

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 259**

4 (By Senators Beach, Snyder and Williams)

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6 [Originating in the Committee on the Transportation and Infrastructure;
7 reported January 28, 2015.]
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10 A BILL to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend
11 and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section,
12 designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to
13 autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle
14 examination, licensing and endorsement requirements; allowing a person with a valid driver's
15 license to operate an autocycle; creating an autocycle exemption from helmet and certain
16 other motorcycle or motor-driven cycle safety requirements; and deleting obsolete language
17 regarding the motorcycle safety and education committee.

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

19 That §17B-1-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
20 that §17B-2-7b of said code be amended and reenacted; that said code be amended by adding thereto
21 a new section, designated §17C-1-69; and that §17C-15-44 of said code be amended and reenacted,
22 all to read as follows:

23 **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

24 **ARTICLE 1. WORDS AND PHRASES DEFINED.**

25 **§17B-1-1. Definitions.**

26 The following words and phrases when used in this chapter shall, for the purpose of this
27 chapter, have the meanings respectively ascribed to them in this article:

28 (a) *Vehicle*. -- Every device in, upon or by which any person or property is or may be

1 transported or drawn upon a public highway, excepting devices moved by human power or used
2 exclusively upon stationary rails or tracks;

3 (b) *Motor vehicle*. -- Every vehicle which is self propelled and every vehicle which is
4 propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

5 (c) *Motorcycle*. -- Every motor vehicle having a seat or saddle for the use of the rider and
6 designed to travel on not more than three wheels in contact with the ground, but excluding a farm
7 tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c of this
8 code, a snowmobile as defined in section one-mm, article one, chapter seventeen-a of this code and
9 an all-terrain vehicle as defined in section one-ii, article one, chapter seventeen-a of this code;

10 (d) *Farm tractor*. -- Every motor vehicle designed and used primarily as a farm implement
11 for drawing plows, mowing machines and other implements of husbandry;

12 (e) *School bus*. -- Every motor vehicle owned by a public governmental agency and operated
13 for the transportation of children to or from school or privately owned and operated for
14 compensation for the transportation of children to or from school;

15 (f) *Person*. -- Every natural person, firm, copartnership, association or corporation;

16 (g) *Operator*. -- Every person, other than a chauffeur, who drives or is in actual physical
17 control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle
18 being towed by a motor vehicle;

19 (h) *Chauffeur*. -- Every person who is employed by another for the principal purpose of
20 driving a motor vehicle and every person who drives a school bus transporting school children or any
21 motor vehicle when in use for the transportation of persons or property for compensation;

22 (i) *Driver*. -- Means any person who drives, operates or is in physical control of a motor
23 vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required
24 to hold a driver's license;

25 (j) *Driver's License*. -- Means any permit or license issued by this state to a person which
26 authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction
27 or endorsement contained thereon;

28 (k) *Owner*. -- A person who holds the legal title of a vehicle or in the event a vehicle is the

1 subject of an agreement for the conditional sale or lease thereof with the right of purchase upon
2 performance of the conditions stated in the agreement and with an immediate right of possession
3 vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to
4 possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the
5 purpose of this chapter;

6 (l) *Nonresident.* -- Every person who is not a resident of this state;

7 (m) *Street or highway.* -- The entire width between the boundary lines of every way publicly
8 maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

9 (n) *Commissioner.* -- The Commissioner of Motor Vehicles of this state;

10 (o) *Division.* -- The Division of Motor Vehicles of this state acting directly or through its duly
11 authorized officers or agents;

12 (p) *Suspension.* -- “Suspension” means that the driver's license and privilege to drive a motor
13 vehicle on the public highways are temporarily withdrawn but only during the period of such
14 suspension;

15 (q) *Revocation.* -- “Revocation” means that the driver's license and privilege to drive a motor
16 vehicle on the public highways are terminated and shall not be renewed or restored, except that an
17 application for a new license may be presented and acted upon by the division after the expiration
18 of at least one year after the date of revocation, except as otherwise provided in section two, article
19 five-a, chapter seventeen-c of this code;

20 (r) *Cancellation.* -- “Cancellation” means that a driver's license is annulled and terminated
21 because of some error or defect or because the licensee is no longer entitled to such license, but the
22 cancellation of a license is without prejudice and application for a new license may be made at any
23 time after such cancellation;

24 (s) *9-1-1 system.* -- “9-1-1 system” means an emergency telephone system or enhanced
25 emergency telephone system as defined in section two, article six, chapter twenty-four of this code;

26 (t) *Wireless communication device.* -- “Wireless communication device” means a handheld
27 device used to access a wireless telephone service or a text messaging device;

28 (u) *Autocycle.* -- “Autocycle” means an enclosed motorcycle that is equipped with safety

1 belts, airbags, a roll bar, a windshield, wipers, a steering wheel and equipment otherwise required
2 on a motorcycle, and which has no more than three wheels in contact with the roadway at any one
3 time.

4 **ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.**

5 **§17B-2-7b. Separate examination and endorsement for a license valid for operation of**
6 **motorcycle; exception for autocycles.**

7 (a) The state police shall administer a separate motorcycle examination for applicants for a
8 license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor
9 Vehicles shall administer the examination provided for in this section. Any applicant for a license
10 valid for operation of a motorcycle shall be required to successfully complete the motorcycle
11 examination, which is in addition to the examination administered pursuant to section seven of this
12 article and, if under the age of eighteen, shall be required to complete the requirements for a level
13 two intermediate driver's license set forth in paragraphs (B), (C) and (D), subdivision (1), subsection
14 (j), section three-a of this article: *Provided*, That the commissioner may exempt an applicant for a
15 motorcycle driver license or endorsement from all or part of the motorcycle license examination as
16 provided in section six, article one-d of this chapter. The motorcycle examination shall test the
17 applicant's knowledge of the operation of a motorcycle and of any traffic laws specifically relating
18 to the operation of a motorcycle and shall include an actual demonstration of the ability to exercise
19 ordinary and reasonable control in the operation of a motorcycle. An applicant for a license valid
20 for the operation of only a motorcycle shall be tested as provided in this section and in section seven
21 of this article, but need not demonstrate actual driving ability in any vehicle other than a motorcycle.
22 The examination provided in this section shall not be made a condition upon the renewal of the
23 license of any person under this section. For an applicant who successfully completes the motorcycle
24 examination, upon payment of the required fee, the division shall issue a motorcycle endorsement
25 on the driver's license of the applicant, or shall issue a special motorcycle-only license if the
26 applicant does not possess a driver's license: *Provided, however*, That any holder of a motorcycle-
27 only license under the age of eighteen shall be subject to the provisions of paragraphs (A), (B), (E),
28 (F), (G) and (H), subdivision (2), subsection (j), section three-a of this article.

1 Every person, including those holding a valid driver’s license, is required to take the
2 examination specified in this section to obtain a motorcycle license or endorsement, unless exempted
3 under the provisions of subsection (b) of this section.

4 (b) Notwithstanding any provision of this code to the contrary, a person with a valid driver's
5 license who is operating an autocycle is exempt from the motorcycle examination, licensing and
6 endorsement requirements set forth in this article.

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

8 **ARTICLE 1. WORDS AND PHRASES DEFINED.**

9 **§17C-1-69. Autocycle.**

10 “Autocycle” means an enclosed motorcycle that is equipped with safety belts, airbags, a roll
11 bar, a windshield, wipers, a steering wheel and equipment otherwise required on a motorcycle, and
12 which has no more than three wheels in contact with the roadway at any one time.

13 **ARTICLE 15. EQUIPMENT.**

14 **§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven**
15 **cycles and mopeds; exception for autocycles.**

16 (a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless
17 the person is wearing securely fastened on his or her head by either a neck or chin strap a protective
18 helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by
19 an operator or passenger shall meet the current performance specifications established by the
20 American National Standards Institute Standard, Z 90.1, the United States Department of
21 Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for
22 Protective Headgear for Vehicle Users.

23 (b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless
24 the person is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or ~~eyegoggles~~
25 eye goggles or face shield that complies with the performance specifications established by the
26 American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition,
27 if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the
28 windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with

1 the performance specifications established by Department of Transportation Federal Motor Vehicle
2 Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for
3 Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

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

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

18 (e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview
19 mirror affixed to the handlebars or fairings and adjusted so that the operator shall have a clear view
20 of the road and condition of traffic behind him or her for a distance of at least two hundred feet.

21 ~~(f) There is hereby created a six member motorcycle safety and education committee~~
22 ~~consisting of: The superintendent of the State Police or a designee; the Commissioner of Motor~~
23 ~~Vehicles or a designee; the director of the West Virginia safety council or a designee; a licensed~~
24 ~~motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket~~
25 ~~nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by the~~
26 ~~Governor with the advice and consent of the Senate, shall serve without compensation, and the terms~~
27 ~~shall be for three years, except that as to the members first appointed, one shall be appointed for a~~
28 ~~term of one year, one shall be appointed for a term of two years and one shall be appointed for a term~~

1 ~~of three years. Members may be reappointed to the committee.~~

2 ~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four~~
3 ~~of this code until July 1, 1999, to allow for the completion of a preliminary performance review by~~
4 ~~the joint committee on government operations.~~

5 ~~The committee is hereby authorized to recommend to the superintendent of public safety~~
6 ~~types and makes of protective helmets, eye protection devices and equipment offered for sale,~~
7 ~~purchased or used by any person. The committee is authorized to make recommendations to the~~
8 ~~Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund~~
9 ~~created under section seven, article one-d, chapter seventeen-b of this code. Notwithstanding any~~
10 ~~provision of this code to the contrary, a person with a valid driver's license who is operating an~~
11 ~~autocycle, as defined in section sixty-nine, article one of this chapter, is exempt from the provisions~~
12 ~~of this section.~~

(NOTE: The purpose of this bill is to create an exemption for autocycles, which are enclosed three-wheel motorcycles that are equipped with safety belts, airbags, a roll bar, a windshield, wipers and a steering wheel. A person may operate an autocycle with a valid driver's license and is exempt from the motorcycle examination, licensing and endorsement requirements set forth in article two, chapter seventeen-b of this code. The bill would also exempt autocycles from helmet and certain other safety requirements set forth in §17C-15-44. The bill also strikes obsolete language.

§17C-1-69 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.)