

1 **H. B. 4449**

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3 (By Delegates Swartzmiller, Staggers and Cowles)  
4 [By request of the Division of Motor Vehicles]  
5 [Introduced February 7, 2012; referred to the  
6 Committee on Roads and Transportation then Finance.]

**FISCAL  
NOTE**

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10 A BILL to repeal §17B-3-3c of the Code of West Virginia, 1931, as  
11 amended; and to amend said code by adding thereto a new  
12 section, designated §17B-3-14; and to amend and reenact  
13 §17B-4-3 of said code, all relating to the suspension or  
14 revocation of driver's licenses; making legislative findings;  
15 establishing a driver's license restoration program; waiving  
16 certain reinstatement requirements to restore driving  
17 privileges; reducing the period for suspension upon receipt of  
18 notice of driving while suspended for nondriving under the  
19 influence offenses; and granting rule-making authority.

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

21 That §17B-3-3c of the Code of West Virginia, 1931, as amended,  
22 be repealed; and that said code be amended by adding thereto a new  
23 section, designated §17B-3-14; and to amend and reenact §17B-4-3  
24 of said code, all to read as follows:

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

2 **§17B-3-14. Legislative findings; license restoration program;**  
3 **rulemaking.**

4 (a) The Legislature finds:

5 (1) That a growing number of drivers in West Virginia have  
6 their driver's licenses suspended or revoked each year;

7 (2) That a majority of the suspension and revocation actions  
8 undertaken by the Division of Motor Vehicles are for nondriving  
9 related reasons including the nonpayment of citations and a variety  
10 of other nonsafety related reasons;

11 (3) That there is a clear relationship between citizens having  
12 a valid driver's license and the ability to gain and maintain  
13 stable employment and other important matters affecting the quality  
14 of life of citizens throughout the state; and

15 (4) That there are many areas within the state that are not  
16 adequately served by public transportation that provide a  
17 reasonable alternative to transportation by means other than a  
18 privately owned vehicle requiring the operator to have a valid  
19 driver's license.

20 (b) The division is hereby required to establish a driver's  
21 license restoration program for state drivers who have driver's  
22 licenses suspended pursuant to section three-a of this article upon  
23 notice of a state court for failure to resolve a citation or unpaid  
24 tickets. The program shall consist of the waiving of any fees or

1 other requirements for the reinstatement of a drivers' license or  
2 the privilege to operate a motor vehicle based on an unresolved or  
3 unpaid citation file and any driving while suspended or revoked for  
4 a nondriving under the influence offense related to an unpaid  
5 ticket more than ten years from the effective date of the  
6 suspension. Any offense or file waived in accordance with this  
7 section may not appear on the licensee's driving record.

8 (c) Notwithstanding any other provisions of this code to the  
9 contrary, for the period from July 1, 2012, through and including  
10 June 30, 2013, the Division of Motor Vehicles shall close the  
11 unpaid ticket file and any driving while suspended or revoked for  
12 a nondriving under the influence offense, created by an unpaid  
13 ticket license suspension of any person whose driver's license or  
14 privilege to operate a motor vehicle has been suspended or revoked  
15 who presents verification of satisfaction by mail and pays a  
16 reinstatement fee of \$25 in lieu of the reinstatement fee required  
17 by section nine of this article. The division may waive any  
18 remaining time on a suspension or revocation reinstated in  
19 accordance with this subsection.

20 (d) A law-enforcement officer is authorized to bring any  
21 driver to a magistrate or municipal judge if one is available if  
22 the law-enforcement officer makes a determination that the driver  
23 has more than three active unpaid citation files from separate  
24 incidents.

1 (e) This section may not be construed to waive any requirement  
2 for the retesting of a driver's vision, written or road skills if  
3 an offender's driver's license has expired for more than six  
4 months.

5 (f) The division may not waive any requirements or fees if the  
6 waiver:

7 (1) Violates any federal laws or federal rules pertaining to  
8 commercial drivers or other licensees;

9 (2) Disqualifies or jeopardize the ability of this state to  
10 receive federal highway funding or highway safety funding; or

11 (3) Places this state in noncompliance with any interstate or  
12 reciprocal agreements that may be in effect now or in the future.

13 (g) The commissioner may propose rules for legislative  
14 approval, in accordance with the provisions of article three,  
15 chapter twenty-nine-a of this code, to implement this section.

16 (h) Unless otherwise provided in this section, a suspension  
17 under section three-a of this article will continue until the  
18 person provides proof of compliance from the municipal, magistrate  
19 or circuit court and pays the reinstatement fee as provided in  
20 section nine of this article. The reinstatement fee is assessed  
21 upon issuance of the order of suspension regardless of the  
22 effective date of suspension.

23 **ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.**

24 **§17B-4-3. Driving while license suspended or revoked; driving**

1           **while license revoked for driving under the influence**  
2           **of alcohol, controlled substances or drugs, or while**  
3           **having alcoholic concentration in the blood of eight**  
4           **hundredths of one percent or more, by weight, or for**  
5           **refusing to take secondary chemical test of blood**  
6           **alcohol contents.**

7           (a) Except as otherwise provided in subsection (b) or (d) of  
8 this section, any person who drives a motor vehicle on any public  
9 highway of this state at a time when his or her privilege to do so  
10 has been lawfully suspended or revoked by this state or any other  
11 jurisdiction is, for the first offense, guilty of a misdemeanor  
12 and, upon conviction thereof, shall be fined not less than \$100 nor  
13 more than \$500; for the second offense, the person is guilty of a  
14 misdemeanor and, upon conviction thereof, shall be fined not less  
15 than \$100 nor more than \$500; for the third or any subsequent  
16 offense, the person is guilty of a misdemeanor and, upon conviction  
17 thereof, shall be confined in jail for a period of not less than  
18 thirty days nor more than ninety days and shall be fined not less  
19 than \$150 nor more than \$500.

20           (b) Any person who drives a motor vehicle on any public  
21 highway of this state at a time when his or her privilege to do so  
22 has been lawfully revoked for driving under the influence of  
23 alcohol, controlled substances or other drugs, or any combination

1 thereof, or for driving while having an alcoholic concentration in  
2 his or her blood of eight hundredths of one percent or more, by  
3 weight, or for refusing to take a secondary chemical test of blood  
4 alcohol content, is, for the first offense, guilty of a misdemeanor  
5 and, upon conviction thereof, shall be confined in jail for a  
6 period of not less than thirty days nor more than six months and  
7 shall be fined not less than \$100 nor more than \$500; for the  
8 second offense, the person is guilty of a misdemeanor and, upon  
9 conviction thereof, shall be confined in jail for a period of not  
10 less than six months nor more than one year and shall be fined not  
11 less than \$1,000 nor more than \$3,000; for the third or any  
12 subsequent offense, the person is guilty of a felony and, upon  
13 conviction thereof, shall be imprisoned in a state correctional  
14 facility for not less than one year nor more than three years and,  
15 in addition to the mandatory prison sentence, shall be fined not  
16 less than \$3,000 nor more than \$5,000.

17 (c) Upon receiving a record of the first or subsequent  
18 conviction of any person under subsection (b) of this section upon  
19 a charge of driving a vehicle while the license of that person was  
20 lawfully suspended or revoked, the division shall extend the period  
21 of the suspension or revocation for an additional period of six  
22 months which may be served concurrently with any other suspension  
23 or revocation. Upon receiving a record of the second or subsequent  
24 conviction of any person under subsection (a) of this section upon

1 a charge of driving a vehicle while the license of that person was  
2 lawfully suspended or revoked, the division shall extend the period  
3 of the suspension or revocation for an additional period of ~~ninety~~  
4 thirty days which may be served concurrently with any other  
5 suspension or revocation.

6 (d) Any person who drives a motor vehicle on any public  
7 highway of this state at a time when his or her privilege to do so  
8 has been lawfully suspended for driving while under the age of  
9 twenty-one years with an alcohol concentration in his or her blood  
10 of two hundredths of one percent or more, by weight, but less than  
11 eight hundredths of one percent, by weight, is guilty of a  
12 misdemeanor and, upon conviction thereof, shall be confined in jail  
13 for twenty-four hours or shall be fined not less than \$50 nor more  
14 than \$500, or both.

15 Upon receiving a record of a first or subsequent conviction  
16 under this subsection for a charge of driving a vehicle while the  
17 license of that person was lawfully suspended or revoked, the  
18 division shall extend the period of the suspension or revocation  
19 for an additional period of six months which may be served  
20 concurrently with any other suspension or revocation.

21 (e) An order for home detention by the court pursuant to the  
22 provisions of article eleven-b, chapter sixty-two of this code may  
23 be used as an alternative sentence to any period of incarceration  
24 required by this section.

NOTE: The purpose of this bill concerns the suspension or revocation of driver's licenses. The bill makes legislative findings. The bill establishes a driver's license restoration program. The bill permits waiving certain reinstatement requirements to restore driving privileges. The bill reduces the period for suspension upon receipt of notice of driving while suspended for nondriving under the influence offenses from ninety to thirty days. The bill also grants rule-making authority.

§17B-3-14 is new; therefore, it has been completely underscored.

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

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Division of Motor Vehicles.