

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Committee Substitute

for

Senate Bill 90

SENATOR RUCKER, *original sponsor*

[Passed March 9, 2019; in effect 90 days from
passage]

1 AN ACT to amend and reenact §17B-3-3c of the Code of West Virginia, 1931, as amended; and
2 to amend and reenact §17C-5A-3 and §17C-5A-3a of said code, all relating to the Safety
3 and Treatment Program; transferring the program from the Department of Health and
4 Human Resources to the Division of Motor Vehicles; waiving license reinstatement fees
5 in some circumstances; and providing for a method to reduce the license revocation
6 period.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSE.

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

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

1 (a) The Division shall suspend the license of any resident of this state or the privilege of a
2 nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court,
3 magistrate court, or municipal court of this state, pursuant to §50-3-2b, §8-10-2b, or §62-4-17 of
4 this code, that the person has defaulted on the payment of costs, fines, forfeitures, penalties, or
5 restitution imposed on the person by the circuit court, magistrate court, or municipal court upon
6 conviction for any criminal offense by the date the court had required the person to pay the same,
7 or that the person has failed to appear in court when charged with an offense. For the purposes
8 of this section, §50-3-2b, §8-10-2b, and §62-4-17 of this code, "criminal offense" shall be defined
9 as any violation of the provisions of this code, or the violation of any municipal ordinance, for
10 which the violation of the offense may result in a fine, confinement in jail, or imprisonment in a
11 correctional facility of this state: *Provided*, That any parking violation or other violation for which
12 a citation may be issued to an unattended vehicle shall not be considered a criminal offense for
13 the purposes of this section, §8-10-2b, §50-3-2b, or §62-4-17 of this code.

14 (b) A copy of the order of suspension shall be forwarded to the person by certified mail,
15 return receipt requested. No order of suspension becomes effective until 10 days after receipt of
16 a copy of the order. The order of suspension shall advise the person that because of the receipt
17 of notice of the failure to pay costs, fines, forfeitures, or penalties, or the failure to appear, a
18 presumption exists that the person named in the order of suspension is the same person named
19 in the notice. The commissioner may grant an administrative hearing which substantially complies
20 with the requirements of the provisions §17C-5A-2 of this code upon a preliminary showing that
21 a possibility exists that the person named in the notice of conviction is not the same person whose
22 license is being suspended. The request for hearing shall be made within 10 days after receipt of
23 a copy of the order of suspension. The sole purpose of this hearing shall be for the person
24 requesting the hearing to present evidence that he or she is not the person named in the notice.
25 In the event the commissioner grants an administrative hearing, the commissioner shall stay the
26 license suspension pending the commissioner's order resulting from the hearing.

27 (c) A suspension under this section and section three-a of this chapter will continue until
28 the person provides proof of compliance from the municipal, magistrate, or circuit court and pays
29 the reinstatement fee as provided in §17B-3-9 of this code. The reinstatement fee is assessed
30 upon issuance of the order of suspension regardless of the effective date of suspension.

31 (d) Upon notice from an appropriate state official that the person is successfully
32 participating in an approved treatment and job program as prescribed in §61-11-26a of this code
33 and that the person is believed to be safe to drive, the Division of Motor Vehicles shall stay or
34 supersede the imposition of any suspension under this section or §17B-3-3a of this code. The
35 Division of Motor Vehicles shall waive the reinstatement fee established by the provisions §17B-
36 3-9 upon receipt of proper documentation of the person's successful completion of a program
37 under §61-11-26a of this code and proof of compliance from the municipal, magistrate, or circuit
38 court. The stay or supersedeas shall be removed by the Division of Motor Vehicles upon receipt

39 of notice from an appropriate state official of a participant's failure to complete or comply with the
40 approved treatment and job program as established under §61-11-26a of this code.

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

ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES, OR DRUGS.

§17C-5A-3. Safety and Treatment Program; reissuance of license.

1 (a) The Division of Motor Vehicles shall administer a comprehensive Safety and Treatment
2 Program for persons whose licenses have been revoked under the provisions of this article, or
3 §17C-5-7 or §17B-3-5(6) of this code and shall also establish the minimum qualifications for
4 mental health facilities, day report centers, community corrections centers, or other public
5 agencies or private entities conducting the Safety and Treatment Program: *Provided*, That the
6 Division of Motor Vehicles may establish standards whereby the division will accept or approve
7 participation by violators in another treatment program which provides the same or substantially
8 similar benefits as the Safety and Treatment Program established pursuant to this section.

9 (b) The program shall include, but not be limited to, treatment of alcoholism, alcohol and
10 drug abuse, psychological counseling, educational courses on the dangers of alcohol and drugs
11 as they relate to driving, defensive driving or other safety driving instruction, and other programs
12 designed to properly educate, train, and rehabilitate the offender: *Provided*, That successful
13 compliance with the substance abuse and counseling program prescribed in §61-11-26a of this
14 code is sufficient to meet the requirements of this section.

15 (c) The Division of Motor Vehicles shall provide for the preparation of an educational and
16 treatment the program for each person whose license has been revoked under the provisions of
17 this article, or §17C-5-7 or §17B-3-5(6) of this code which shall contain the following: (1) A listing
18 and evaluation of the offender's prior traffic record; (2) the characteristics and history of alcohol

19 or drug use, if any; (3) his or her amenability to rehabilitation through the alcohol safety program;
20 and (4) a recommendation as to treatment or rehabilitation and the terms and conditions of the
21 treatment or rehabilitation. The program shall be prepared by persons knowledgeable in the
22 diagnosis of alcohol or drug abuse and treatment.

23 (d) There is hereby created a special revenue account within the State Treasury known
24 as the Division of Motor Vehicles Safety and Treatment Fund. The account shall be administered
25 by the Commissioner of the Division of Motor Vehicles for the purpose of administering the
26 comprehensive Safety and Treatment Program established by subsection (a) of this section. The
27 account may be invested and all earnings and interest accruing shall be retained in the account.
28 The Auditor shall conduct an audit of the fund at least every three fiscal years.

29 Effective July 1, 2019, all moneys held in the Department of Health and Human Resources
30 Safety and Treatment Fund shall be transferred to the Division of Motor Vehicles Safety and
31 Treatment Fund.

32 (e) (1) The program provider shall collect the established fee from each participant upon
33 enrollment unless the division has determined that the participant is an indigent based upon
34 criteria established pursuant to legislative rule authorized in this section.

35 (2) If the division determined that a participant is an indigent based upon criteria
36 established pursuant to the legislative rule authorized by this section, the department shall provide
37 the applicant with proof of its determination regarding indigency, which proof the applicant shall
38 present to the interlock provider as part of the application process provided in §17C-5A-3a of this
39 code and/or the rules promulgated pursuant thereto.

40 (3) Program providers shall remit to the Division of Motor Vehicles a portion of the fee
41 collected, which shall be deposited by the Commissioner of the Division of Motor Vehicles into
42 the Division of Motor Vehicles Safety and Treatment Fund. The Division of Motor Vehicles shall
43 reimburse enrollment fees to program providers for each eligible indigent offender.

44 (f) On or before January 15 of each year, the Commissioner of the Division of Motor
45 Vehicles shall report to the Legislature on:

46 (1) The total number of offenders participating in the Safety and Treatment Program during
47 the prior year;

48 (2) The total number of indigent offenders participating in the Safety and Treatment
49 Program during the prior year;

50 (3) The total number of program providers during the prior year; and

51 (4) The total amount of reimbursements paid to program providers during the prior year.

52 (g) The Commissioner of the Division of Motor Vehicles, after giving due consideration to
53 the program developed for the offender, shall prescribe the necessary terms and conditions for
54 the reissuance of the license to operate a motor vehicle in this state revoked under this article, or
55 §17C-5-7 or §17B-3-5(6) of this code which shall include successful completion of the
56 educational, treatment, or rehabilitation program, subject to the following:

57 (1) When the period of revocation is six months, the license to operate a motor vehicle in
58 this state may not be reissued until: (A) At least 90 days have elapsed from the date of the initial
59 revocation, during which time the revocation was actually in effect; (B) the offender has
60 successfully completed the program; (C) all costs of the program and administration have been
61 paid; and (D) all costs assessed as a result of a revocation hearing have been paid.

62 (2) When the period of revocation is for a period of one year or for more than a year, the
63 license to operate a motor vehicle in this state may not be reissued until: (A) At least one half of
64 the time period has elapsed from the date of the initial revocation, during which time the revocation
65 was actually in effect; (B) the offender has successfully completed the program; (C) all costs of
66 the program and administration have been paid; and (D) all costs assessed as a result of a
67 revocation hearing have been paid. Notwithstanding any provision in this code, a person whose
68 license is revoked for refusing to take a chemical test as required by §17C-5-7 of this code for a

69 first offense is not eligible to reduce the revocation period by completing the Safety and Treatment
70 Program.

71 (3) When the period of revocation is for life, the license to operate a motor vehicle in this
72 state may not be reissued until: (A) At least 10 years have elapsed from the date of the initial
73 revocation, during which time the revocation was actually in effect; (B) the offender has
74 successfully completed the program; (C) all costs of the program and administration have been
75 paid; and (D) all costs assessed as a result of a revocation hearing have been paid.

76 (4) Notwithstanding any provision of this code or any rule, any mental health facilities or
77 other public agencies or private entities conducting the Safety and Treatment Program when
78 certifying that a person has successfully completed a Safety and Treatment Program shall only
79 have to certify that the person has successfully completed the program.

80 (h) (1) The Division of Motor Vehicles shall provide for the preparation of an educational
81 program for each person whose license has been suspended for 60 days pursuant to the
82 provisions of §17C-5A-2(n) of this code. The educational program shall consist of not less than
83 12 nor more than 18 hours of actual classroom time.

84 (2) When a 60-day period of suspension has been ordered, the license to operate a motor
85 vehicle may not be reinstated until: (A) At least 60 days have elapsed from the date of the initial
86 suspension, during which time the suspension was in effect; (B) the offender has successfully
87 completed the educational program; (C) all costs of the program and administration have been
88 paid; and (D) all costs assessed as a result of a suspension hearing have been paid.

89 (i) A required component of the treatment program provided in §17C-5A-3(b) of this code
90 and the education program provided for in §17C-5A-3(c) of this code shall be participation by the
91 violator with a victim impact panel program providing a forum for victims of alcohol and drug-
92 related offenses and offenders to share first-hand experiences on the impact of alcohol and drug-
93 related offenses in their lives. The Division of Motor Vehicles shall propose and implement a plan
94 for victim impact panels where appropriate numbers of victims are available and willing to

95 participate and shall establish guidelines for other innovative programs which may be substituted
96 where the victims are not available to assist persons whose licenses have been suspended or
97 revoked for alcohol and drug-related offenses to gain a full understanding of the severity of their
98 offenses in terms of the impact of the offenses on victims and offenders. The plan shall require,
99 at a minimum, discussion and consideration of the following:

- 100 (1) Economic losses suffered by victims or offenders;
- 101 (2) Death or physical injuries suffered by victims or offenders;
- 102 (3) Psychological injuries suffered by victims or offenders;
- 103 (4) Changes in the personal welfare or familial relationships of victims or offenders; and
- 104 (5) Other information relating to the impact of alcohol and drug-related offenses upon
105 victims or offenders.

106 The Division of Motor Vehicles shall ensure that any meetings between victims and
107 offenders shall be nonconfrontational and ensure the physical safety of the persons involved.

108 (j)(1) The Commissioner of the Division of Motor Vehicles shall promulgate a rule for
109 legislative approval in accordance with §29A-3-1 *et seq.* of this code to administer the provisions
110 of this section and establish a fee to be collected from each offender enrolled in the Safety and
111 Treatment Program. The rule shall include: (A) A reimbursement mechanism to program providers
112 of required fees for the safety and treatment program for indigent offenders, criteria for
113 determining eligibility of indigent offenders, and any necessary application forms; and (B) program
114 standards that encompass provider criteria including minimum professional training requirements
115 for providers, curriculum approval, minimum course length requirements, and other items that
116 may be necessary to properly implement the provisions of this section.

117 (2) The Legislature finds that an emergency exists and, therefore, the commissioner shall
118 file by July 1, 2019, an emergency rule to implement this section pursuant to the provisions of
119 §29A-3-15 of this code.

120 (k) Nothing in this section may be construed to prohibit day report or community
121 corrections programs, authorized pursuant to §62-11C-1 *et seq.* of this code, from administering
122 a comprehensive Safety and Treatment Program pursuant to this section.

123 .

§17C-5A-3a. Establishment of and participation in the Motor Vehicle Alcohol Test and Lock Program.

1 (a) (1) The Division of Motor Vehicles shall control and regulate a Motor Vehicle Alcohol
2 Test and Lock Program for persons whose licenses have been revoked pursuant to this article or
3 the provisions of §17C-5-1 *et seq.* of this code or have been convicted under §17C-5-2 of this
4 code, or who are serving a term of a conditional probation pursuant to §17C-5-2b of this code.

5 (2) The program shall include the establishment of a user's fee for persons participating
6 in the program which shall be paid in advance and deposited into the Driver's Rehabilitation Fund:
7 *Provided, That* on and after July 1, 2007, any unexpended balance remaining in the Driver's
8 Rehabilitation Fund shall be transferred to the Motor Vehicle Fees Fund created under the
9 provisions of §17A-2-21 of this code and all further fees collected shall be deposited in that fund.

10 (3) (A) Except where specified otherwise, the use of the term "program" in this section
11 refers to the Motor Vehicle Alcohol Test and Lock Program.

12 (B) The Commissioner of the Division of Motor Vehicles shall propose legislative rules for
13 promulgation in accordance with the provisions of §29A-1-1 of this code for the purpose of
14 implementing the provisions of this section. The rules shall also prescribe those requirements
15 which, in addition to the requirements specified by this section for eligibility to participate in the
16 program, the commissioner determines must be met to obtain the commissioner's approval to
17 operate a motor vehicle equipped with a motor vehicle alcohol test and lock system.

18 (C) Nothing in this section may be construed to prohibit day report or community
19 corrections programs authorized pursuant to §62-11C-1 *et seq.*, or a home incarceration program

20 authorized pursuant to §62-11B-1 *et seq.* of this code, from being a provider of motor vehicle
21 alcohol test and lock systems for eligible participants as authorized by this section.

22 (4) For purposes of this section, a “motor vehicle alcohol test and lock system” means a
23 mechanical or computerized system which, in the opinion of the commissioner, prevents the
24 operation of a motor vehicle when, through the system’s assessment of the blood alcohol content
25 of the person operating or attempting to operate the vehicle, the person is determined to be under
26 the influence of alcohol.

27 (5) The fee for installation and removal of ignition interlock devices shall be waived for
28 persons determined to be indigent by the Division of Motor Vehicles pursuant to §17C-5A-3 of
29 this code. The commissioner shall establish by legislative rule, proposed pursuant to §29A-3-1 *et*
30 *seq.* of this code, procedures to be followed with regard to persons determined by the Division of
31 Motor Vehicles to be indigent. The rule shall include, but is not limited to, promulgation of
32 application forms, establishment of procedures for the review of applications, and the
33 establishment of a mechanism for the payment of installations for eligible offenders.

34 (6) On or before January 15 of each year, the Commissioner of the Division of Motor
35 Vehicles shall report to the Legislature on:

36 (A) The total number of offenders participating in the program during the prior year;

37 (B) The total number of indigent offenders participating in the program during the prior
38 year;

39 (C) The terms of any contracts with the providers of ignition interlock devices; and

40 (D) The total cost of the program to the state during the prior year.

41 (b) (1) Any person whose license is revoked for the first time pursuant to this article or the
42 provisions of §17C-5-1 *et seq.* of this code is eligible to participate in the program when the
43 person’s minimum revocation period as specified by §17C-5A-3a(c) of this code has expired and
44 the person is enrolled in or has successfully completed the Safety and Treatment Program or
45 presents proof to the commissioner within 60 days of receiving approval to participate by the

46 commissioner that he or she is enrolled in a Safety and Treatment Program: *Provided*, That
47 anyone whose license is revoked for the first time for driving with a blood alcohol concentration
48 of 0.15 percent or more, by weight, must participate in the program when the person's minimum
49 revocation period as specified by §17C-5A-3a(c) of this code has expired and the person is
50 enrolled in or has successfully completed the Safety and Treatment Program or presents proof to
51 the commissioner within 60 days of receiving approval to participate by the commissioner that he
52 or she is enrolled in a Safety and Treatment Program.

53 (2) Any person whose license has been suspended for driving a motor vehicle while under
54 the age of 21 years with an alcohol concentration in his or her blood 0.02 percent or more, by
55 weight, but less than 0.08 percent, by weight, is eligible to participate in the program after 30 days
56 have elapsed from the date of the initial suspension, during which time the suspension was
57 actually in effect: *Provided*, That in the case of a person under the age of 18, the person is eligible
58 to participate in the program after 30 days have elapsed from the date of the initial suspension,
59 during which time the suspension was actually in effect or after the person's 18th birthday,
60 whichever is later. Before the commissioner approves a person to operate a motor vehicle
61 equipped with a motor vehicle alcohol test and lock system, the person must agree to comply with
62 the following conditions:

63 (A) If not already enrolled, the person shall enroll in and complete the educational program
64 provided in §17C-5A-3(d) of this code at the earliest time that placement in the educational
65 program is available, unless good cause is demonstrated to the commissioner as to why
66 placement should be postponed;

67 (B) The person shall pay all costs of the educational program, any administrative costs,
68 and all costs assessed for any suspension hearing.

69 (3) Notwithstanding the provisions of this section to the contrary, a person eligible to
70 participate in the program under this subsection may not operate a motor vehicle unless approved
71 to do so by the commissioner.

72 (c) A person who participates in the program under §17C-5A-3a(b)(1) of this code is
73 subject to a minimum revocation period and minimum period for the use of the ignition interlock
74 device as follows:

75 (1) For a person whose license has been revoked for a first offense for six months for
76 driving under the influence of alcohol, or a combination of alcohol and any controlled substance
77 or other drug, or with a blood alcohol concentration of 0.08 percent, by weight, but less 0.15
78 percent, by weight, the minimum period of revocation for participation in the test and lock program
79 is 15 days and the minimum period for the use of the ignition interlock device is 125 days;

80 (2) For a person whose license has been revoked for a first offense for refusing a
81 secondary chemical test, the minimum period of revocation for participation in the test and lock
82 program is 45 days and the minimum period for the use of the ignition interlock device is one year;

83 (3) For a person whose license has been revoked for a first offense for driving with a blood
84 alcohol concentration of 0.15 percent or more, by weight, the minimum period of revocation for
85 participation in the test and lock program is 45 days and the minimum period for the use of the
86 ignition interlock device is 270 days;

87 (4) For a person whose license has been revoked for a first offense for driving under the
88 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
89 with a blood alcohol concentration of 0.08 percent or more, by weight, or did drive a motor vehicle
90 while under the age of 21 years with an alcohol concentration in his or her blood of 0.02 percent
91 or more, by weight, but less than 0.08 percent, by weight, and while driving does any act forbidden
92 by law or fails to perform any duty imposed by law, which act or failure proximately causes the
93 death of any person within one year next following the act or failure, and commits the act or failure
94 in reckless disregard of the safety of others and when the influence of alcohol, controlled
95 substances or drugs is shown to be a contributing cause to the death, the minimum period of
96 revocation before the person is eligible for participation in the test and lock program is 12 months
97 and the minimum period for the use of the ignition interlock device is two years;

98 (5) For a person whose license has been revoked for a first offense for driving under the
99 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
100 with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving does any
101 act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which
102 act or failure proximately causes the death of any person within one year next following the act or
103 failure, the minimum period of revocation is six months and the minimum period for the use of the
104 ignition interlock device is two years;

105 (6) For a person whose license has been revoked for a first offense for driving under the
106 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
107 with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving does any
108 act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which
109 act or failure proximately causes bodily injury to any person other than himself or herself, the
110 minimum period of revocation for participation in the program is two months and the minimum
111 period for the use of the ignition interlock device is one year;

112 (7) For a person whose license has been revoked for a first offense for driving under the
113 influence of alcohol, or a combination of alcohol and any controlled substance or other drug, or
114 with a blood alcohol concentration of 0.08 percent or more, by weight, and while driving has on
115 or within the motor vehicle one or more other persons who are unemancipated minors who have
116 not reached their 16th birthday, the minimum period of revocation for participation in the program
117 is two months and the minimum period for the use of the ignition interlock device is 10 months.

118 (d) Notwithstanding any provision of the code to the contrary, a person shall participate in
119 the program if the person is convicted under §17C-5-2 of this code or the person's license is
120 revoked under §17C-5A-2 or §17C-5-7 of this code and the person was previously either
121 convicted or his or her license was revoked under any provision cited in this subsection within the
122 past 10 years. The minimum revocation period for a person required to participate in the program
123 under this subsection is one year and the minimum period for the use of the ignition interlock

124 device is two years, except that the minimum revocation period for a person required to participate
125 because of a violation for driving while under the age of 21 with a blood alcohol concentration of
126 0.02 percent, or more, by weight, but less than 0.08 percent, or more, by weight, is two months
127 and the minimum period of participation is one year. The division shall add an additional two
128 months to the minimum period for the use of the ignition interlock device if the offense was
129 committed while a minor was in the vehicle. The division shall add an additional six months to the
130 minimum period for the use of the ignition interlock device if a person other than the driver
131 received injuries. The division shall add an additional two years to the minimum period for the use
132 of the ignition interlock device if a person other than the driver is injured and the injuries result in
133 that person's death. The division shall add one year to the minimum period for the use of the
134 ignition interlock device for each additional previous conviction or revocation within the past 10
135 years. Any person required to participate under this subsection must have an ignition interlock
136 device installed on every vehicle he or she owns or operates.

137 (e)(1) If a person applies for and is accepted into the Motor Vehicle Alcohol Test and Lock
138 Program prior to the effective date of the revocation, the commissioner shall defer the revocation
139 period of such person under the provisions of this section. Such deferral shall continue throughout
140 the applicable minimum period for the use of the ignition interlock device plus an additional period
141 equal to the applicable minimum revocation period. If a person successfully completes all terms
142 of the Motor Vehicle Alcohol Test and Lock Program for a period equal to the minimum period for
143 the use of the ignition interlock device pursuant to §17C-5A-3a(c) of this code, plus any applicable
144 minimum revocation period, the commissioner shall waive the revocation period.

145 (2) The application and acceptance of a person into the Motor Vehicle Alcohol Test and
146 Lock Program pursuant to §17C-5A-3(e)(1) of this code constitutes an automatic waiver of their
147 right to an administrative hearing. The Office of Administrative Hearings may not conduct a
148 hearing on a matter which is the basis for a person actively participating in the Motor Vehicle
149 Alcohol Test and Lock Program.

150 (f) Notwithstanding any other provision in this code, a person whose license is revoked for
151 driving under the influence of drugs is not eligible to participate in the Motor Vehicle Alcohol Test
152 and Lock Program: *Provided*, That the Division of Motor Vehicles may reduce any revocation
153 period required of a person with a second or subsequent offense for driving under the influence
154 of drugs to a minimum of one year and thereafter issue a restricted license on the conditions that
155 the person is in the treatment and job program prescribed in §61-11-26a of this code, has
156 satisfactorily performed in the treatment component of the program and that the person submits
157 to two years of monthly drug testing. If the person is otherwise required to participate in the Alcohol
158 Test and Lock Program for another offense, he or she may do so while meeting the conditions
159 described in this subsection. If the person fails to submit to a drug test or submits to a test that
160 reveals the presence of controlled substances or drugs, then the full revocation period is
161 reinstated, and the person is only credited with revocation time actually served prior to receiving
162 restricted privileges. The Commissioner of the Division of Motor Vehicles is hereby authorized to
163 promulgate emergency rules to implement the provisions of this article.

164 (g) An applicant for the test and lock program may not have been convicted of any violation
165 of §17B-4-3 of this code for driving while the applicant's driver's license was suspended or
166 revoked within the six-month period preceding the date of application for admission to the test
167 and lock program unless such is necessary for employment purposes.

168 (h) Upon permitting an eligible person to participate in the program, the commissioner
169 shall issue to the person, and the person is required to exhibit on demand, a driver's license which
170 shall reflect that the person is restricted to the operation of a motor vehicle which is equipped with
171 an approved motor vehicle alcohol test and lock system.

172 (i) The commissioner may extend the minimum period of revocation and the minimum
173 period of participation in the program for a person who violates the terms and conditions of
174 participation in the program as found in this section, or legislative rule, or any agreement or
175 contract between the participant and the division or program service provider. If the commissioner

176 finds that any person participating in the program pursuant to §17C-5-2b of this code must be
177 removed therefrom for violation(s) of the terms and conditions thereof, he or she shall notify the
178 person, the court that imposed the term of participation in the program and the prosecuting
179 attorney in the county wherein the order imposing participation in the program was entered.

180 (j) A person whose license has been suspended for a first offense of driving while under
181 the age of 21 with a blood alcohol concentration of 0.02 percent, or more, by weight, but less than
182 0.08 percent, or more, by weight, who has completed the educational program and who has not
183 violated the terms required by the commissioner of the person's participation in the program is
184 entitled to the reinstatement of his or her driver's license six months from the date the person is
185 permitted to operate a motor vehicle by the commissioner. When a license has been reinstated
186 pursuant to this subsection, the records ordering the suspension, records of any administrative
187 hearing, records of any blood alcohol test results, and all other records pertaining to the
188 suspension shall be expunged by operation of law: *Provided*, That a person is entitled to
189 expungement under the provisions of this subsection only once. The expungement shall be
190 accomplished by physically marking the records to show that the records have been expunged
191 and by securely sealing and filing the records. Expungement has the legal effect as if the
192 suspension never occurred. The records may not be disclosed or made available for inspection
193 and in response to a request for record information, the commissioner shall reply that no
194 information is available. Information from the file may be used by the commissioner for research
195 and statistical purposes so long as the use of the information does not divulge the identity of the
196 person.

197 (k) In addition to any other penalty imposed by this code, any person who operates a motor
198 vehicle not equipped with an approved motor vehicle alcohol test and lock system during that
199 person's participation in the Motor Vehicle Alcohol Test and Lock Program is guilty of a
200 misdemeanor and, upon conviction thereof, shall be confined in jail for a period not less than one
201 month nor more than six months and fined not less than \$100 nor more than \$500. Any person

202 who attempts to bypass the alcohol test and lock system is guilty of a misdemeanor and, upon
203 conviction thereof, shall be confined in jail not more than six months and fined not less than \$100
204 nor more than \$1,000: *Provided*, That notwithstanding any provision of this code to the contrary,
205 a person enrolled and participating in the test and lock program may operate a motor vehicle
206 solely at his or her job site if the operation is a condition of his or her employment. For the purpose
207 of this section, "job site" does not include any street or highway open to the use of the public for
208 purposes of vehicular traffic.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

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Governor