

Senate Bill No. 94

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

[Introduced January 14, 2015; referred to the Committee on the Judiciary; and then to the
Committee on Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

That §17B-3-3c of the Code of West Virginia, 1931, as amended, be repealed; that said code be amended by adding thereto a new section, designated §17B-3-14; and that §17B-4-3 of said code be amended and reenacted, all to read as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

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES.

1 **§17B-3-14. Legislative findings; license restoration program; rulemaking.**

2 (a) The Legislature finds:

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

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

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

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

14 (b) The division is hereby required to establish a driver's license restoration program for state
15 drivers who have driver's licenses suspended pursuant to section three-a of this article upon notice
16 of a state court for failure to resolve a citation or unpaid tickets. The program shall consist of the
17 waiving of any fees or other requirements for the reinstatement of a drivers' license or the privilege
18 to operate a motor vehicle based on an unresolved or unpaid citation file and any driving while
19 suspended or revoked for an offense other than driving under the influence related to an unpaid ticket
20 more than ten years from the effective date of the suspension. Any offense or file waived in
21 accordance with this section may not appear on the licensee's driving record.

1 (c) Notwithstanding any other provisions of this code to the contrary, for the period from July
2 1, 2015, through and including June 30, 2016, the Division of Motor Vehicles shall close the unpaid
3 ticket file and any driving while suspended or revoked for an offense other than driving under the
4 influence, created by an unpaid ticket license suspension of any person whose driver's license or
5 privilege to operate a motor vehicle has been suspended or revoked who presents verification of
6 satisfaction by mail and pays a reinstatement fee of \$25 in lieu of the reinstatement fee required by
7 section nine of this article. The division may waive any remaining time on a suspension or revocation
8 reinstated in accordance with this subsection.

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

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

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

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

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

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

21 (g) The commissioner may propose rules for legislative approval, in accordance with the

1 provisions of article three, chapter twenty-nine-a of this code, to implement this section.

2 (h) Unless otherwise provided in this section, a suspension under section three-a of this
3 article will continue until the person provides proof of compliance from the municipal, magistrate
4 or circuit court and pays the reinstatement fee as provided in section nine of this article. The
5 reinstatement fee is assessed upon issuance of the order of suspension regardless of the effective date
6 of suspension.

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

8 **§17B-4-3. Driving while license suspended or revoked; driving while license revoked for**
9 **driving under the influence of alcohol, controlled substances or drugs, or while**
10 **having alcoholic concentration in the blood of eight hundredths of one percent**
11 **or more, by weight, or for refusing to take secondary chemical test of blood**
12 **alcohol contents.**

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

1 (b) Any person who drives a motor vehicle on any public highway of this state at a time when
2 his or her privilege to do so has been lawfully revoked for driving under the influence of alcohol,
3 controlled substances or other drugs, or any combination thereof, or for driving while having an
4 alcoholic concentration in his or her blood of eight hundredths of one percent or more, by weight,
5 or for refusing to take a secondary chemical test of blood alcohol content, is, for the first offense,
6 guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not
7 less than thirty days nor more than six months and shall be fined not less than \$100 nor more than
8 \$500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof,
9 shall be confined in jail for a period of not less than six months nor more than one year and shall be
10 fined not less than \$1,000 nor more than \$3,000; for the third or any subsequent offense, the person
11 is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility
12 for not less than one year nor more than three years and, in addition to the mandatory prison
13 sentence, shall be fined not less than \$3,000 nor more than \$5,000.

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

1 suspension or revocation.

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

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

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

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

§17B-3-3c is repealed.

§17B-3-14 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.