

**Senate Bill No. 91**

(By Senators Laird, Miller, Stollings, Facemire and Romano)

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[Introduced January 14, 2015; referred to the Committee on Transportation and Infrastructure;

and then to the Committee on Finance.]

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**FISCAL  
NOTE**

A BILL to amend and reenact §17B-3-3c and §17B-3-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17B-3-9a, all relating to creating amnesty program for certain persons with suspended licenses to allow reinstatement; establishing time period and certain procedures for amnesty program; creating exceptions to amnesty period; making certain technical corrections; requiring certain tickets annested remain listed as unsatisfied on court records; requiring certain suspension or revocation time remaining be waived in certain situations; requiring public awareness campaign regarding amnesty program; and providing for rule-making authority.

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

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

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

2 **§17B-3-3c. Suspending license for failure to pay fines or penalties imposed as the result of**  
 3 **criminal conviction or for failure to appear in court.**

4 (a) The division shall suspend the license of ~~any~~ a resident of this state or the privilege of a  
 5 nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court,  
 6 magistrate court or municipal court of this state, pursuant to section ~~two-b~~, two-a article three,  
 7 chapter fifty of this code, ~~or~~ section two-b, article ten, chapter eight of ~~said~~ this code or section  
 8 seventeen, article four, chapter sixty-two of ~~said~~ this code, that ~~such~~ the person has defaulted on the  
 9 payment of costs, fines, forfeitures, penalties or restitution imposed on the person by the circuit  
 10 court, magistrate court or municipal court upon conviction for ~~any~~ a criminal offense by the date  
 11 ~~such~~ the court had required ~~such~~ the person to pay ~~the same~~, or that ~~such~~ the person has failed to  
 12 appear in court when charged with ~~such~~ an offense. For the purposes of this section; section ~~two-b~~,  
 13 two-a article three, chapter fifty of said code; section two-b, article ten, chapter eight of said code;  
 14 and section seventeen, article four, chapter sixty-two of said code, "criminal offense" ~~shall be~~ is  
 15 defined as ~~any~~ a violation of the provisions of this code or the violation of ~~any~~ a municipal ordinance  
 16 ~~for which the violation thereof~~ which may result in a fine, confinement in jail or imprisonment in  
 17 a correctional facility of this state. ~~Provided, That any~~ A parking violation or other violation for  
 18 which a citation may be issued to an unattended vehicle ~~shall not be considered~~ is not a criminal  
 19 offense for the purposes of this section; section two-b, article ten, chapter eight of said code; section  
 20 ~~two-b~~, two-a article three, chapter fifty of said code; or section seventeen, article four, chapter  
 21 sixty-two of said code.

1 (b) A copy of the order of suspension shall be forwarded to ~~such~~ the person by certified mail,  
2 return receipt requested. No order of suspension becomes effective until ten days after receipt of a  
3 copy of ~~such~~ the order. The order of suspension shall advise the person that because of the receipt  
4 of notice of the failure to pay costs, fines, forfeitures or penalties, or the failure to appear, a  
5 presumption exists that the person named in the order of suspension is the same person named in the  
6 notice. ~~The Commissioner~~ Office of Administrative Hearings' Chief Hearing Examiner may grant  
7 an administrative hearing which substantially complies with the requirements of the provisions of  
8 section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a  
9 ~~possibility exists that~~ it is possible the person named in the notice of conviction is not the ~~same~~  
10 person whose license is being suspended. ~~Such~~ The request for hearing shall be made within ten  
11 days after receipt of a copy of the order of suspension. The sole purpose of this hearing ~~shall be~~ is  
12 for the person requesting the hearing to present evidence that he or she is not the person named in  
13 the notice. In the event the ~~Commissioner grants an administrative hearing,~~ the Commissioner  
14 Office of Administrative Hearings' Chief Hearing Examiner grants an administrative hearing, the  
15 Office of Administrative Hearings will send notice to the commissioner and the commissioner shall  
16 stay the license suspension pending the ~~Commissioner's~~ Chief Hearing Examiner's order resulting  
17 from the hearing.

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

1 reinstatement fee is assessed upon issuance of the order of suspension regardless of the effective date  
2 of suspension.

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

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

13 **§17B-3-9a. Amnesty program for certain licenses.**

14         (a) Notwithstanding any other provisions of this code to the contrary, from October 1, 2015,  
15 until September 30, 2016, in addressing whether a licensee is qualified for reinstatement, the  
16 Division of Motor Vehicles shall treat all instances of failure to satisfy a citation or unpaid ticket  
17 pursuant to section three-a or three-c of this article or for driving while suspended or revoked related  
18 to an unpaid citation or ticket as fully paid and complied if the date of the unpaid citation or ticket  
19 is ten years old or older: *Provided,* That the person does not hold a commercial driver's license and  
20 the citation or ticket is not pertaining to an offense related to the operation of a commercial motor  
21 vehicle as defined in chapter seventeen-e of this code.

1 (b) All unpaid citations or tickets that are ten years old or older will remain unpaid on the  
2 court's record despite the amnesty provisions of subsection (a) of this section.

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

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

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

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

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

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

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

19 (g) The commissioner may propose rules for legislative approval, in accordance with the  
20 provisions of article three, 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 licenses based on nonpayment of certain court fees in order to allow them to obtain their legal driver's license without payment of 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.