

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 521**

4 (By Senators Laird, Palumbo, Kirkendoll, Cookman, Stollings,
5 Kessler (Mr. President), Snyder, Cann, Plymale, Williams, Miller
6 and Chafin)

7 _____
8 [Originating in the Committee on Transportation and
9 Infrastructure; reported March 25, 2013.]
10 _____

11
12
13
14 A BILL to amend and reenact §17B-3-3c and §17B-3-9 of the Code of
15 West Virginia, 1931, as amended; and to amend said code by
16 adding thereto a new section, designated §17B-3-9a, all
17 relating to creating an amnesty program for certain persons
18 with suspended or revoked licenses to allow reinstatement;
19 establishing a time period and certain procedures for the
20 amnesty program; creating exceptions to the amnesty period;
21 making certain technical corrections; requiring certain
22 tickets amnestied remain listed as unsatisfied on court
23 records and amounts remain due; requiring certain suspension
24 or revocation time remaining be waived in certain situations;

1 requiring a public awareness campaign regarding the amnesty
2 program; and providing for rule-making authority.

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

4 That §17B-3-3c and §17B-3-9 of the Code of West Virginia,
5 1931, as amended, be amended and reenacted; and that said code be
6 amended by adding thereto a new section, designated §17B-3-9a, all
7 to read as follows:

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

9 **§17B-3-3c. Suspending license for failure to pay fines or**
10 **penalties imposed as the result of criminal**
11 **conviction or for failure to appear in court.**

12 (a) The division shall suspend the license of ~~any~~ a resident
13 of this state or the privilege of a nonresident to drive a motor
14 vehicle in this state upon receiving notice from a circuit court,
15 magistrate court or municipal court of this state, pursuant to
16 section ~~two-b~~ two-a, article three, chapter fifty of this code, ~~or~~
17 section two-b, article ten, chapter eight of ~~said~~ this code or
18 section seventeen, article four, chapter sixty-two of ~~said~~ this
19 code, that ~~such~~ the person has defaulted on the payment of costs,
20 fines, forfeitures, penalties or restitution imposed on the person
21 by the circuit court, magistrate court or municipal court upon
22 conviction for ~~any~~ a criminal offense by the date ~~such~~ the court
23 had required ~~such~~ the person to pay ~~the same~~, or that ~~such~~ the
24 person has failed to appear in court when charged with ~~such~~ an

1 offense. For the purposes of this section; section ~~two-b~~ two-a,
2 article three, chapter fifty of said code; section two-b, article
3 ten, chapter eight of said code; and section seventeen, article
4 four, chapter sixty-two of said code, "criminal offense" ~~shall be~~
5 is defined as ~~any a~~ a violation of the provisions of this code or the
6 violation of ~~any a~~ a municipal ordinance ~~for which the violation~~
7 ~~thereof~~ which may result in a fine, confinement in jail or
8 imprisonment in a correctional facility of this state. ~~Provided,~~
9 ~~That any~~ A parking violation or other violation for which a
10 citation may be issued to an unattended vehicle ~~shall not be~~
11 ~~considered~~ is not a criminal offense for the purposes of this
12 section; section two-b, article ten, chapter eight of said code;
13 section ~~two-b~~ two-a, article three, chapter fifty of said code; or
14 section seventeen, article four, chapter sixty-two of said code.

15 (b) A copy of the order of suspension shall be forwarded to
16 ~~such~~ the person by certified mail, return receipt requested. No
17 order of suspension becomes effective until ten days after receipt
18 of a copy of ~~such~~ the order. The order of suspension shall advise
19 the person that because of the receipt of notice of the failure to
20 pay costs, fines, forfeitures or penalties, or the failure to
21 appear, a presumption exists that the person named in the order of
22 suspension is the same person named in the notice. The
23 ~~Commissioner~~ Office of Administrative Hearings' Chief Hearing
24 Examiner may grant an administrative hearing which substantially

1 complies with the requirements of the provisions of section two,
2 article five-a, chapter seventeen-c of this code upon a preliminary
3 showing that ~~a possibility exists that~~ it is possible the person
4 named in the notice of conviction is not the ~~same~~ person whose
5 license is being suspended. ~~Such~~ The request for hearing shall be
6 made within ten days after receipt of a copy of the order of
7 suspension. The sole purpose of this hearing ~~shall be~~ is for the
8 person requesting the hearing to present evidence that he or she is
9 not the person named in the notice. In the event the ~~Commissioner~~
10 ~~grants an administrative hearing, the Commissioner~~ Office of
11 Administrative Hearings' Chief Hearing Examiner grants an
12 administrative hearing, the Office of Administrative Hearings will
13 send notice to the commissioner and the commissioner shall stay
14 the license suspension pending the ~~Commissioner's~~ Chief Hearing
15 Examiner's order resulting from the hearing.

16 (c) A suspension under this section and section three-a of
17 this ~~chapter~~ article will continue until the person provides proof
18 of compliance from the municipal, magistrate or circuit court and
19 pays the reinstatement fee as provided in section nine of this
20 article: Provided, That proof of compliance is not required when
21 the provisions of section nine-a of this article are met. The
22 reinstatement fee is assessed upon issuance of the order of
23 suspension regardless of the effective date of suspension.

24 **§17B-3-9. Surrender and return of license not required.**

1 The division, upon suspending or revoking a license, may not
2 require that the license be surrendered to and be retained by the
3 division. The surrender of a license may not be a precondition to
4 the commencement and tolling of any applicable period of suspension
5 or revocation. ~~Provided, That~~ Before the license may be
6 reinstated, the licensee shall pay a fee of \$50, in addition to all
7 other fees and charges, which shall be collected by the division
8 and deposited in a special revolving fund to be appropriated to the
9 division for use in the enforcement of the provisions of this
10 section. A fee or charge assessed for a reinstatement of
11 suspension for failure to satisfy a citation or unpaid ticket ten
12 years old or older for which amnesty was granted under the
13 provision of section nine-a of this article is waived.

14 **§17B-3-9a. Amnesty program for certain licenses.**

15 (a) Notwithstanding any other provisions of this code to the
16 contrary, from July 1, 2014, until December 31, 2014, in addressing
17 whether a licensee is qualified for reinstatement, the Division of
18 Motor Vehicles shall treat all instances of failure to satisfy
19 requirements pursuant to section three-a or three-c of this article
20 or for driving while suspended or revoked related to an unpaid
21 citation or ticket as fully paid and complied if the date of the
22 unpaid citation or ticket is ten years old or older: *Provided,*
23 That the person does not hold a commercial driver's license and the
24 citation or ticket is not pertaining to an offense related to the

1 operation of a commercial motor vehicle as defined in chapter
2 seventeen-e of this code.

3 (b) All unpaid citations or tickets that are ten years old or
4 older will remain unpaid on the court's record despite the amnesty
5 provisions of subsection (a) of this section. Any cost, fine,
6 forfeiture, penalty, restitution, or other money owed as indicated
7 by the court would remain due.

8 (c) The division shall waive any remaining time on a
9 suspension or revocation for a second or subsequent conviction of
10 subsection (a), section three, article four of this chapter if the
11 only underlying suspensions in effect at the time of the incident
12 were resolved through the amnesty program contained in this
13 section.

14 (d) This section does not waive any requirement for the
15 retesting of a driver's vision, written or road skills if an
16 offender's driver's license has expired for more than six months.

17 (e) Notwithstanding any other provision of this section, the
18 division may not waive requirements or fees if the waiver:

19 (1) Violates federal laws or federal rules pertaining to
20 commercial drivers or other licensees;

21 (2) Disqualifies or jeopardizes the ability of this state to
22 receive federal highway funding or highway safety funding; or

23 (3) Places this state in noncompliance with Interstate or
24 reciprocal agreements that may be in effect now or in the future.

1 (f) The division shall prepare and execute a public awareness
2 campaign to inform the public about the amnesty program contained
3 in this section and how the public can participate in the program.

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

NOTE: The purpose of this bill is to create an amnesty program for drivers with suspended or revoked licenses based on nonpayment of certain court fees in order to allow them to obtain their legal driver's license without having to pay citations or tickets ten years old or older.

§17B-3-9a is new; therefore, strike-throughs and underscoring have been omitted.

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