

H. B. 3124

(By Delegate Kominar, Williams and Walker)
(By Request of the Department of Transportation)
[Introduced February 14, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

11 A BILL to amend §17C-5A-2 of the Code of West Virginia, 1931, as
12 amended; and to amend said code by adding thereto a new
13 section, designated §17C-5C-4a, all relating administrative
14 hearings for suspension and revocation of licenses for driving
15 while under the influence of alcohol, controlled substances or
16 drugs; providing that the Office of Administrative Hearings
17 send notices of hearings to the Division of Motor Vehicles and
18 the Attorney General if the Attorney General has filed a
19 notice of appearance and deleting the requirement that notice
20 be sent to the county prosecuting attorney; providing the
21 Office of Administrative Hearings subpoena authority;
22 providing that the failure to obey a subpoena constitutes a
23 misdemeanor punishable by a fine up to \$500; deleting the
24 provision that a hearing notice sent by certified or
25 registered mail to a law-enforcement officer constitutes a
26 subpoena to appear; providing authority to impose certain

1 fees; creating a special revenue account to support the
2 activities of the Office of Administrative Hearings; and
3 authorizing rulemaking.

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

5 That §17C-5A-2 of the Code of West Virginia, 1931, as amended,
6 be amended and reenacted; and that said code be amended by adding
7 thereto a new section, designated §17C-5C-4a, all to read as
8 follows:

9 **ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND**
10 **REVOCAION OF LICENSES FOR DRIVING UNDER THE**
11 **INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR**
12 **DRUGS.**

13 **§17C-5A-2. Hearing; revocation; review.**

14 (a) Written objections to an order of revocation or suspension
15 under the provisions of section one of this article or section
16 seven, article five of this chapter shall be filed with the Office
17 of Administrative Hearings. Upon the receipt of an objection, the
18 Office of Administrative Hearings shall notify the Commissioner of
19 the Division of Motor Vehicles, who shall stay the imposition of
20 the period of revocation or suspension and afford the person an
21 opportunity to be heard by the Office of Administrative Hearings.
22 The written objection must be filed with Office of Administrative
23 Hearings in person or by registered or certified mail, return
24 receipt requested, within thirty calendar days after receipt of a
25 copy of the order of revocation or suspension or no hearing will be
26 granted. The hearing shall be before a hearing examiner employed

1 by the Office of Administrative Hearings who shall rule on
2 evidentiary issues. Upon consideration of the designated record,
3 the hearing examiner shall, based on the determination of the facts
4 of the case and applicable law, render a decision affirming,
5 reversing or modifying the action protested. The decision shall
6 contain findings of fact and conclusions of law and shall be
7 provided to all parties by registered or certified mail, return
8 receipt requested.

9 (b) The hearing shall be held at an office of the Division of
10 Motor Vehicles located in or near the county in which the arrest
11 was made in this state or at some other suitable place in the
12 county in which the arrest was made if an office of the division is
13 not available. The Office of Administrative Hearings shall send a
14 notice of hearing to the person whose license is at issue, the
15 appropriate law-enforcement officers, ~~and the prosecuting attorney~~
16 the Division of Motor Vehicles and the Attorney General in the
17 event the Attorney General has filed a notice of appearance of
18 counsel on behalf of the Division of Motor Vehicles.

19 (c) (1) Any hearing shall be held within one hundred eighty
20 days after the date upon which the Office of Administrative
21 Hearings received the timely written objection unless there is a
22 postponement or continuance.

23 (2) The Office of Administrative Hearings may postpone or
24 continue any hearing on its own motion or upon application by the
25 party whose license is at issue in that hearing or by the
26 commissioner for good cause shown.

1 ~~(3) A notice of hearing to the appropriate law enforcement~~
2 ~~officers by registered or certified mail, return receipt requested,~~
3 ~~constitutes a subpoena to appear at the hearing without the~~
4 ~~necessity of payment of fees by the Division of Motor Vehicles.~~

5 (3) The Office of Administrative Hearings has authority to
6 issue subpoenas commanding the appearance of witnesses and
7 subpoenas duces tecum commanding the submission of documents, items
8 or other things. Subpoenas duces tecum shall be returnable on the
9 date of the next scheduled hearing unless otherwise specified. The
10 Office of Administrative hearings shall issue subpoenas and
11 subpoenas duces tecum upon request of any party or the party's
12 legal representative. The party requesting the subpoena is
13 responsible for its service. Every subpoena or subpoena duces
14 tecum shall be served at least five days before its return date by
15 personal service made by a person over eighteen years of age or by
16 registered or certified mail, return receipt requested, and
17 received by the party responsible for serving the subpoena or
18 subpoena duces tecum. Failure to obey a subpoena or subpoena duces
19 tecum issued by the Office of Administrative Hearings constitutes
20 a misdemeanor and, upon conviction thereof a person may be fined up
21 to \$500. The fees for the attendance and travel of witnesses,
22 unless otherwise provided, is the same as witnesses before the
23 circuit court.

24 (d) Law-enforcement officers shall be compensated for the time
25 expended in their travel and appearance before the Office of
26 Administrative Hearings by the law-enforcement agency by whom they

1 are employed at their regular rate if they are scheduled to be on
2 duty during said time or at their regular overtime rate if they are
3 scheduled to be off duty during said time.

4 (e) The principal question at the hearing shall be whether the
5 person did drive a motor vehicle while under the influence of
6 alcohol, controlled substances or drugs, or did drive a motor
7 vehicle while having an alcohol concentration in the person's blood
8 of eight hundredths of one percent or more, by weight, or did
9 refuse to submit to the designated secondary chemical test, or did
10 drive a motor vehicle while under the age of twenty-one years with
11 an alcohol concentration in his or her blood of two hundredths of
12 one percent or more, by weight, but less than eight hundredths of
13 one percent, by weight.

14 (f) In the case of a hearing in which a person is accused of
15 driving a motor vehicle while under the influence of alcohol,
16 controlled substances or drugs, or accused of driving a motor
17 vehicle while having an alcohol concentration in the person's blood
18 of eight hundredths of one percent or more, by weight, or accused
19 of driving a motor vehicle while under the age of twenty-one years
20 with an alcohol concentration in his or her blood of two hundredths
21 of one percent or more, by weight, but less than eight hundredths
22 of one percent, by weight, the Office of Administrative Hearings
23 shall make specific findings as to: (1) Whether the investigating
24 law-enforcement officer had reasonable grounds to believe the
25 person to have been driving while under the influence of alcohol,
26 controlled substances or drugs, or while having an alcohol

1 concentration in the person's blood of eight hundredths of one
2 percent or more, by weight, or to have been driving a motor vehicle
3 while under the age of twenty-one years with an alcohol
4 concentration in his or her blood of two hundredths of one percent
5 or more, by weight, but less than eight hundredths of one percent,
6 by weight; (2) whether the person was lawfully placed under arrest
7 for an offense involving driving under the influence of alcohol,
8 controlled substances or drugs, or was lawfully taken into custody
9 for the purpose of administering a secondary test: *Provided, That*
10 this element shall be waived in cases where no arrest occurred due
11 to driver incapacitation; (3) whether the person committed an
12 offense involving driving under the influence of alcohol,
13 controlled substances or drugs, or was lawfully taken into custody
14 for the purpose of administering a secondary test; and (4) whether
15 the tests, if any, were administered in accordance with the
16 provisions of this article and article five of this chapter.

17 (g) If, in addition to a finding that the person did drive a
18 motor vehicle while under the influence of alcohol, controlled
19 substances or drugs, or did drive a motor vehicle while having an
20 alcohol concentration in the person's blood of eight hundredths of
21 one percent or more, by weight, or did drive a motor vehicle while
22 under the age of twenty-one years with an alcohol concentration in
23 his or her blood of two hundredths of one percent or more, by
24 weight, but less than eight hundredths of one percent, by weight,
25 the Office of Administrative Hearings also finds by a preponderance
26 of the evidence that the person when driving did an act forbidden

1 by law or failed to perform a duty imposed by law, which act or
2 failure proximately caused the death of a person and was committed
3 in reckless disregard of the safety of others and if the Office of
4 Administrative Hearings further finds that the influence of
5 alcohol, controlled substances or drugs or the alcohol
6 concentration in the blood was a contributing cause to the death,
7 the commissioner shall revoke the person's license for a period of
8 ten years: *Provided*, That if the person's license has previously
9 been suspended or revoked under the provisions of this section or
10 section one of this article within the ten years immediately
11 preceding the date of arrest, the period of revocation shall be for
12 the life of the person.

13 (h) If, in addition to a finding that the person did drive a
14 motor vehicle while under the influence of alcohol, controlled
15 substances or drugs, or did drive a motor vehicle while having an
16 alcohol concentration in the person's blood of eight hundredths of
17 one percent or more, by weight, the Office of Administrative
18 Hearings also finds by a preponderance of the evidence that the
19 person when driving did an act forbidden by law or failed to
20 perform a duty imposed by law, which act or failure proximately
21 caused the death of a person, the commissioner shall revoke the
22 person's license for a period of five years: *Provided*, That if the
23 person's license has previously been suspended or revoked under the
24 provisions of this section or section one of this article within
25 the ten years immediately preceding the date of arrest, the period
26 of revocation shall be for the life of the person.

1 (i) If, in addition to a finding that the person did drive a
2 motor vehicle while under the influence of alcohol, controlled
3 substances or drugs, or did drive a motor vehicle while having an
4 alcohol concentration in the person's blood of eight hundredths of
5 one percent or more, by weight, the Office of Administrative
6 Hearings also finds by a preponderance of the evidence that the
7 person when driving did an act forbidden by law or failed to
8 perform a duty imposed by law, which act or failure proximately
9 caused bodily injury to a person other than himself or herself, the
10 commissioner shall revoke the person's license for a period of two
11 years: *Provided*, That if the license has previously been suspended
12 or revoked under the provisions of this section or section one of
13 this article within the ten years immediately preceding the date of
14 arrest, the period of revocation shall be ten years: *Provided*,
15 *however*, That if the person's license has previously been suspended
16 or revoked more than once under the provisions of this section or
17 section one of this article within the ten years immediately
18 preceding the date of arrest, the period of revocation shall be for
19 the life of the person.

20 (j) If the Office of Administrative Hearings finds by a
21 preponderance of the evidence that the person did drive a motor
22 vehicle while under the influence of alcohol, controlled substances
23 or drugs, or did drive a motor vehicle while having an alcohol
24 concentration in the person's blood of eight hundredths of one
25 percent or more, by weight, but less than fifteen hundredths of one
26 percent or more, by weight, or finds that the person knowingly

1 permitted the person's vehicle to be driven by another person who
2 was under the influence of alcohol, controlled substances or drugs,
3 or knowingly permitted the person's vehicle to be driven by another
4 person who had an alcohol concentration in his or her blood of
5 eight hundredths of one percent or more, by weight the commissioner
6 shall revoke the person's license for a period of six months or a
7 period of fifteen days with an additional one hundred and twenty
8 days of participation in the Motor Vehicle Alcohol Test and Lock
9 Program in accordance with the provisions of section three-a of
10 this article: *Provided*, That any period of participation in the
11 Motor Vehicle Alcohol Test and Lock Program that has been imposed
12 by a court pursuant to section two-b, article five of this chapter
13 shall be credited against any period of participation imposed by
14 the commissioner: *Provided ~~further~~, however*, That a person whose
15 license is revoked for driving while under the influence of drugs
16 is not eligible to participate in the Motor Vehicle Alcohol Test
17 and Lock Program: *Provided ~~however~~ further*, That if the person's
18 license has previously been suspended or revoked under the
19 provisions of this section or section one of this article within
20 the ten years immediately preceding the date of arrest, the period
21 of revocation shall be ten years: And provided further, That if the
22 person's license has previously been suspended or revoked more than
23 once under the provisions of this section or section one of this
24 article within the ten years immediately preceding the date of
25 arrest, the period of revocation shall be for the life of the
26 person.

1 (k) (1) If in addition to finding by a preponderance of the
2 evidence that the person did drive a motor vehicle while under the
3 influence of alcohol, controlled substance or drugs, the Office of
4 Administrative Hearings also finds by a preponderance of the
5 evidence that the person did drive a motor vehicle while having an
6 alcohol concentration in the person's blood of fifteen hundredths
7 of one percent or more, by weight, the commissioner shall revoke
8 the person's license for a period of forty-five days with an
9 additional two hundred and seventy days of participation in the
10 Motor Vehicle Alcohol Test and Lock Program in accordance with the
11 provisions of article three-a, article five-a, chapter seventeen-c
12 of this code: *Provided*, That if the person's license has
13 previously been suspended or revoked under the provisions of this
14 section or section one of this article within the ten years
15 immediately preceding the date of arrest, the period of revocation
16 shall be ten years: *Provided, however*, That if the person's
17 license has previously been suspended or revoked the person's
18 license more than once under the provisions of this section or
19 section one of this article within the ten years immediately
20 preceding the date of arrest, the period of revocation shall be for
21 the life of the person.

22 (2) If a person whose license is revoked pursuant to
23 subdivision (1) of this subsection proves by clear and convincing
24 evidence that they do not own a motor vehicle upon which the
25 alcohol test and lock device may be installed or is otherwise
26 incapable of participating in the Motor Vehicle Alcohol Test and

1 Lock Program, the period of revocation shall be one hundred eighty
2 days: *Provided*, That if the person's license has previously been
3 suspended or revoked under the provisions of this section or
4 section one of this article within the ten years immediately
5 preceding the date of arrest, the period of revocation shall be ten
6 years: *Provided, however*, That if the person's license has
7 previously been suspended or revoked more than once under the
8 provisions of this section or section one of this article within
9 the ten years immediately preceding the date of arrest, the period
10 of revocation shall be for the life of the person.

11 (1) If, in addition to a finding that the person did drive a
12 motor vehicle while under the age of twenty-one years with an
13 alcohol concentration in his or her blood of two hundredths of one
14 percent or more, by weight, but less than eight hundredths of one
15 percent, by weight, the Office of Administrative Hearings also
16 finds by a preponderance of the evidence that the person when
17 driving did an act forbidden by law or failed to perform a duty
18 imposed by law, which act or failure proximately caused the death
19 of a person, and if the Office of Administrative Hearings further
20 finds that the alcohol concentration in the blood was a
21 contributing cause to the death, the commissioner shall revoke the
22 person's license for a period of five years: *Provided*, That if the
23 person's license has previously been suspended or revoked under the
24 provisions of this section or section one of this article within
25 the ten years immediately preceding the date of arrest, the period
26 of revocation shall be for the life of the person.

1 (m) If, in addition to a finding that the person did drive a
2 motor vehicle while under the age of twenty-one years with an
3 alcohol concentration in his or her blood of two hundredths of one
4 percent or more, by weight, but less than eight hundredths of one
5 percent, by weight, the Office of Administrative Hearings also
6 finds by a preponderance of the evidence that the person when
7 driving did an act forbidden by law or failed to perform a duty
8 imposed by law, which act or failure proximately caused bodily
9 injury to a person other than himself or herself, and if the Office
10 of Administrative Hearings further finds that the alcohol
11 concentration in the blood was a contributing cause to the bodily
12 injury, the commissioner shall revoke the person's license for a
13 period of two years: *Provided*, That if the person's license has
14 previously been suspended or revoked under the provisions of this
15 section or section one of this article within the ten years
16 immediately preceding the date of arrest, the period of revocation
17 shall be ten years: *Provided, however*, That if the person's
18 license has previously been suspended or revoked more than once
19 under the provisions of this section or section one of this article
20 within the ten years immediately preceding the date of arrest, the
21 period of revocation shall be for the life of the person.

22 (n) If the Office of Administrative Hearings finds by a
23 preponderance of the evidence that the person did drive a motor
24 vehicle while under the age of twenty-one years with an alcohol
25 concentration in his or her blood of two hundredths of one percent
26 or more, by weight, but less than eight hundredths of one percent,

1 by weight, the commissioner shall suspend the person's license for
2 a period of sixty days: *Provided*, That if the person's license has
3 previously been suspended or revoked under the provisions of this
4 section or section one of this article, the period of revocation
5 shall be for one year, or until the person's twenty-first birthday,
6 whichever period is longer.

7 (o) If, in addition to a finding that the person did drive a
8 motor vehicle while under the influence of alcohol, controlled
9 substances or drugs, or did drive a motor vehicle while having an
10 alcohol concentration in the person's blood of eight hundredths of
11 one percent or more, by weight, the Office of Administrative
12 Hearings also finds by a preponderance of the evidence that the
13 person when driving did have on or within the motor vehicle another
14 person who has not reached his or her sixteenth birthday, the
15 commissioner shall revoke the person's license for a period of one
16 year: *Provided*, That if the person's license has previously been
17 suspended or revoked under the provisions of this section or
18 section one of this article within the ten years immediately
19 preceding the date of arrest, the period of revocation shall be ten
20 years: *Provided, however*, That if the person's license has
21 previously been suspended or revoked more than once under the
22 provisions of this section or section one of this article within
23 the ten years immediately preceding the date of arrest, the period
24 of revocation shall be for the life of the person.

25 (p) For purposes of this section, where reference is made to
26 previous suspensions or revocations under this section, the

1 following types of criminal convictions or administrative
2 suspensions or revocations shall also be regarded as suspensions or
3 revocations under this section or section one of this article:

4 (1) Any administrative revocation under the provisions of the
5 prior enactment of this section for conduct which occurred within
6 the ten years immediately preceding the date of arrest;

7 (2) Any suspension or revocation on the basis of a conviction
8 under a municipal ordinance of another state or a statute of the
9 United States or of any other state of an offense which has the
10 same elements as an offense described in section two, article five
11 of this chapter for conduct which occurred within the ten years
12 immediately preceding the date of arrest; or

13 (3) Any revocation under the provisions of section seven,
14 article five of this chapter for conduct which occurred within the
15 ten years immediately preceding the date of arrest.

16 (q) In the case of a hearing in which a person is accused of
17 refusing to submit to a designated secondary test, the Office of
18 Administrative Hearings shall make specific findings as to: (1)
19 Whether the arresting law-enforcement officer had reasonable
20 grounds to believe the person had been driving a motor vehicle in
21 this state while under the influence of alcohol, controlled
22 substances or drugs; (2) whether the person was lawfully placed
23 under arrest for an offense involving driving under the influence
24 of alcohol, controlled substances or drugs, or was lawfully taken
25 into custody for the purpose of administering a secondary test:
26 *Provided*, That this element shall be waived in cases where no

1 arrest occurred due to driver incapacitation; (3) whether the
2 person committed an offense relating to driving a motor vehicle in
3 this state while under the influence of alcohol, controlled
4 substances or drugs; (4) whether the person refused to submit to
5 the secondary test finally designated in the manner provided in
6 section four, article five of this chapter; and (5) whether the
7 person had been given a written statement advising the person that
8 the person's license to operate a motor vehicle in this state would
9 be revoked for at least forty-five days and up to life if the
10 person refused to submit to the test finally designated in the
11 manner provided in said section.

12 (r) If the Office of Administrative Hearings finds by a
13 preponderance of the evidence that: (1) The investigating officer
14 had reasonable grounds to believe the person had been driving a
15 motor vehicle in this state while under the influence of alcohol,
16 controlled substances or drugs; (2) whether the person was lawfully
17 placed under arrest for an offense involving driving under the
18 influence of alcohol, controlled substances or drugs, or was
19 lawfully taken into custody for the purpose of administering a
20 secondary test: *Provided*, That this element shall be waived in
21 cases where no arrest occurred due to driver incapacitation; (3)
22 the person committed an offense relating to driving a motor vehicle
23 in this state while under the influence of alcohol, controlled
24 substances or drugs; (4) the person refused to submit to the
25 secondary test finally designated in the manner provided in section
26 four, article five of this chapter; and (5) the person had been

1 given a written statement advising the person that the person's
2 license to operate a motor vehicle in this state would be revoked
3 for at least forty-five days and up to life if the person refused
4 to submit to the test finally designated, the commissioner shall
5 revoke the person's license to operate a motor vehicle in this
6 state for the periods specified in section seven, article five of
7 this chapter. The revocation period prescribed in this subsection
8 shall run concurrently with any other revocation period ordered
9 under this section or section one of this article arising out of
10 the same occurrence. The revocation period prescribed in this
11 subsection shall run concurrently with any other revocation period
12 ordered under this section or section one of this article arising
13 out of the same occurrence.

14 (s) If the Office of Administrative Hearings finds to the
15 contrary with respect to the above issues the commissioner shall
16 rescind his or her earlier order of revocation or shall reduce the
17 order of revocation to the appropriate period of revocation under
18 this section or section seven, article five of this chapter. A copy
19 of the Office of Administrative Hearings' findings of fact and
20 conclusions of law made and entered following the hearing shall be
21 served upon the person whose license is at issue and the
22 commissioner by registered or certified mail, return receipt
23 requested. During the pendency of any hearing, the revocation of
24 the person's license to operate a motor vehicle in this state shall
25 be stayed.

26 A person whose license is at issue and the commissioner shall

1 be entitled to judicial review as set forth in chapter twenty-nine-
2 a of this code. Neither the commissioner nor the Office of
3 Administrative Hearings may stay enforcement of the order. The
4 court may grant a stay or supersede as of the order only upon
5 motion and hearing, and a finding by the court upon the evidence
6 presented, that there is a substantial probability that the
7 appellant shall prevail upon the merits and the appellant will
8 suffer irreparable harm if the order is not stayed: *Provided*, That
9 in no event shall the stay or supersede as of the order exceed one
10 hundred fifty days. Notwithstanding the provisions of section
11 four, article five of said chapter, the Office of Administrative
12 Hearings may not be compelled to transmit a certified copy of the
13 file or the transcript of the hearing to the circuit court in less
14 than sixty days.

15 (t) In any revocation or suspension pursuant to this section,
16 if the driver whose license is revoked or suspended had not reached
17 the driver's eighteenth birthday at the time of the conduct for
18 which the license is revoked or suspended, the driver's license
19 shall be revoked or suspended until the driver's eighteenth
20 birthday or the applicable statutory period of revocation or
21 suspension prescribed by this section, whichever is longer.

22 (u) Funds for this section's hearing and appeal process may be
23 provided from the Drunk Driving Prevention Fund, as created by
24 section forty-one, article two, chapter fifteen of this code, upon
25 application for the funds to the Commission on Drunk Driving
26 Prevention.

1 **ARTICLE 5C. OFFICE OF ADMINISTRATIVE HEARINGS.**

2 **§17C-5C-4a. Rulemaking authority; assessment of costs; special**
3 **account created.**

4 (a) The Office of Administrative Hearings is authorized to
5 propose legislative rules in accordance with article three, chapter
6 twenty-nine-a of this code in order to implement this section.

7 (b) The Office of Administrative Hearings is required to
8 assess witness costs at the same rate as witness fees in circuit
9 court and a docket fee of \$10 for each hearing request against any
10 person filing a request for a hearing under section two, article
11 five-a of this chapter. The Office of Administrative Hearings is
12 also required to assess fees for the costs of providing hearing
13 transcripts or documents of record requested by a party.

14 (c) All fees and costs collected pursuant to this section
15 shall be paid into a special revenue account, designated as the
16 Office of Administrative Hearings Fund, in the State Treasury. The
17 Secretary of the Department of Transportation, upon request of the
18 Chief Hearing Examiner of the Office of Administrative Hearings,
19 may authorize the use of moneys collected and deposited in the
20 special revenue account to support the legitimate duties and
21 activities of the Office of Administrative Hearings. The secretary
22 may authorize the transfer of funds from the Office of
23 Administrative Hearings Fund to an appropriate agency account to
24 pay costs of registered and certified mailings and other expenses
25 associated with the conduct of hearings under this article. The
26 secretary shall propose legislative rules to regulate the transfer

1 and use of moneys collected and deposited in the Office of
2 Administrative Hearings account.

NOTE: The purpose of this bill concerns administrative hearings for suspension and revocation of licenses for driving while under the influence of alcohol, controlled substances or drugs, The bill provides that the Office of Administrative Hearings send notices of hearings to the Division of Motor Vehicles and the Attorney General if the Attorney General has filed a notice of appearance and deletes the requirement that notice be sent to the county prosecuting attorney;. The bill provides the Office of Administrative Hearings subpoena authority and failure to obey a subpoena constitutes a misdemeanor punishable by a fine up to \$500. The bill deletes the provision that a hearing notice sent by certified or registered mail to a law-enforcement officer constitutes a subpoena to appear;. The bill also provides authority to impose certain fees and that a special revenue account be created to support the activities of the Office of Administrative Hearings. The bill further authorizes rulemaking.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§17C-5C-4a is new; therefore, it has been completely underscored.