

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 521**

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

9 _____
10 [Originating in the Committee on the Judiciary;
11 reported April 1, 2013.]

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16 A BILL to amend and reenact §17B-3-3c and §17B-3-9 of the Code of
17 West Virginia, 1931, as amended; and to amend said code by
18 adding thereto a new section, designated §17B-3-9a, all
19 relating to creating an amnesty program for certain persons
20 with suspended or revoked licenses due to unpaid fines and
21 assessments to allow reinstatement drivers' licenses;
22 establishing a time period and certain procedures for the
23 amnesty program; creating exceptions to the amnesty period;
24 making certain technical corrections; requiring certain

1 tickets amnestied remain listed as unsatisfied on court
2 records and amounts remain due; requiring certain suspension
3 or revocation time remaining be waived in certain situations;
4 requiring a public awareness campaign regarding the amnesty
5 program; and providing for emergency and standard rule-making
6 authority.

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

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

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

13 **§17B-3-3c. Suspending license for failure to pay fines or**
14 **penalties imposed as the result of criminal**
15 **conviction or for failure to appear in court.**

16 (a) The division shall suspend the license of ~~any~~ a resident
17 of this state or the privilege of a nonresident to drive a motor
18 vehicle in this state upon receiving notice from a circuit court,
19 magistrate court or municipal court of this state, pursuant to
20 section ~~two-b~~ two-a, article three, chapter fifty of this code, ~~or~~
21 section two-b, article ten, chapter eight of ~~said~~ this code or
22 section seventeen, article four, chapter sixty-two of ~~said~~ this
23 code, that ~~such~~ the person has defaulted on the payment of costs,
24 fines, forfeitures, penalties or restitution imposed on the person

1 by the circuit court, magistrate court or municipal court upon
2 conviction for ~~any~~ a criminal offense by the date ~~such~~ the court
3 had required ~~such~~ the person to pay ~~the same,~~ or that ~~such~~ the
4 person has failed to appear in court when charged with ~~such~~ an
5 offense. For the purposes of this section; section ~~two-b~~ two-a,
6 article three, chapter fifty of said code; section two-b, article
7 ten, chapter eight of said code; and section seventeen, article
8 four, chapter sixty-two of said code, "criminal offense" ~~shall be~~
9 is defined as ~~any~~ a violation of the provisions of this code or the
10 violation of ~~any~~ a municipal ordinance ~~for which the violation~~
11 ~~thereof~~ which may result in a fine, confinement in jail or
12 imprisonment in a correctional facility of this state: *Provided,*
13 That ~~any~~ a parking violation or other violation for which a
14 citation may be issued to an unattended vehicle ~~shall not be~~
15 ~~considered~~ is not a criminal offense for the purposes of this
16 section; section two-b, article ten, chapter eight of said code;
17 section ~~two-b~~ two-a, article three, chapter fifty of said code; or
18 section seventeen, article four, chapter sixty-two of said code.

19 (b) A copy of the order of suspension shall be forwarded to
20 ~~such~~ the person by certified mail, return receipt requested. No
21 order of suspension becomes effective until ten days after receipt
22 of a copy of ~~such~~ the order. The order of suspension shall advise
23 the person that because of the receipt of notice of the failure to
24 pay costs, fines, forfeitures or penalties, or the failure to

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

20 (c) A suspension under this section and section three-a of
21 this ~~chapter~~ article will continue until the person provides proof
22 of compliance from the municipal, magistrate or circuit court and
23 pays the reinstatement fee as provided in section nine of this
24 article: Provided, That proof of compliance is not required when

1 the provisions of section nine-a of this article are met. The
2 reinstatement fee is assessed upon issuance of the order of
3 suspension regardless of the effective date of suspension.

4 **§17B-3-9. Surrender and return of license not required.**

5 The division, upon suspending or revoking a license, may not
6 require that the license be surrendered to and be retained by the
7 division. The surrender of a license may not be a precondition to
8 the commencement and tolling of any applicable period of suspension
9 or revocation. ~~Provided, That~~ Before the license may be
10 reinstated, the licensee shall pay a fee of \$50, in addition to all
11 other fees and charges, which shall be collected by the division
12 and deposited in a special revolving fund to be appropriated to the
13 division for use in the enforcement of the provisions of this
14 section. No fee or charge may be assessed for reinstatement of a
15 suspension for failure to pay a citation or ticket five years old
16 or older for which amnesty was granted under the provision of
17 section nine-a of this article.

18 **§17B-3-9a. Amnesty program for certain licenses.**

19 (a) Notwithstanding any other provisions of this code to the
20 contrary, from October 1, 2013, until September 30, 2014, in
21 addressing whether a licensee is qualified for reinstatement, the
22 Division of Motor Vehicles shall treat all instances of failure to
23 satisfy payment requirements pursuant to section three-a or three-c
24 of this article or for driving while suspended or revoked related

1 solely due to failure to pay citations or tickets and shall treat
2 such citations and tickets as fully paid and complied with if the
3 date of imposition of the penalty for the unpaid citation or ticket
4 was more than five years prior to the effective date of this
5 section: *Provided*, That the person does not hold a commercial
6 driver's license and the citation or ticket is not pertaining to an
7 offense related to the operation of a commercial motor vehicle as
8 defined in chapter seventeen-e of this code.

9 (b) All fines or costs assessed more than five years prior to
10 the effective date of this section based upon traffic tickets or
11 citations will remain unpaid on the court's record despite the
12 amnesty provisions of subsection (a) of this section. Any cost,
13 fine, forfeiture, penalty, restitution or other money owed as
14 indicated by the court would remain due.

15 (c) The division shall waive any remaining time on a
16 suspension or revocation for a second or subsequent conviction of
17 subsection (a), section three, article four of this chapter if the
18 only underlying suspensions in effect at the time of the incident
19 were resolved through the amnesty program contained in this
20 section.

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

24 (e) Notwithstanding any other provision of this section, the

1 division may not waive requirements or fees if the waiver:

2 (1) Violates federal laws or federal rules pertaining to
3 commercial drivers or other licensees;

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

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

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

11 (g) The commissioner may promulgate emergency rules pursuant
12 to the provisions of section fifteen, article three, chapter
13 twenty-nine-a of this code and 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.

(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.)