

FILED

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**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2008**

SECRETARY OF STATE

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COMMITTEE SUBSTITUTE  
FOR

**ENROLLED**  
**Senate Bill No. 242**

(SENATORS WHITE, KESSLER, STOLLINGS  
AND HUNTER, *original sponsors*)

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[Passed March 5, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §17B-3-6 of the Code of West Virginia, 1931, as amended, relating to providing that if a licensee has been notified of a pending thirty-day driver's license suspension based on the accumulation of twelve or thirteen points, the licensee may submit proof of completion of an approved defensive driving course to deduct three points and rescind the pending license suspension.

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

That §17B-3-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.**

**§17B-3-6. Authority of division to suspend or revoke license; hearing.**

1 (a) The division is hereby authorized to suspend the  
2 driver's license of any person without preliminary  
3 hearing upon a showing by its records or other  
4 sufficient evidence that the licensee:

5 (1) Has committed an offense for which mandatory  
6 revocation of a driver's license is required upon  
7 conviction;

8 (2) Has, by reckless or unlawful operation of a motor  
9 vehicle, caused or contributed to an accident resulting  
10 in the death or personal injury of another or property  
11 damage;

12 (3) Has been convicted with such frequency of serious  
13 offenses against traffic regulations governing the  
14 movement of vehicles as to indicate a disrespect for  
15 traffic laws and a disregard for the safety of other  
16 persons on the highways;

17 (4) Is a habitually reckless or negligent driver of a  
18 motor vehicle;

19 (5) Is incompetent to drive a motor vehicle;

20 (6) Has committed an offense in another state which,  
21 if committed in this state, would be a ground for  
22 suspension or revocation;

23 (7) Has failed to pay or has defaulted on a plan for the  
24 payment of all costs, fines, forfeitures or penalties  
25 imposed by a magistrate court or municipal court  
26 within ninety days, as required by section two-a, article  
27 three, chapter fifty of this code or section two-a, article  
28 ten, chapter eight of this code;

29 (8) Has failed to appear or otherwise respond before  
30 a magistrate court or municipal court when charged  
31 with a motor vehicle violation as defined in section  
32 three-a of this article;

33 (9) Is under the age of eighteen and has withdrawn  
34 either voluntarily or involuntarily from a secondary  
35 school as provided in section eleven, article eight,  
36 chapter eighteen of this code; or

37 (10) Has failed to pay overdue child support or  
38 comply with subpoenas or warrants relating to  
39 paternity or child support proceedings, if a circuit court  
40 has ordered the suspension of the license as provided in  
41 article five-a, chapter forty-eight-a of this code and the  
42 Child Support Enforcement Division has forwarded to  
43 the division a copy of the court order suspending the  
44 license or has forwarded its certification that the  
45 licensee has failed to comply with a new or modified  
46 order that stayed the suspension and provided for the  
47 payment of current support and any arrearage due.

48 (b) The driver's license of any person having his or her  
49 license suspended shall be reinstated if:

50 (1) The license was suspended under the provisions of  
51 subdivision (7), subsection (a) of this section and the  
52 payment of costs, fines, forfeitures or penalties imposed  
53 by the applicable court has been made;

54 (2) The license was suspended under the provisions of  
55 subdivision (8), subsection (a) of this section and the  
56 person having his or her license suspended has  
57 appeared in court and has prevailed against the motor  
58 vehicle violations charged; or


59 (3) The license was suspended under the provisions of  
60 subdivision (10), subsection (a) of this section and the  
61 division has received a court order restoring the license  
62 or a certification by the Child Support Enforcement  
63 Division that the licensee is complying with the original  
64 support order or a new or modified order that provides  
65 for the payment of current support and any arrearage  
66 due.

67 (c) Any reinstatement of a license under subdivision  
68 (1), (2) or (3), subsection (b) of this section shall be  
69 subject to a reinstatement fee designated in section nine  
70 of this article.

71 (d) Upon suspending the driver's license of any person  
72 as hereinbefore in this section authorized, the division  
73 shall immediately notify the licensee in writing, sent by  
74 certified mail, return receipt requested, to the address  
75 given by the licensee in applying for license and upon  
76 his or her request shall afford him or her an  
77 opportunity for a hearing as early as practical within,  
78 not to exceed, twenty days after receipt of such request  
79 in the county wherein the licensee resides unless the  
80 division and the licensee agree that such hearing may

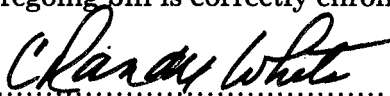
81 be held in some other county. Upon such hearing the  
82 commissioner or his or her duly authorized agent may  
83 administer oaths and may issue subpoenas for the  
84 attendance of witnesses and the production of relevant  
85 books and papers and may require a reexamination of  
86 the licensee. Upon such hearing the division shall  
87 either rescind its order of suspension or, good cause  
88 appearing therefor, may extend the suspension of such  
89 license or revoke such license. The provisions of this  
90 subsection providing for notice and hearing are not  
91 applicable to a suspension under subdivision (10),  
92 subsection (a) of this section.

93 (e) Notwithstanding the provisions of legislative rule  
94 91 CSR 5.8, the division may, upon completion of an  
95 approved defensive driving course, deduct three points  
96 from a licensee's point accumulation provided the  
97 licensee has not reached fourteen points. If a licensee  
98 has been notified of a pending thirty-day driver's  
99 license suspension based on the accumulation of twelve  
100 or thirteen points, the licensee may submit proof of  
101 completion of an approved defensive driving course to  
102 deduct three points and rescind the pending license  
103 suspension: *Provided*, That the licensee submits proof  
104 of prior completion of the course and payment of the  
105 reinstatement fee in accordance with section nine,  
106 article three of this chapter to the division prior the  
107 effective date of the suspension.



Enr. Com. Sub. for S. B. No. 242] 6

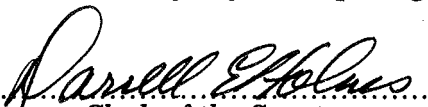
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

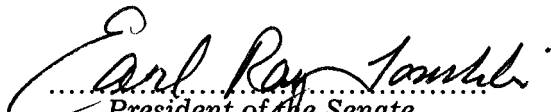
  
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
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Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is disapproved*..... this  
the *28th* Day of *March*....., 2008.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 17 2008

Time 11:05 AM