

1 **H. B. 4441**

2  
3 (By Delegates Ellem, Manchin, D. Poling, Hunt,  
4 Rowan and Hamilton)

5  
6 [Introduced February 7, 2012; referred to the  
7 Committee on the Judiciary.]

8  
9  
10 A BILL to amend and reenact §48-15-201 and §48-15-209 of the Code  
11 of West Virginia, 1931, as amended, all relating to removing  
12 driver and commercial driver licenses from the identified  
13 licenses which may be revoked when in arrearage on child  
14 support payments.

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

16 That §48-15-201 and §48-15-209 of the Code of West Virginia,  
17 1931, as amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 15. ENFORCEMENT OF SUPPORT ORDER THROUGH ACTION AGAINST**  
19 **LICENSE.**

20 **§48-15-201. Licenses subject to action.**

21 The following licenses are subject to an action against a  
22 license as provided for in this article:

23 (1) A business registration certificate issued under article  
24 twelve, chapter eleven of this code authorizing a person to  
25 transact business in the State of West Virginia;

1       ~~(2) A permit or license issued under chapter seventeen-b of~~  
2 ~~this code authorizing a person to drive a motor vehicle;~~

3       ~~(3) A commercial driver's license issued under chapter~~  
4 ~~seventeen-e of this code authorizing a person to drive a class of~~  
5 ~~commercial vehicle;~~

6       ~~(4)~~ (2) A permit, license or stamp issued under article two or  
7 two-b, chapter twenty of this code regulating a person's activities  
8 for wildlife management purposes, authorizing a person to serve as  
9 an outfitter or guide or authorizing a person to hunt or fish;

10       ~~(5)~~ (3) A license or registration issued under chapter thirty  
11 of this code authorizing a person to practice or engage in a  
12 profession or occupation;

13       ~~(6)~~ (4) A license issued under article twelve, chapter forty-  
14 seven of this code authorizing a person to transact business as a  
15 real estate broker or real estate salesperson;

16       ~~(7)~~ (5) A license or certification issued under article  
17 fourteen, chapter thirty-seven of this code authorizing a person to  
18 transact business as a real estate appraiser;

19       ~~(8)~~ (6) A license issued under article twelve, chapter thirty-  
20 three of this code authorizing a person to transact insurance  
21 business as an agent, broker or solicitor;

22       ~~(9)~~ (7) A registration made under article two, chapter thirty-  
23 two of this code authorizing a person to transact securities  
24 business as a broker-dealer, agent or investment advisor;

1       ~~(10)~~ (8) A license issued under article twenty-two, chapter  
2 twenty-nine of this code authorizing a person to transact business  
3 as a lottery sales agent;

4       ~~(11)~~ (9) A license issued under article thirty-two or thirty-  
5 four, chapter sixteen of this code authorizing persons to pursue a  
6 trade or vocation in asbestos abatement or radon mitigation;

7       ~~(12)~~ (10) A license issued under article eleven, chapter  
8 twenty-one of this code authorizing a person to act as a  
9 contractor;

10       ~~(13)~~ (11) A license issued under article two-c, chapter  
11 nineteen of this code authorizing a person to act as an auctioneer;  
12 and

13       ~~(14)~~ (12) A license, permit or certificate issued under  
14 chapter nineteen of this code authorizing a person to sell, market  
15 or distribute agricultural products or livestock.

16 **§48-15-209.       Hearing on denial, nonrenewal, suspension or**  
17 **restriction of license.**

18       (a) The court shall order a licensing authority to deny,  
19 refuse to renew, suspend or restrict a license if it finds that:

20       (1) All appropriate enforcement methods have been exhausted or  
21 are not available;

22       (2) The person is the holder of a license or has an  
23 application pending for a license;

24       (3) The requisite amount of child support or medical support

1 arrearage exists or health insurance for the child has not been  
2 provided as ordered or the person has failed to comply with a  
3 subpoena or warrant relating to a paternity or child support  
4 proceeding;

5 (4) No motion to modify the child support order, filed prior  
6 to the date that the notice was sent by the Bureau for Child  
7 Support Enforcement, is pending before the court; and

8 (5) There is no equitable reason, such as involuntary  
9 unemployment, disability or compliance with a court-ordered plan  
10 for the periodic payment of the child support arrearage amount, for  
11 the person's noncompliance with the child support order.

12 ~~(b) If the court is satisfied that the conditions described in~~  
13 ~~subsection (a) of this section exist, it shall first consider~~  
14 ~~suspending or restricting a driver's license prior to professional~~  
15 ~~license.~~ If the person fails to appear at the hearing after being  
16 properly served with notice, the court shall order the suspension  
17 of all licenses identified in section two-hundred-one of this  
18 article held by the person.

19 (c) If the court finds that a license suspension will result  
20 in a significant hardship to the person, to the person's legal  
21 dependents under eighteen years of age living in the person's  
22 household, to the person's employees or to persons, businesses or  
23 entities to whom the person provides goods or services, the court  
24 may allow the person to pay a percentage of the past-due child

1 support amount as an initial payment, ~~and~~ establish a payment  
2 schedule to satisfy the remainder of the arrearage within one year  
3 and require that the person comply with any current child support  
4 obligation. If the person agrees to this arrangement, no  
5 suspension or restriction of any licenses ~~shall~~ may be ordered.  
6 Compliance with the payment agreement shall be monitored by the  
7 Bureau for Child Support Enforcement.

8 (d) If a person has good cause for not complying with the  
9 payment agreement within the time permitted, the person shall  
10 immediately file a motion with the court and the Bureau for Child  
11 Support Enforcement requesting an extension of the payment plan.  
12 The court may extend the payment plan if it is satisfied that the  
13 person has made a good faith effort to comply with the plan and is  
14 unable to satisfy the full amount of past-due support within the  
15 time permitted due to circumstances beyond the person's control.  
16 If the person fails to comply with the court-ordered payment  
17 schedule, the court shall, upon receipt of a certification of  
18 noncompliance from the Bureau for Child Support Enforcement, and  
19 without further hearing, order the immediate suspension or  
20 restriction of all licenses held by the person.

NOTE: The purpose of this bill is to remove driver and commercial driver licenses from the identified licenses which may be revoked when in arrearage on child support payments.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.