

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 563

BY SENATOR BOSO

[Introduced February 15, 2018; Referred
to the Committee on Transportation and Infrastructure; and
then to the Committee on the Judiciary]

1 A BILL to amend and reenact §17B-2-1 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §17B-4-3 of said code; to amend and reenact §17C-1-5a of said code; and to
 3 amend and reenact §17C-15-44 of said code, all relating to allowing people to operate
 4 small-engine mopeds without a driver's license or while a driver's license to operate other
 5 motor vehicles is suspended or revoked; adding "motorized scooter" to definition of
 6 moped; including "electric motors" in definition of moped; and expressly providing that
 7 helmets are required for operators of mopeds.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

1 (a) (1) No person, except those hereinafter expressly exempted, may ~~drive~~ operate a
 2 motor vehicle upon a street or highway in this state or upon a subdivision street used by the public
 3 generally unless the person has a valid driver's license issued pursuant to this code for the type
 4 or class of vehicle being driven.

5 (2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the
 6 privilege thereby granted in the manner provided in this code and, except as otherwise provided
 7 by law, is not required to obtain any other license to exercise the privilege by a county, municipality
 8 or local board or body having authority to adopt local police regulations.

9 (b) The division, upon issuing a driver's license, shall indicate on the license the type or
 10 general class or classes of vehicles the licensee may operate in accordance with this code, federal
 11 law or rule. Licenses shall be issued in different colors for those drivers under age 18, those
 12 drivers age 18 to 21, and adult drivers. The commissioner is authorized to select and assign
 13 colors to the licenses of the various age groups.

14 (c) The following drivers' licenses classifications are hereby established:

15 (1) A Class A, B or C license shall be issued to those persons 18 years of age or older
16 with two years of driving experience who have qualified for the commercial driver's license
17 established by chapter seventeen-e of this code and the federal Motor Carrier Safety and
18 Improvement Act of 1999 and subsequent rules and have paid the required fee.

19 (2) A Class D license shall be issued to those persons 18 years and older with one year
20 of driving experience who operate motor vehicles other than those types of vehicles which require
21 the operator to be licensed under the provisions of chapter seventeen-e of this code and federal
22 law and rule and whose primary function or employment is the transportation of persons or
23 property for compensation or wages and have paid the required fee. For the purpose of regulating
24 the operation of motor vehicles, wherever the term "chauffeur's license" is used in this code, it
25 means the Class A, B, C or D license described in this section or chapter seventeen-e of this code
26 or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions of
27 chapter seventeen-e of this code and federal law or rule and who operates a motor vehicle
28 registered or required to be registered as a Class A motor vehicle, as that term is defined in §17A-
29 10-1 of this code, with a gross vehicle weight rating of less than 8001 pounds, is not required to
30 obtain a Class D license.

31 (3) A Class E license shall be issued to persons who have qualified for a driver's license
32 under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license
33 and who have paid the required fee. The Class E license may be endorsed under the provisions
34 of §17B-2-7b of this code for motorcycle operation. The Class E or G license for a person under
35 the age of 18 may also be endorsed with the appropriate graduated driver license level in
36 accordance with the provisions of §17B-2-3a of this code.

37 (4) A Class F license shall be issued to those persons who successfully complete the
38 motorcycle examination procedure provided by this chapter and have paid the required fee but
39 who do not possess a Class A, B, C, D or E driver's license.

40 (5) A Class G driver's license or instruction permit shall be issued to a person using bioptic
41 telescopic lenses who has successfully completed an approved driver training program and
42 complied with all other requirements of §17B-2B-1 *et seq.* of this code.

43 (d) All licenses issued under this section may contain information designating the licensee
44 as a diabetic, organ donor, as deaf or hard-of-hearing, as having any other handicap or disability
45 or that the licensee is an honorably discharged veteran of any branch of the armed forces of the
46 United States, according to criteria established by the division, if the licensee requests this
47 information on the license. An honorably discharged veteran may be issued a replacement license
48 without charge if the request is made before the expiration date of the current license and the only
49 purpose for receiving the replacement license is to get the veterans designation placed on the
50 license.

51 (e) No person, except those hereinafter expressly exempted, may ~~drive~~ operate a
52 motorcycle on a street or highway in this state or on a subdivision street used by the public
53 generally unless the person has a valid motorcycle license, a valid license which has been
54 endorsed under §17B-2-7b of this code for motorcycle operation or a valid motorcycle instruction
55 permit.

56 (f) (1) An identification card may be issued to a person who:

57 (A) Is a resident of this state in accordance with the provisions of §17A-3-1a of this code;

58 (B) Has reached the age of two years or, for good cause shown, under the age of two.

59 (C) Has paid the required fee of \$5 per year. The Division of Motor Vehicles may adjust
60 this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of
61 Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may
62 not exceed 10 percent of the total fee amount in a single year: *Provided, however*, That no fees
63 or charges, including renewal fees, are required if the applicant:

64 (i) Is 65 years or older;

65 (ii) Is legally blind; or

66 (iii) Will be at least 18 years of age at the next general, municipal or special election and
67 intends to use this identification card as a form of identification for voting; and

68 (D) Presents a birth certificate or other proof of age and identity acceptable to the division
69 with a completed application on a form furnished by the division.

70 (2) The identification card shall contain the same information as a driver's license except
71 that the identification card shall be clearly marked as an identification card. The division may
72 issue an identification card with less information to persons under the age of 16. An identification
73 card may be renewed annually on application and payment of the fee required by this section.

74 (A) Every identification card issued to a person who has attained his or her 21st birthday
75 expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by
76 five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued
77 for less than three years or for more than seven years and expires on the licensee's birthday in
78 those years in which the licensee's age is evenly divisible by five.

79 (B) Every identification card issued to a person who has not attained his or her 21st
80 birthday expires 30 days after the licensee's 21st birthday.

81 (C) Every identification card issued to persons under the age of 16 shall be issued for a
82 period of two years and expire on the last day of the month in which the applicant's birthday
83 occurs.

84 (3) The division may issue an identification card to an applicant whose privilege to operate
85 a motor vehicle has been refused, canceled, suspended or revoked under the provisions of this
86 code.

87 (g) For any person over the age of 50 years who wishes to obtain a driver's license or
88 identification card under the provisions of this section:

89 (1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is
90 not required if the issuing jurisdiction does not require one; and

91 (2) If documents are lacking to prove all changes of name in the history of any such

92 applicant, applicants renewing a driver's license or identification card under the provisions of this
93 section may complete a Name Variance Approval Document as instituted by the division, so long
94 as they can provide:

95 (A) Proof of identity;

96 (B) Proof of residency; and

97 (C) A valid Social Security number.

98 (3) The division may waive any documents necessary to prove a match between names,
99 so long as the division determines the person is not attempting to:

100 (A) Change his or her identity;

101 (B) Assume another person's identity; or

102 (C) Commit a fraud.

103 (h) A person over the age of 70 years, or who is on Social Security disability, who wishes
104 to obtain or renew a driver's license or identification card under the provisions of this section, may
105 not be required to furnish a copy of a birth certificate if they can provide:

106 (1) Proof of identity;

107 (2) Proof of residency;

108 (3) A valid Social Security number; and

109 (4) One of the following identifying items:

110 (A) A form of military identification, including a DD214 or equivalent;

111 (B) A U. S. passport, whether valid or expired;

112 (C) School records, including a yearbook;

113 (D) A religious document, that in the judgment of the Division is sufficient and authentic to
114 reflect that the person was born in the United States; or

115 (E) An expired driver's license, employment identification card, or other reliable
116 identification card with a recognizable photograph of the person.

117 (i) Notwithstanding any other provision of this code, a person may operate a moped, as

118 defined in §17C-1-5a of this code, without a valid driver's license or motorcycle license, permit,
119 or endorsement on any public street or highway in this state or on any subdivision street used by
120 the public generally that otherwise allows for the operation of a moped.

121 (j) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
122 conviction, shall be fined not more than \$500 and, upon a second or subsequent conviction, shall
123 be fined not more than \$500 or confined in jail not more than six months, or both fined and
124 confined.

ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.

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

1 (a) Except as otherwise provided in subsection (b), ~~or~~ (d), and (f) of this section, any
2 person who ~~drives~~ operates 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 or revoked by this state or any other
4 jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be
5 fined not less than \$100 nor more than \$500; for the second offense, the person is guilty of a
6 misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500;
7 for the third or any subsequent offense, the person is guilty of a misdemeanor and, upon
8 conviction thereof, shall be confined in jail for a period of not less than 30 days nor more than 90
9 days and shall be fined not less than \$150 nor more than \$500.

10 (b) Except as otherwise provided in §17B-4-3(f) of this code, any person who ~~drives~~
11 operates a motor vehicle on any public highway of this state at a time when his or her privilege to
12 do so has been lawfully revoked for driving under the influence of alcohol, controlled substances,
13 or other drugs, or any combination thereof, or for driving while having an alcoholic concentration

14 in his or her blood of eight hundredths of one percent or more, by weight, or for refusing to take a
15 secondary chemical test of blood alcohol content, is, for the first offense, guilty of a misdemeanor
16 and, upon conviction thereof, shall be confined in jail for a period of not less than 30 days nor
17 more than six months and shall be fined not less than \$100 nor more than \$500; for the second
18 offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in
19 jail for a period of not less than six months nor more than one year and shall be fined not less
20 than \$1,000 nor more than \$3,000; for the third or any subsequent offense, the person is guilty of
21 a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not
22 less than one year nor more than three years and, in addition to the mandatory prison sentence,
23 shall be fined not less than \$3,000 nor more than \$5,000.

24 (c) Upon receiving a record of the first or subsequent conviction of any person under
25 subsection (b) of this section upon a charge of driving a vehicle while the license of that person
26 was lawfully suspended or revoked, the division shall extend the period of the suspension or
27 revocation for an additional period of six months which may be served concurrently with any other
28 suspension or revocation. Upon receiving a record of the second or subsequent conviction of any
29 person under subsection (a) of this section upon a charge of driving a vehicle while the license of
30 that person was lawfully suspended or revoked, the division shall extend the period of the
31 suspension or revocation for an additional period of 90 days which may be served concurrently
32 with any other suspension or revocation.

33 (d) Except as otherwise provided in §17B-4-3(f) of this code, any person who ~~drives~~
34 operates a motor vehicle on any public highway of this state at a time when his or her privilege to
35 do so has been lawfully suspended for driving while under the age of 21 years with an alcohol
36 concentration in his or her blood of two hundredths of one percent or more, by weight, but less
37 than eight hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction
38 thereof, shall be confined in jail for 24 hours or shall be fined not less than \$50 nor more than
39 \$500, or both; for the second offense, the person is guilty of a misdemeanor and, upon conviction

40 thereof, shall be confined in jail for a period of not less than 30 days nor more than six months
41 and shall be fined not less than \$100 nor more than \$500; for the third or any subsequent offense,
42 the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state
43 correctional facility for not less than one year nor more than three years and fined not less than
44 \$1,000 nor more than \$5,000.

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

49 (e) An order for home detention by the court pursuant to the provisions of §62-11B-1 *et*
50 *seq.* of this code may be used as an alternative sentence to any period of incarceration required
51 by this section.

52 (f) Notwithstanding a lawful suspension or revocation of a person's privilege to operate
53 other motor vehicles, a person may operate a moped on any public street or highway in this state
54 or on any subdivision street used by the public generally that otherwise allows for the operation
55 of a moped.

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

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-5a. Moped.

1 “Moped” means ~~every motorcycle or motor-driven cycle unless otherwise specified in this~~
2 ~~chapter, which is~~ any vehicle, including a motorized scooter, equipped with two or three wheels,
3 foot pedals to permit muscular propulsion, and an independent power source providing a
4 maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor
5 displacement shall be ~~50~~ 35 cubic centimeters regardless of the number of chambers in such
6 power source. If the power source is electric, then the power output shall not exceed 1000 watts.

7 The power source shall not be capable of propelling the vehicle, unassisted, at a speed ~~not to~~
8 ~~exceed~~ of more than ~~30~~ 25 miles per hour on a level road surface, and it shall be equipped with
9 a power drive system that functions directly or automatically only, not requiring clutching or shifting
10 by the operator after the drive system is engaged.

ARTICLE 15. EQUIPMENT.

§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven cycles and mopeds; motorcycle safety standards and education committee.

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

8 (b) No person may operate or be a passenger on any motorcycle or motor-driven cycle
9 unless the person is wearing safety, shatter-resistant eyeglasses, excluding contact lenses, or
10 eye goggles or face shield that complies with the performance specifications established by the
11 American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In
12 addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or
13 windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material
14 that complies with the performance specifications established by Department of Transportation
15 Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute,
16 Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z
17 26.1.

18 (c) No person may operate a motorcycle, motor-driven cycle, or moped on which the
19 handlebars or grips are more than 15 inches higher than the uppermost part of the operator's seat
20 when the seat is not depressed in any manner.

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

32 (e) Every motorcycle, motor-driven cycle, and moped shall be equipped with a rearview
33 mirror affixed to the handlebars or fairings and adjusted so that the operator has a clear view of
34 the road and condition of traffic behind him or her for a distance of at least 200 feet.

35 (f) Notwithstanding any provision of this code to the contrary, a person with a valid driver's
36 license who is operating a fully enclosed auticycle, as defined in §17C-1-69 of this code, is
37 exempt from the provisions of this section.

NOTE: The purpose of this bill is to allow any person over the age of 16 years to operate a moped or motorized scooter without a license or while any other license to operate a motor vehicle is suspended or revoked.

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