, fines, fees, forfeitures,
73 restitution or penalties imposed or ordered by the
74 magistrate court for a fishing violation described in
75 chapter twenty of this code are not paid within one
76 hundred eighty days from the date of judgment and the
77 expiration of any stay of execution, the magistrate court
78 clerk or, upon a judgment rendered on appeal, the
79 circuit clerk shall notify the Director of the Division of
80 Natural Resources of the failure to pay. Upon notice,
81 the Director of the Division of Natural Resources shall
82 suspend any privilege the person failing to appear or
83 otherwise respond may have to fish in this state,
84 including any fishing license issued to the person by the
85 Division of Natural Resources, until all the costs, fines,
86 fees, forfeitures, restitution or penalties are paid in full.

87 (d) (1) If a person charged with any criminal violation
88 of this code fails to appear or otherwise respond in
89 court, the magistrate court shall notify the
90 Commissioner of the Division of Motor Vehicles thereof
91 within fifteen days of the scheduled date to appear
92 unless the person sooner appears or otherwise responds
93 in court to the satisfaction of the magistrate. Upon
94 notice, the Division of Motor Vehicles shall suspend any
95 privilege the person failing to appear or otherwise
96 respond may have to operate a motor vehicle in this
97 state, including any driver's license issued to the person
98 by the Division of Motor Vehicles, until final judgment
99 in the case and, if a judgment of guilty, until all costs,
100 fines, fees, forfeitures, restitution or penalties imposed
101 are paid in full. The suspension shall be imposed in
102 accordance with the provisions of section six, article
103 three, chapter seventeen-b of this code.

104 (2) In addition to the provisions of subdivision (1) of
105 this subsection, if a person charged with any hunting
106 violation described in chapter twenty of this code fails
107 to appear or otherwise respond in court, the magistrate
108 court shall notify the Director of the Division of Natural
109 Resources of the failure thereof within fifteen days of
110 the scheduled date to appear unless the person sooner
111 appears or otherwise responds in court to the
112 satisfaction of the magistrate. Upon notice, the Director

113 of the Division of Natural Resources shall suspend any
114 privilege the person failing to appear or otherwise
115 respond may have to hunt in this state, including any
116 hunting license issued to the person by the Division of
117 Natural Resources, until final judgment in the case and,
118 if a judgment of guilty, until all costs, fines, fees,
119 forfeitures, restitution or penalties imposed are paid in
120 full.

121 (3) In addition to the provisions of subdivision (1) of
122 this subsection, if a person charged with any fishing
123 violation described in chapter twenty of this code fails
124 to appear or otherwise respond in court, the magistrate
125 court shall notify the Director of the Division of Natural
126 Resources of the failure thereof within fifteen days of
127 the scheduled date to appear unless the person sooner
128 appears or otherwise responds in court to the
129 satisfaction of the magistrate. Upon notice, the Director
130 of the Division of Natural Resources shall suspend any
131 privilege the person failing to appear or otherwise
132 respond may have to fish in this state, including any
133 fishing license issued to the person by the Division of
134 Natural Resources, until final judgment in the case and,
135 if a judgment of guilty, until all costs, fines, fees,
136 forfeitures, restitution or penalties imposed are paid in
137 full.

138 (e) In every criminal case which involves a
139 misdemeanor violation, a magistrate may order
140 restitution where appropriate when rendering
141 judgment.

142 (f) (1) If all costs, fines, fees, forfeitures, restitution or
143 penalties imposed by a magistrate court and ordered to
144 be paid are not paid within one hundred eighty days
145 from the date of judgment and the expiration of any
146 stay of execution, the clerk of the magistrate court shall
147 notify the prosecuting attorney of the county of
148 nonpayment and provide the prosecuting attorney with
149 an abstract of judgment. The prosecuting attorney shall
150 file the abstract of judgment in the office of the clerk of
151 the county commission in the county where the
152 defendant was convicted and in any county wherein the

153 defendant resides or owns property. The clerks of the
154 county commissions shall record and index the abstracts
155 of judgment without charge or fee to the prosecuting
156 attorney and when so recorded, the amount stated to be
157 owing in the abstract shall constitute a lien against all
158 property of the defendant.

159 (2) When all the costs, fines, fees, forfeitures,
160 restitution or penalties described in subdivision (1) of
161 this subsection for which an abstract of judgment has
162 been recorded are paid in full, the clerk of the
163 magistrate court shall notify the prosecuting attorney of
164 the county of payment and provide the prosecuting
165 attorney with a release of judgment, prepared in
166 accordance with the provisions of section one, article
167 twelve, chapter thirty-eight of this code, for filing and
168 recordation pursuant to the provisions of this
169 subdivision. Upon receipt from the clerk, the
170 prosecuting attorney shall file the release of judgment
171 in the office of the clerk of the county commission in
172 each county where an abstract of the judgment was
173 recorded. The clerks of the county commissions shall
174 record and index the release of judgment without
175 charge or fee to the prosecuting attorney.

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

Randy White
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carol Holmes
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is appended* this
the *20th* Day of *May*, 2008.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 14 2008

Time 11:25