

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 481

BY SENATOR BLAIR

[Introduced February 28, 2017; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as
 2 amended, all relating to municipal courts notification to the Division of Motor Vehicles of a
 3 person’s failure to appear and failure to pay assessed costs, fines, forfeitures or penalties.

Be it enacted by the Legislature of West Virginia:

1 That §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as amended, be amended
 2 and reenacted, all to read as follows:

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

**§8-10-2a. Payment of fines by credit cards or payment plan; suspension of driver's license
 for failure to pay motor vehicle violation fines or to appear in court.**

1 (a) A municipal court may accept credit cards in payment of all costs, fines, forfeitures or
 2 penalties. A municipal court may collect a substantial portion of all costs, fines, forfeitures or
 3 penalties at the time such amount is imposed by the court so long as the court requires the
 4 balance to be paid within one hundred eighty days from the date of judgment and in accordance
 5 with a payment plan: *Provided*, That all costs, fines, forfeitures or penalties imposed by the
 6 municipal court upon a nonresident of this state by judgment entered upon a conviction for a motor
 7 vehicle violation defined in section three-a, article three, chapter seventeen-b of this code must
 8 be paid within eighty days from the date of judgment. The payment plan shall specify: (1) The
 9 number of additional payments to be made; (2) the dates on which such payments and amounts
 10 shall be made; and (3) amounts due on such dates.

11 (b) If costs, fines, forfeitures or penalties imposed by the municipal court for motor vehicle
 12 violations as defined in section three-a, article three, chapter seventeen-b of this code are not
 13 paid within the time limits imposed pursuant to subsection (a) of this section, or if a person fails
 14 to appear or otherwise respond in court when charged with a motor vehicle violation as defined
 15 in section three-a, article three, chapter seventeen-b of this code, the municipal court must notify
 16 the Commissioner of the Division of Motor Vehicles of such failure to pay or failure to appear.
 17 ~~*Provided*, That notwithstanding any other provision of this code to the contrary, the municipal~~

18 ~~court shall wait at least ninety days from the date that all costs, fines, forfeitures or penalties are~~
19 ~~due in full or, for failure to appear or otherwise respond, ninety days from the date of such failure~~
20 ~~before notifying the Division of Motor Vehicles thereof~~

§8-10-2b. Suspension of licenses for failure to pay fines and costs or failure to appear in court.

1 (a) If costs, fines, forfeitures or penalties imposed by the municipal court upon conviction
2 of a person for a criminal offense as defined in section three-c, article three, chapter seventeen-
3 b of this code are not paid in full within one hundred eighty days of the judgment, the municipal
4 court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Division of
5 Motor Vehicles of the failure to pay: *Provided*, That notwithstanding any other provision of this
6 code to the contrary, for residents of this state, the municipal court shall wait at least ninety days
7 from the date that all costs, fines, forfeitures or penalties are due in full before notifying the Division
8 of Motor Vehicles thereof: *Provided, however*, That at the time the judgment is imposed, the judge
9 shall provide the person with written notice that failure to pay the same as ordered may result in
10 the withholding of any income tax refund due the licensee and shall result in the suspension of
11 the person's license or privilege to operate a motor vehicle in this state and that the suspension
12 could result in the cancellation of, the failure to renew or the failure to issue an automobile
13 insurance policy providing coverage for the person or the person's family: *Provided further*, That
14 the failure of the judge to provide notice does not affect the validity of any suspension of the
15 person's license or privilege to operate a motor vehicle in this state. For purposes of this section,
16 payment shall be stayed during any period an appeal from the conviction which resulted in the
17 imposition of costs, fines, forfeitures or penalties is pending.

18 Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or
19 privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or
20 penalties are paid.

21 (b) Notwithstanding the provisions of this section to the contrary, the notice of the failure

22 to pay costs, fines, forfeitures or penalties may not be given where the municipal court, upon
23 application of the person upon whom the costs, fines, forfeitures or penalties were imposed filed
24 prior to the expiration of the period within which these are required to be paid, enters an order
25 finding that the person is financially unable to pay all or a portion of the costs, fines, forfeitures or
26 penalties: *Provided*, That where the municipal court, upon finding that the person is financially
27 unable to pay a portion of the costs, fines, forfeitures or penalties, requires the person to pay the
28 remaining portion, the municipal court shall notify the Division of Motor Vehicles of the person's
29 failure to pay if not paid within the period of time ordered by the court.

30 (c) If a person charged with a criminal offense fails to appear or otherwise respond in
31 court, the municipal court clerk shall notify the Division of Motor Vehicles of the failure to appear.
32 ~~*Provided*, That notwithstanding any other provision of this code to the contrary, for residents of~~
33 ~~this state, the municipal court clerk shall wait at least ninety days from the date of the person's~~
34 ~~failure to appear or otherwise respond before notifying the Division of Motor Vehicles thereof Upon~~
35 notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to
36 operate a motor vehicle in this state until such time that the person appears as required.

37 (d) On and after July 1, 2008, if the licensee fails to respond to the Division of Motor
38 Vehicles order of suspension within ninety days of receipt of the certified letter, the municipal court
39 of original jurisdiction shall notify the Tax Commissioner that the licensee has failed to pay the
40 costs, fines, forfeitures or penalties assessed by the court or has failed to respond to the citation.
41 The notice provided by the municipal court to the Tax Commissioner must include the licensee's
42 Social Security number. The Tax Commissioner, or his or her designee, shall withhold from any
43 personal income tax refund due and owing to a licensee the costs, fines, forfeitures or penalties
44 due to the municipality, the Tax Commissioner's administration fee for the withholding and any
45 and all fees that the municipal court would have collected had the licensee appeared: *Provided*,
46 That the Tax Commissioner's administration fee may not exceed \$25: *Provided, however*, That
47 the Tax Commissioner may change this maximum amount limitation for this fee for fiscal years

48 beginning on or after July 1, 2008, by legislative rule promulgated in accordance with the
49 provisions of article three, chapter twenty-nine-a of this code: *Provided further*, That the
50 administrative fees deducted shall be deposited in the special revolving fund hereby created in
51 the State Treasury, which shall be designated as the Municipal Fines and Fees Collection Fund,
52 and the Tax Commissioner shall make such expenditures from the fund as he or she deems
53 appropriate for the administration of this subsection. After deduction of the Tax Commissioner's
54 administration fee, the Tax Commissioner shall remit to the municipality all remaining amounts
55 withheld pursuant to this section and the municipal court shall distribute applicable costs, fines,
56 forfeitures or penalties owed to the municipality, the Regional Jail Authority Fund, the Crime
57 Victims Compensation Fund, the Community Corrections Fund, the Governor's subcommittee on
58 law-enforcement training or any other fund or payee that may be applicable. After the costs, fines,
59 forfeitures or penalties are withheld, the Tax Commissioner shall refund any remaining balance
60 due the licensee. If the refund is not sufficient to cover all the costs, fines, forfeitures or penalties
61 being withheld pursuant to this section, the Tax Commissioner's administration fee shall be
62 retained by the Tax Commissioner and the remaining money withheld shall be remitted by the
63 Tax Commissioner to the municipality. The municipality shall then allocate the money so remitted
64 to the municipality in the following manner: (1) Any costs, fines, forfeitures or penalties due to the
65 municipality; (2) seventy-five percent of the remaining balance shall be paid to the appropriate
66 Regional Jail Authority Fund; (3) fifteen percent of the remaining balance shall be paid to the
67 Crime Victims Compensation Fund; (4) six percent of the remaining balance shall be paid into the
68 Community Corrections Fund; and (5) the final four percent shall be paid to the Governor's
69 subcommittee on law-enforcement training. When the costs, fines, forfeitures or penalties exceed
70 the licensee's income tax refund, the Tax Commissioner shall withhold the remaining balance in
71 subsequent years until such time as the costs, fines, forfeitures or penalties owed are paid in full.
72 The Tax Commissioner shall remit the moneys that he or she collects to the appropriate
73 municipality no later than July 1, of each year. If the municipal court or the municipality

74 subsequently determines that any such costs, fines, forfeitures or penalties were erroneously
75 imposed, the municipality shall promptly notify the Tax Commissioner. If the refunds have not
76 been withheld and remitted, the Tax Commissioner may not withhold and remit payment to the
77 municipality and shall so inform the municipality. If the refunds have already been withheld and
78 remitted to the municipality, the Tax Commissioner shall so inform the municipality. In either
79 event, all refunds for erroneously imposed costs, fines, forfeitures or penalties shall be made by
80 the municipality and not by the Tax Commissioner.

81 (e) *Rules and effective date.* -- The Tax Commissioner may promulgate such rules as
82 may be useful or necessary to carry out the purpose of this section and to implement the intent of
83 the Legislature, to be effective on July 1, 2008. Rules shall be promulgated in accordance with
84 the provisions of article three, chapter twenty-nine-a of this code.

85 (f) On or before July 1, 2005, the municipal court may elect to reissue notice as provided
86 in subsections (a) and (c) of this section to the Division of Motor Vehicles for persons who remain
87 noncompliant: *Provided*, That the person was convicted or failed to appear on or after January 1,
88 1993. If the original notification cannot be located, the Division of Motor Vehicles shall accept an
89 additional or duplicate notice from the municipal court clerk.

NOTE: The purpose of this bill is to to remove required ninety day waiting periods for
municipal court notifications to the Division of Motor Vehicles.

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