



1 follows:

2       **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**  
3               **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

4 **ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.**

5 **§17A-10-3b. Motorcycle safety fee.**

6       Upon the annual registration of any motorcycle, the division  
7 shall collect a motorcycle safety fee of ~~\$6.50~~ \$10, in addition to  
8 the registration fee specified in section three of this article.  
9 The division shall deposit ~~\$5.50~~ \$9 of the motorcycle safety fee  
10 into the State Treasury and credit the moneys to the Motorcycle  
11 Safety Fund. The division shall deposit the remaining \$1 of the  
12 motorcycle safety fee into the State Treasury and credit the moneys  
13 collected to the Motorcycle License Examination Fund established in  
14 section seven-c, article two, chapter seventeen-b of this code.

15       **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

16 **ARTICLE 15. EQUIPMENT.**

17 **§17C-15-44. Safety equipment and requirements for motorcyclists,**  
18               **motorcycles, motor-driven cycles and mopeds;**  
19               **motorcycle safety standards and education**  
20               **committee.**

21       (a) No person shall operate or be a passenger on any  
22 motorcycle or motor-driven cycle unless the person is wearing

1 securely fastened on his or her head by either a neck or chin strap  
2 a protective helmet designed to deflect blows, resist penetration  
3 and spread impact forces, except as otherwise provided in section  
4 forty-four-a of this article. Any helmet worn by an operator or  
5 passenger shall meet the current performance specifications  
6 established by the American National Standards Institute Standard,  
7 Z 90.1, the United States Department of Transportation Federal  
8 Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for  
9 Protective Headgear for Vehicle Users.

10 (b) No person shall operate or be a passenger on any  
11 motorcycle or motor-driven cycle unless the person is wearing  
12 safety, shatter-resistant eyeglasses (excluding contact lenses), or  
13 eye goggles or face shield that complies with the performance  
14 specifications established by the American National Standards  
15 Institute for Head, Eye and Respiratory Protection, Z 2.1. In  
16 addition, if any motorcycle, motor-driven cycle or moped is  
17 equipped with a windshield or windscreen, the windshield or  
18 windscreen shall be constructed of safety, shatter-resistant  
19 material that complies with the performance specifications  
20 established by Department of Transportation Federal Motor Vehicle  
21 Safety Standard No. 205 and American National Standards Institute,  
22 Safety Glazing Materials for Glazing Motor Vehicles Operated on  
23 Land Highways, Standard Z 26.1.

1 (c) No person shall operate a motorcycle, motor-driven cycle  
2 or moped on which the handlebars or grips are more than fifteen  
3 inches higher than the uppermost part of the operator's seat when  
4 the seat is not depressed in any manner.

5 (d) A person operating a motorcycle, motor-driven cycle or  
6 moped shall ride in a seated position facing forward and only upon  
7 a permanent operator's seat attached to the vehicle. No operator  
8 shall carry any other person nor shall any other person ride on the  
9 vehicle unless the vehicle is designed to carry more than one  
10 person, in which event a passenger may ride behind the operator  
11 upon the permanent operator's seat if it is designed for two  
12 persons, or upon another seat firmly attached to the vehicle to the  
13 rear of the operator's seat and equipped with footrests designed  
14 and located for use by the passenger or in a sidecar firmly  
15 attached to the vehicle. No person shall ride side saddle on a  
16 seat. An operator may carry as many passengers as there are seats  
17 and footrests to accommodate those passengers. Additional  
18 passengers may be carried in a factory produced sidecar provided  
19 that there is one passenger per seat. Passengers riding in a  
20 sidecar shall be restrained by safety belts.

21 (e) Every motorcycle, motor-driven cycle and moped shall be  
22 equipped with a rearview mirror affixed to the handlebars or  
23 fairings and adjusted so that the operator shall have a clear view

1 of the road and condition of traffic behind him or her for a  
2 distance of at least two hundred feet.

3 ~~(f) There is hereby created a six member motorcycle safety and~~  
4 ~~education committee consisting of: the superintendent of the State~~  
5 ~~Police or a designee; the Commissioner of Motor Vehicles or a~~  
6 ~~designee; the director of the West Virginia safety council or a~~  
7 ~~designee; a licensed motorcycle operator; an owner of a motorcycle~~  
8 ~~dealership; and a supplier of aftermarket nonfranchised motorcycle~~  
9 ~~supplies. The nongovernmental representatives shall be appointed~~  
10 ~~by the Governor with the advice and consent of the Senate, shall~~  
11 ~~serve without compensation, and the terms shall be for three years,~~  
12 ~~except that as to the members first appointed, one shall be~~  
13 ~~appointed for a term of one year, one shall be appointed for a term~~  
14 ~~of two years and one shall be appointed for a term of three years.~~  
15 ~~Members may be reappointed to the committee.~~

16 ~~The committee shall continue to exist pursuant to the~~  
17 ~~provisions of article ten, chapter four of this code until July 1,~~  
18 ~~1990-nine, to allow for the completion of a preliminary performance~~  
19 ~~review by the joint committee on government operations.~~

20 ~~The committee is hereby authorized to recommend to the~~  
21 ~~superintendent of public safety types and makes of protective~~  
22 ~~helmets, eye protection devices and equipment offered for sale,~~  
23 ~~purchased or used by any person. The committee is authorized to~~

1 ~~make recommendations to the Commissioner of Motor Vehicles~~  
2 ~~regarding the use of the moneys in the motorcycle safety fund~~  
3 ~~created under section seven, article one-d, chapter seventeen-b of~~  
4 ~~this code.~~

5 **§17C-15-44a. Motorcycle helmet exemptions; requirements; fees;**  
6 **penalties; and rules.**

7 (a) Effective July 1, 2011, a person operating a motorcycle or  
8 motor-driven cycle is exempt from wearing a motorcycle helmet as  
9 required in section forty-four of this article if the person:

10 (1) Is at least twenty-one years old;

11 (2) Has held a motorcycle operator's license or endorsement  
12 for a minimum of two years;

13 (3) Has completed a motorcycle safety training course as  
14 provided in sections two and three, article one-d, chapter  
15 seventeen-b of this code or has completed a comparable motorcycle  
16 safety training course approved by the Division of Motor Vehicles;  
17 and

18 (4) Is covered by a health insurance plan providing the person  
19 with at least \$10,000 in medical benefits for injuries incurred as  
20 a result of an accident while operating or riding on a motorcycle.

21 (b) A person who is at least twenty-one years old and holds a  
22 motorcycle operator's license or endorsement on or before June 30,  
23 2011, is eligible for a "grandfather" exception to subsection (a)

1 in which the two-year minimum operator's license or endorsement  
2 requirement set forth in subdivision (2) of subsection (a) and the  
3 safety training course requirement set forth in subdivision (3) of  
4 subsection (a) are waived if the person complies with the health  
5 insurance requirement set forth in subdivision (4) of subsection  
6 (a).

7 (c) Effective July 1, 2011, a person riding as a passenger on  
8 a motorcycle or motor-driven cycle is exempt from wearing a  
9 motorcycle helmet as required in section forty-four of this article  
10 if the person:

11 (1) Is at least twenty-one years old; and

12 (2) Is covered by a health insurance plan providing the person  
13 with at least \$10,000 in medical benefits for injuries incurred as  
14 a result of an accident while operating or riding on a motorcycle.

15 (d) For a fee of \$5, the Division of Motor Vehicles shall  
16 issue a serialized, nontransferrable "helmet exception" operator  
17 sticker or passenger sticker to a motorcycle or motor-driven cycle  
18 operator or passenger demonstrating compliance with the  
19 requirements set forth in subsection (a), (b) or (c) of this  
20 section. A "helmet exemption" sticker issued pursuant to this  
21 section expires on the second anniversary of the date of issuance.

22 (e) A person operating or riding as a passenger on a  
23 motorcycle or motor-driven cycle without a helmet shall display a

1 "helmet exemption" sticker issued pursuant to subsection (d) of  
2 this section on the license plate of the motorcycle or the license  
3 plate mounting bracket. A person displaying a "helmet exemption"  
4 sticker in this manner is presumed to be in compliance with the  
5 provisions of subsection (a), (b) or (c) of this section.

6 (f) For purposes of this section, "health insurance plan"  
7 means an individual, group, blanket, or franchise insurance policy,  
8 insurance agreement, evidence of coverage, group hospital services  
9 contract, health maintenance organization membership, or employee  
10 benefit plan that provides benefits for health care services or for  
11 medical or surgical expenses incurred as a result of an accident.

12 (g) A person operating or riding as a passenger on a  
13 motorcycle or motor-driven cycle without a helmet who is not in  
14 compliance with the provisions of this section is guilty of a  
15 misdemeanor and, upon conviction thereof, shall be fined not less  
16 than \$200 nor more than \$500; and upon a second or subsequent  
17 conviction shall be fined not less than \$500 nor more than \$1000.

18 An arresting officer may impound a motorcycle operated by a person  
19 violating the provisions of this section unless the person can  
20 lawfully operate the motorcycle by then wearing a helmet or by  
21 otherwise demonstrating compliance with the provisions of this  
22 section.

23 (h) The Commissioner of the Division of Motor Vehicles shall



1 propose rules in accordance with the provisions of article three,  
2 chapter twenty-nine-a of this code to implement the provisions of  
3 this section.

NOTE: The purpose of this bill is to provide a motorcycle helmet exemption to motorcyclists who meet certain safety and health insurance requirements. This bill would allow West Virginia to compete for motorcycle tourism dollars on a more equal footing with neighboring states which do not require motorcyclists to wear helmets. This bill sets age, experience, safety training and health insurance requirements for motorcycle operators to qualify for a helmet exemption, and sets age and health insurance requirements for motorcycle passengers to qualify for a helmet exemption. The bill creates a helmet exemption sticker to be displayed prominently on the motorcycle to verify compliance with helmet exemption provisions, and provides penalties for violations of helmet exemption provisions. The bill also increases the motorcycle safety awareness fee from \$6.50 to \$10 to provide additional funding for motorcycle safety training programs. The bill additionally deletes outdated and duplicate language referencing the Motorcycle Safety Awareness Board established in §17B-1D-8.

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

§17C-15-44a is new; therefore, strike-throughs and underscoring have been omitted.