

HB 101

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

HOUSE BILL No. 101

Mr. Speaker, Mr. Kiss, and Ashley  
[By Request of the Executive]  
(By Delegate \_\_\_\_\_ )



Passed \_\_\_\_\_ April 20, \_\_\_\_\_ 1997

In Effect July 1, 1997 From \_\_\_\_\_ Passage

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OFFICE OF THE CLERK  
LEGISLATIVE DEPARTMENT

**ENROLLED**

**H. B. 101**

(BY MR. SPEAKER, MR. KISS, AND DELEGATE ASHLEY)  
[BY REQUEST OF THE EXECUTIVE]

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*July 1, 1997*  
[Passed April 20, 1997; in effect ~~from Passage~~]

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*5716*

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AN ACT to amend article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eighteen-a; to amend and reenact sections eighteen-b and nineteen, article five of said chapter; to amend and reenact section ten, article two, chapter seventeen-b of said code; to amend and reenact section six, article three of said chapter; to amend and reenact sections nine and thirteen, article one, chapter seventeen-e of said code; to amend and reenact sections one and five, article two, chapter eighteen-a of said code; to amend and reenact section one, article seven, chapter eighteen-b of said code; to amend article one, chapter nineteen of said code by adding thereto a new section, designated section ten; to amend and reenact section seven, article two, chapter twenty-one of said code; to amend and reenact section two, article three-c of said chapter; to amend and reenact section five-c, article five of said chapter; to amend and reenact section seven, article eleven of said chapter; to amend and reenact section one, article nine, chapter twenty-two-a of said code; to amend and reenact section three, article seven, chapter twenty-two-c of said code; to amend and reenact section four, article three-b, chapter twenty-nine of said code; to amend and reenact sections six and thirteen, article one, chapter thirty of said code; to amend and reenact section three, article twelve, chapter thirty-three of said code; to amend and reenact section nine, article fourteen, chapter thirty-seven of said code; to amend and reenact section five, article twelve, chapter forty-seven of said code; to amend and

reenact section thirty, article one-a, chapter forty-eight-a of said code; to amend and reenact sections thirty-one, thirty-two, thirty-three, and thirty-four, article two of said chapter; to further amend said article by adding thereto a new section, designated section thirty-three-a; to further amend said chapter by adding thereto a new article, designated article five-a; and to amend and reenact sections three and six, article six of said chapter, all relating generally to enacting legislation to comply with mandates of the federal Personal Responsibility and Work Reconciliation Act of 1996 regarding the establishment, modification or enforcement of child support.

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

That article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eighteen-a; that sections eighteen-b and nineteen, article five of said chapter be amended and reenacted; that section ten, article two, chapter seventeen-b of said code be amended and reenacted; that section six, article three of said chapter be amended and reenacted; that sections nine and thirteen, article one, chapter seventeen-e of said code be amended and reenacted; that sections one and five, article two, chapter eighteen-a of said code be amended and reenacted; that section one, article seven, chapter eighteen-b of said code be amended and reenacted; that article one, chapter nineteen of said code be amended by adding thereto a new section, designated section ten; that section seven, article two, chapter twenty-one of said code be amended and reenacted; that section two, article three-c of said chapter be amended and reenacted; that section five-c, article five of said chapter be amended and reenacted; that section seven, article eleven of said chapter be amended and reenacted; that section one, article nine, chapter twenty-two-a of said code be amended and reenacted; that section three, article seven, chapter twenty-two-c of said code be amended and reenacted; that section four, article three-b, chapter twenty-nine of said code be amended and reenacted; that sections six and thirteen, article one, chapter thirty of said code be amended and reenacted; that section three, article twelve, chapter thirty-three of said code be amended and reenacted; that section nine, article fourteen, chapter thirty-seven of said code be amended and reenacted; that section five, article twelve, chapter forty-seven of said code be amended and reenacted; that section thirty, article one-a, chapter forty-eight-a of said code be amended and reenacted; that sections thirty-one, thirty-two, thirty-three and thirty-four, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, des-

ignated section thirty-three-a; that said chapter be further amended by adding thereto a new article, designated article five-a; and that sections three and six, article six of said chapter be amended and reenacted, all to read as follows:

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 1. STATE BUREAU OF PUBLIC HEALTH.**

#### **§16-1-18a. Requirement for social security number on applications.**

1           The director of health shall require every applicant  
2 for a license, permit, certificate of registration, or registra-  
3 tion under this chapter to place his or her social security  
4 number on the application.

### **ARTICLE 5. VITAL STATISTICS.**

#### **§16-5-18b. Limitation on use of social security numbers.**

1           A social security account number obtained in accor-  
2 dance with the provisions of this article with respect to the  
3 filing of: (1) A certificate of birth; (2) an application for a  
4 delayed registration of birth; (3) a judicial order establish-  
5 ing a record of birth; (4) an adoption order or decree; or  
6 (5) a certificate of paternity shall not be transmitted to a  
7 clerk of the county commission. Such social security  
8 account number shall not appear upon the public record  
9 of the register of births or upon any certificate of birth  
10 registration issued by the state registrar, local registrar,  
11 county clerk or other issuing authority, if any. Such so-  
12 cial security account numbers shall be made available by  
13 the state registrar to the child support enforcement divi-  
14 sion created by article forty-eight-a upon the request of  
15 the division, to be used solely in connection with the en-  
16 forcement of child support orders.

#### **§16-5-19. Death registration.**

1           (a) A death certificate for each death which occurs in  
2 this state shall be filed with the local registrar of the regis-  
3 tration district in which the death occurs within three days  
4 after such death, and prior to removal of the body from  
5 the state, and shall be registered by such registrar if it has  
6 been completed and filed in accordance with this section:  
7 *Provided, That*

8           (1) If the place of death is unknown, a death certifi-  
9 cate shall be filed in the registration district in which a  
10 dead body is found within three days after the finding;

11           (2) If death occurs in a moving conveyance, a death  
12 certificate shall be filed in the registration district in which  
13 the dead body is first removed from such conveyance; and

14           (3) If the death occurs in a district other than where  
15 the deceased resided, a death certificate shall be filed in  
16 the registration district in which the death occurred and in  
17 the district in which the deceased resided.

18           (b) The funeral director or person acting for him  
19 who first assumes custody of a dead body shall file the  
20 death certificate. He shall obtain the necessary personal  
21 data from the next of kin or the best qualified person or  
22 source available. The funeral director or person acting for  
23 him shall obtain the medical certification of the cause of  
24 death from the person responsible for making such certifi-  
25 cation. The personal data obtained shall include the de-  
26 ceased person's social security number or numbers. The  
27 social security account number of an individual who has  
28 died shall be placed in the records relating to the death  
29 and shall be recorded on the death certificate. A record of  
30 the social security number or numbers shall be filed with  
31 the local registrar of the district in which in the deceased  
32 person resided within seven days after the death, and the  
33 local registrar shall transmit such number or numbers to  
34 the state registrar of vital statistics in the same manner as  
35 other personal data is transmitted to the state registrar.

36           (c) The medical certification shall be completed and  
37 signed within twenty-four hours after death by the physi-  
38 cian in charge of the patient's care for the illness or con-  
39 dition which results in death except when inquiry is re-  
40 quired pursuant to chapter sixty-one, article twelve or  
41 other applicable provision of this code.

42           (d) When death occurs without medical attendance  
43 and inquiry is not required pursuant to chapter sixty-one,  
44 article twelve or other applicable provisions of this code,  
45 the local health officer shall investigate the cause of death  
46 and complete and sign the medical certification within  
47 twenty-four hours after receiving notice of the death.

48           (e) When death occurs in a manner subject to investi-  
49 gation, the coroner or other officer or official charged  
50 with the legal duty of making such investigation shall  
51 investigate the cause of death and shall complete and sign  
52 the medical certification within twenty-four hours after  
53 making determination of the cause of death.

54 (f) In order that each county may have a complete  
 55 record of the deaths occurring in said county, the local  
 56 registrar shall transmit each month to the county clerk of  
 57 his county a copy of the certificates of all deaths occur-  
 58 ring in said county, and if any person shall die in a county  
 59 other than that county within the state in which such per-  
 60 son last resided prior to death, then the state registrar shall,  
 61 if possible, also furnish a copy of such death certificate to  
 62 the clerk of the county commission of the county wherein  
 63 such person last resided, from which copies the clerk shall  
 64 compile a record of such deaths and shall enter the same  
 65 in a systematic and orderly way in a well-bound register of  
 66 deaths for that county, which such register shall be a pub-  
 67 lic record. The form of said death register shall be pre-  
 68 scribed by the state registrar of vital statistics.

## **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

### **ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RE-NEWAL.**

#### **§17B-2-10. Restricted licenses.**

1 (a) The division upon issuing a driver's license shall  
 2 have authority whenever good cause appears to impose  
 3 restrictions suitable to the licensee's driving ability with  
 4 respect to the type of or special mechanical control devic-  
 5 es required on a motor vehicle which the licensee may  
 6 operate or such other restrictions applicable to the licensee  
 7 as the division may determine to be appropriate to assure  
 8 the safe operation of a motor vehicle by the licensee.

9 (b) The division shall issue a restricted license to a  
 10 person who has failed to pay overdue child support or  
 11 comply with subpoenas or warrants relating to paternity or  
 12 child support proceedings, if a circuit court orders restric-  
 13 tions of the person's license as provided in article five-a,  
 14 chapter forty-eight-a of this code.

15 (c) The division may either issue a special restricted  
 16 license or may set forth such restrictions upon the usual  
 17 license form.

18 (d) The division may upon receiving satisfactory  
 19 evidence of any violation of the restrictions of such license  
 20 suspend or revoke the same but the licensee shall be enti-  
 21 tled to a hearing as upon a suspension or revocation under  
 22 this chapter.

23 (e) It is a misdemeanor for any person to operate a  
24 motor vehicle in any manner in violation of the restric-  
25 tions imposed in a restricted license issued to such person.

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

**§17B-3-6. Authority of division to suspend or revoke license;  
hearing.**

1 (a) The division is hereby authorized to suspend the  
2 driver's license of any person without preliminary hearing  
3 upon a showing by its records or other sufficient evidence  
4 that the licensee:

5 (1) Has committed an offense for which mandatory  
6 revocation of a driver's license is required upon convic-  
7 tion;

8 (2) Has by reckless or unlawful operation of a motor  
9 vehicle, caused or contributed to an accident resulting in  
10 the death or personal injury of another or property dam-  
11 age;

12 (3) Has been convicted with such frequency of seri-  
13 ous offenses against traffic regulations governing the  
14 movement of vehicles as to indicate a disrespect for traffic  
15 laws and a disregard for the safety of other persons on the  
16 highways;

17 (4) Is an habitually reckless or negligent driver of a  
18 motor vehicle;

19 (5) Is incompetent to drive a motor vehicle;

20 (6) Has committed an offense in another state which  
21 if committed in this state would be a ground for suspen-  
22 sion or revocation;

23 (7) Has failed to pay or has defaulted on a plan for  
24 the payment of all costs, fines, forfeitures or penalties  
25 imposed by a magistrate court or municipal court within  
26 ninety days, as required by section two-a, article three,  
27 chapter fifty or section two-a, article ten, chapter eight of  
28 this code;

29 (8) Has failed to appear or otherwise respond before  
30 a magistrate court or municipal court when charged with a  
31 motor vehicle violation as defined in section three-a of this  
32 article;

33 (9) Is under the age of eighteen and has withdrawn  
34 either voluntarily or involuntarily from a secondary  
35 school, as provided in section eleven, article eight, chapter  
36 eighteen of this code; or

37 (10) Has failed to pay overdue child support or com-  
38 ply with subpoenas or warrants relating to paternity or  
39 child support proceedings, if a circuit court has ordered  
40 the suspension of the license as provided in article five-a,  
41 chapter forty-eight-a of this code and the child support  
42 enforcement division has forwarded to the division a copy  
43 of the court order suspending the license, or has forward-  
44 ed its certification that the licensee has failed to comply  
45 with a new or modified order that stayed the suspension  
46 and provided for the payment of current support and any  
47 arrearage due.

48 (b) The driver's license of any person having his or  
49 her license suspended shall be reinstated if:

50 (1) The license was suspended under the provisions  
51 of subdivision (7), subsection (a) of this section and the  
52 payment of costs, fines, forfeitures or penalties imposed  
53 by the applicable court has been made;

54 (2) The license was suspended under the provisions  
55 of subdivision (8), subsection (a) of this section, and the  
56 person having his or her license suspended has appeared  
57 in court and has prevailed against the motor vehicle viola-  
58 tions charged; or

59 (3) The license was suspended under the provisions  
60 of subdivision (10), subsection (a) of this section, and the  
61 division has received a court order restoring the license or  
62 a certification by the child support enforcement division  
63 that the licensee is complying with the original support  
64 order or a new or modified order that provides for the  
65 payment of current support and any arrearage due.

66 (c) Any reinstatement of a license under subdivision  
67 (1), (2) or (3), subsection (b) of this section shall be sub-  
68 ject to a reinstatement fee designated in section nine of  
69 this article.

70 (d) Upon suspending the driver's license of any  
71 person as hereinbefore in this section authorized, the divi-  
72 sion shall immediately notify the licensee in writing, sent  
73 by certified mail, return receipt requested, to the address  
74 given by the licensee in applying for license, and upon his  
75 request shall afford him an opportunity for a hearing as



76 early as practical within not to exceed twenty days after  
77 receipt of such request in the county wherein the licensee  
78 resides unless the division and the licensee agree that such  
79 hearing may be held in some other county. Upon such  
80 hearing the commissioner or his duly authorized agent  
81 may administer oaths and may issue subpoenas for the  
82 attendance of witnesses and the production of relevant  
83 books and papers and may require a reexamination of the  
84 licensee. Upon such hearing the division shall either re-  
85 scind its order of suspension or, good cause appearing  
86 therefor, may extend the suspension of such license or  
87 revoke such license. The provisions of this subsection (d)  
88 providing for notice and hearing are not applicable to a  
89 suspension under subdivision (10), subsection (a) of this  
90 section.

#### CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

##### ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

##### §17E-1-9. Commercial driver license qualification standards.

1 (a) (1) *General.* — No person may be issued a com-  
2 mercial driver's license unless that person is a resident of  
3 this state and has passed a knowledge and skills test for  
4 driving a commercial motor vehicle which complies with  
5 minimum federal standards established by federal regula-  
6 tions enumerated in 49 C.F.R. part 383, sub-parts G and  
7 H, and has satisfied all other requirements of the Federal  
8 Commercial Motor Vehicle Safety Act in addition to other  
9 requirements imposed by state law or federal regulations.  
10 The tests will be administered by the West Virginia state  
11 police according to rules promulgated by the commission-  
12 er.

13 (2) *Third party testing.* — The commissioner may  
14 authorize a person, including an agency of this or another  
15 state, an employer, private individual or institution, depart-  
16 ment, agency or instrumentality of local government, to  
17 administer the skills test specified by this section: *Provid-*  
18 *ed,* That (i) the test is the same which would otherwise be  
19 administered by the state and (ii) the party has entered  
20 into an agreement with the state which complies with the  
21 requirements of 49 C.F.R. party 383.75.

22 (3) *Indemnification of driver examiners.* — No per-  
23 son who has been officially trained and certified by the  
24 state as a driver examiner, who administers any such driv-

25 ing test, and no other person, firm or corporation by  
26 whom or with which such person is employed or is in any  
27 way associated, may be criminally liable for the adminis-  
28 tration of such tests, or civilly liable in damages to the  
29 person tested or other persons or property unless for gross  
30 negligence or willful or wanton injury.

31 (4) Monitoring of third party testing will be carried  
32 out by the West Virginia state police according to rules  
33 promulgated by the commissioner.

34 (b) *Waiver of skills test.* — The commissioner may  
35 waive the skills test specified in this section for a commer-  
36 cial driver license applicant who meets the requirements of  
37 49 C.F.R. part 383.77 and those requirements specified by  
38 the commissioner.

39 (c) *Limitations on issuance of license.* — A commer-  
40 cial driver's license or commercial driver's instruction  
41 permit may not be issued to a person while the person is  
42 subject to a disqualification from driving a commercial  
43 motor vehicle, or while the person's driver's license is  
44 suspended, revoked or canceled in any state; nor may a  
45 commercial driver's license be issued by any other state  
46 unless the person first surrenders all such licenses to the  
47 department, which must be returned to the issuing state(s)  
48 for cancellation. The division shall issue a restricted com-  
49 mercial driver's license to a person who has failed to pay  
50 overdue child support or comply with subpoenas or war-  
51 rants relating to paternity or child support proceedings, if  
52 a circuit court orders restrictions of the person's license as  
53 provided in article five-a, chapter forty-eight-a of this  
54 code.

55 (d) *Commercial driver's instruction permit.* — (1) A  
56 commercial driver's instruction permit may be issued to  
57 an individual who holds a valid operator or Class "D"  
58 driver license who has passed the vision and written tests  
59 required for issuance of a commercial driver license. (2)  
60 The commercial instruction permit may not be issued for  
61 a period to exceed six months. Only one renewal or reis-  
62 suance may be granted within a two-year period. The  
63 holder of a commercial driver's instruction permit may  
64 drive a commercial motor vehicle on a highway only when  
65 accompanied by the holder of a commercial driver license  
66 valid for the type of vehicle driven who occupies a seat  
67 beside the individual for the purpose of giving instruction  
68 or testing. (3) A commercial driver's instruction permit

69 may only be issued to an individual who is at least eigh-  
70 teen years of age and has held an operator's or junior  
71 operator's license for at least two years. (4) The applicant  
72 for a commercial driver's instruction permit must also be  
73 otherwise qualified to hold a commercial driver's license.

**§17E-1-13. Disqualification and cancellation.**

1 (a) *Disqualification offenses.* — Any person is dis-  
2 qualified from driving a commercial motor vehicle for a  
3 period of not less than one year if convicted of a first  
4 violation of:

5 (1) Driving a commercial motor vehicle under the  
6 influence of alcohol or a controlled substance;

7 (2) Driving a commercial motor vehicle while the  
8 alcohol concentration of the person's blood or breath is  
9 four hundredths or more;

10 (3) Leaving the scene of an accident involving a  
11 commercial motor vehicle driven by the person;

12 (4) Using a commercial motor vehicle in the com-  
13 mission of any felony as defined in this article: *Provided,*  
14 That the commission of any felony involving the manu-  
15 facture, distribution, or dispensing of a controlled sub-  
16 stance, or possession with intent to manufacture, distribute  
17 or dispense a controlled substance falls under the provi-  
18 sions of subsection (d) of this section.

19 (5) Refusal to submit to a test to determine the driv-  
20 er's alcohol concentration while driving a commercial  
21 motor vehicle.

22 In addition, the conviction of any of the following  
23 offenses as an operator of any vehicle is a disqualification  
24 offense:

25 (1) Manslaughter or negligent homicide resulting  
26 from the operation of a motor vehicle as defined under  
27 the provisions of section five, article three, chapter  
28 seventeen-b, and section one, article five, chapter  
29 seventeen-c of this code;

30 (2) Driving while license is suspended or revoked,  
31 as defined under the provisions of section three, article  
32 four, chapter seventeen-b of this code;

33 (3) Perjury or making a false affidavit or statement  
34 under oath to the department of motor vehicles, as defined  
35 under the provisions of subsection (4), section five, article

36 three, and section two, article four, chapter seventeen-b of  
37 this code.

38 If any of the above violations occurred while trans-  
39 porting a hazardous material required to be placarded, the  
40 person is disqualified for a period of not less than three  
41 years.

42 (b) A person is disqualified for life if convicted of  
43 two or more violations of any of the offenses specified in  
44 subsection (a) of this section, or any combination of those  
45 offenses, arising from two or more separate incidents.

46 (c) The commissioner may issue rules establishing  
47 guidelines, including conditions, under which a disqualifi-  
48 cation for life under subsection (b) of this section may be  
49 reduced to a period of not less than ten years.

50 (d) A person is disqualified from driving a com-  
51 mercial motor vehicle for life who uses a commercial  
52 motor vehicle in the commission of any felony involving  
53 the manufacture, distribution or dispensing of a controlled  
54 substance, or possession with intent to manufacture, dis-  
55 tribute or dispense a controlled substance.

56 (e) A person is disqualified from driving a commer-  
57 cial motor vehicle for a period of not less than sixty days  
58 if convicted of two serious traffic violations, or one hun-  
59 dred twenty days if convicted of three serious violations,  
60 committed in a commercial motor vehicle arising from  
61 separate incidents occurring within a three-year period.

62 (f) A person is disqualified from driving a commer-  
63 cial motor vehicle if he or she has failed to pay overdue  
64 child support or comply with subpoenas or warrants relat-  
65 ing to paternity or child support proceedings, if a circuit  
66 court has ordered the suspension of the commercial driv-  
67 er's license as provided in article five-a, chapter forty-  
68 eight-a of this code and the child support enforcement  
69 division has forwarded to the division a copy of the court  
70 order suspending the license, or has forwarded its certifi-  
71 cation that the licensee has failed to comply with a new or  
72 modified order that stayed the suspension and provided  
73 for the payment of current support and any arrearage due.  
74 A disqualification under this section shall continue until  
75 the division has received a court order restoring the license  
76 or a certification by the child support enforcement divi-  
77 sion that the licensee is complying with the original sup-

78 port order or a new or modified order that provides for  
79 the payment of current support and any arrearage due.

80 (g) After suspending, revoking or canceling a com-  
81 mercial driver's license, the department shall update its  
82 records to reflect that action within ten days.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 2. SCHOOL PERSONNEL.

#### §18A-2-1. Employment in general.

1 The employment of professional personnel shall be  
2 made by the board only upon nomination and recommen-  
3 dation of the superintendent. In case the board refuses to  
4 employ any or all of the persons nominated, the superin-  
5 tendent shall nominate others and submit the same to the  
6 board at such time as the board may direct. All personnel  
7 so nominated and recommended for employment and for  
8 subsequent assignment shall meet the certification, licens-  
9 ing, training, and other eligibility classifications as may be  
10 required by provisions of this chapter and by state board  
11 regulation. In addition to any other information required,  
12 the application for any certification or licensing shall  
13 include the applicant's social security number. Profession-  
14 al personnel employed as deputy, associate or assistant  
15 superintendents by the board in offices, departments or  
16 divisions at locations other than a school and who are  
17 directly answerable to the superintendent shall serve at the  
18 will and pleasure of the superintendent and may be re-  
19 moved by the superintendent upon approval of the board.  
20 Such professional personnel shall retain seniority rights  
21 only in the area or areas in which they hold valid certifica-  
22 tion or licensure.

#### §18A-2-5. Employment of service personnel; limitation.

1 The board is authorized to employ such service per-  
2 sonnel, including substitutes, as is deemed necessary for  
3 meeting the needs of the county school system: *Provided,*  
4 That the board may not employ a number of such person-  
5 nel whose minimum monthly salary under section eight-a,  
6 article four, of this chapter is specified as pay grade "H",  
7 which number exceeds the number employed by the  
8 board on the first day of March, one thousand nine hun-  
9 dred eighty-eight.

10 Effective the first day of July, one thousand nine  
11 hundred eighty-eight, a county board shall not employ for

12 the first time any person who has not obtained a high  
 13 school diploma or general educational development certifi-  
 14 cate (GED) or who is not enrolled in an approved adult  
 15 education course by the date of employment in prepara-  
 16 tion for obtaining a GED: *Provided, however,* That such  
 17 employment is contingent upon continued enrollment or  
 18 successful completion of the GED program.

19 Before entering upon their duties service personnel  
 20 shall execute with the board a written contract which shall  
 21 be in the following form:

22 "COUNTY BOARD OF EDUCATION  
 23 SERVICE PERSONNEL CONTRACT  
 24 OF EMPLOYMENT

25 THIS (Probationary or Continuing) CONTRACT OF  
 26 EMPLOYMENT, made and entered into this \_\_\_\_\_  
 27 day of \_\_\_\_\_, 19\_\_\_\_, by and between THE  
 28 BOARD OF EDUCATION OF THE COUNTY OF  
 29 \_\_\_\_\_, a corporation, hereinafter called the  
 30 'Board,' and (Name and Social Security Number of Em-  
 31 ployee), of (Mailing Address), hereinafter called the 'Em-  
 32 ployee.'

33 WITNESSETH, that whereas, at a lawful meeting of  
 34 the Board of Education of the County of \_\_\_\_\_  
 35 held at the offices of said Board, in the City of  
 36 \_\_\_\_\_, \_\_\_\_\_ County,  
 37 West Virginia, on the \_\_\_\_\_ day of  
 38 \_\_\_\_\_, 19\_\_\_\_, the Employee was duly  
 39 hired and appointed for employment as a (Job Classifica-  
 40 tion) at (Place of Assignment) for the school year com-  
 41 mencing \_\_\_\_\_ for the employment term and at the  
 42 salary and upon the terms hereinafter set out.

43 NOW, THEREFORE, pursuant to said employment,  
 44 Board and Employee mutually agree as follows:

45 (1) The Employee is employed by the Board as a  
 46 (Job Classification) at (Place of Assignment) for the  
 47 school year or remaining part thereof commencing  
 48 \_\_\_\_\_, 19\_\_\_\_. The period of employment is  
 49 \_\_\_\_\_ days at an annual salary of \$\_\_\_\_\_ at the rate  
 50 of \$\_\_\_\_\_ per month.

51 (2) The Board hereby certifies that the Employee's  
 52 employment has been duly approved by the Board and  
 53 will be a matter of the Board's minute records.

54 (3) The services to be performed by the Employee  
55 shall be such services as are prescribed for the job classifi-  
56 cation set out above in paragraph (1) and as defined in  
57 Section 8, Article 4, Chapter 18A of the Code of West  
58 Virginia, as amended.

59 (4) The Employee may be dismissed at any time for  
60 immorality, incompetency, cruelty, insubordination, in-  
61 temperance or willful neglect of duty pursuant to the pro-  
62 visions of Section 8, Article 2, Chapter 18A of the Code of  
63 West Virginia, as amended.

64 (5) The Superintendent of the \_\_\_\_\_ Coun-  
65 ty Board of Education, subject to the approval of the  
66 Board, may transfer and assign the Employee in the man-  
67 ner provided by Section 7, Article 2, Chapter 18A of the  
68 code of West Virginia, as amended.

69 (6) This contract shall at all times be subject to any  
70 and all existing laws, or such laws as may hereafter be  
71 lawfully enacted, and such laws shall be a part of this con-  
72 tract.

73 (7) This contract may be terminated or modified at  
74 any time by the mutual consent of the Board and the Em-  
75 ployee.

76 (8) This contract must be signed and returned to the  
77 Board at its address of \_\_\_\_\_  
78 \_\_\_\_\_ within thirty  
79 days after being received by the Employee.

80 (9) By signing this contract the Employee accepts  
81 employment upon the terms herein set out.

82 WITNESS the following signatures as of the day,  
83 month and year first above written:

84 \_\_\_\_\_, (President, \_\_\_\_\_ County Board  
85 of Education) \_\_\_\_\_, (Secretary, \_\_\_\_\_ Coun-  
86 ty Board of Education) \_\_\_\_\_, (Employee)"

87 The use of this form shall not be interpreted to au-  
88 thorize boards to discontinue any employee's contract  
89 status with the board or rescind any rights, privileges or  
90 benefits held under contract or otherwise by any employ-  
91 ee prior to the effective date of this section.

92 Each contract of employment shall be designated as  
93 a probationary or continuing contract. The employment  
94 of service personnel shall be made a matter of minute

95 record. The employee shall return the contract of em-  
 96 ployment to the county board of education within thirty  
 97 days after receipt or otherwise he shall forfeit his right to  
 98 employment.

99 Under such regulation and policy as may be estab-  
 100 lished by the county board, service personnel selected and  
 101 trained for teacher-aide classifications, such as monitor  
 102 aide, clerical aide, classroom aide and general aide, shall  
 103 work under the direction of the principal and teachers to  
 104 whom assigned.

## CHAPTER 18B. HIGHER EDUCATION.

### ARTICLE 7. PERSONNEL GENERALLY.

#### **§18B-7-1. Seniority for full-time classified personnel; seniority to be observed in reducing work force; preferred recall list; renewal of listing; notice of vacancies.**

1 (a) Definitions for terms used in this section shall be  
 2 in accordance with those provided in section two, article  
 3 nine of this chapter except that the provisions of this sec-  
 4 tion shall apply only to classified employees whose em-  
 5 ployment, if continued, shall accumulate to a minimum  
 6 total of one thousand forty hours during a calendar year  
 7 and extend over at least nine months of a calendar year:  
 8 *Provided*, That this section shall also apply for one year to  
 9 any classified employee who is involuntarily transferred to  
 10 a position in nonclassified status for which he or she did  
 11 not apply.

12 (b) All decisions by the appropriate governing  
 13 board or their agents at state institutions of higher educa-  
 14 tion concerning reductions in work force of full-time  
 15 classified personnel, whether by temporary furlough or  
 16 permanent termination, shall be made in accordance with  
 17 this section. For layoffs by classification for reason of  
 18 lack of funds or work, or abolition of position or material  
 19 changes in duties or organization and for recall of em-  
 20 ployees so laid off, consideration shall be given to an  
 21 employee's seniority as measured by permanent employ-  
 22 ment in the service of the state system of higher education.  
 23 In the event that the institution wishes to lay off a more  
 24 senior employee, the institution must demonstrate that the  
 25 senior employee cannot perform any other job duties held  
 26 by less senior employees of that institution in the same job  
 27 class or any other equivalent or lower job class for which  
 28 the senior employee is qualified: *Provided*, That if an



29 employee refuses to accept a position in a lower job class,  
30 such employee shall retain all rights of recall hereinafter  
31 provided. If two or more employees accumulate identical  
32 seniority, the priority shall be determined by a random  
33 selection system established by the employees and ap-  
34 proved by the institution.

35 (c) Any employee laid off during a furlough or  
36 reduction in work force shall be placed upon a preferred  
37 recall list and shall be recalled to employment by the insti-  
38 tution on the basis of seniority. An employee's listing  
39 with an institution shall remain active for a period of one  
40 calendar year from the date of termination or furlough or  
41 from the date of the most recent renewal. If an employee  
42 fails to renew the listing with the institution, the employ-  
43 ee's name may be removed from the list. An employee  
44 placed upon the preferred list shall be recalled to any  
45 position opening by the institution within the classifica-  
46 tion(s) in which the employee had previously been em-  
47 ployed or to any lateral position for which the employee is  
48 qualified. An employee on the preferred recall list shall  
49 not forfeit the right to recall by the institution if compel-  
50 ling reasons require such employee to refuse an offer of  
51 reemployment by the institution.

52 The institution shall be required to notify all em-  
53 ployees maintaining active listings on the preferred recall  
54 list of all position openings that from time to time exist.  
55 Such notice shall be sent by certified mail to the last  
56 known address of the employee. It shall be the duty of  
57 each employee listed to notify the institution of any  
58 change in address and to timely renew the listing with the  
59 institution. No position openings shall be filled by the  
60 institution, whether temporary or permanent, until all em-  
61 ployees on the preferred recall list have been properly  
62 notified of existing vacancies and have been given an  
63 opportunity to accept reemployment.

64 (d) A nonexempt classified employee, including a  
65 nonexempt employee who has not accumulated a mini-  
66 mum total of one thousand forty hours during the calen-  
67 dar year or whose contract does not extend over at least  
68 nine months of a calendar year, who meets the minimum  
69 qualifications for a job opening at the institution where the  
70 employee is currently employed, whether the job be a  
71 lateral transfer or a promotion, and applies for same shall  
72 be transferred or promoted before a new person is hired  
73 unless such hiring is affected by mandates in affirmative

74 action plans or the requirements of Public Law 101-336,  
 75 the Americans with Disabilities Act. If more than one  
 76 qualified, nonexempt classified employee applies, the  
 77 best-qualified nonexempt classified employee shall be  
 78 awarded the position. In instances where such classified  
 79 employees are equally qualified, the nonexempt classified  
 80 employee with the greatest amount of continuous seniority  
 81 at that state institution of higher education shall be award-  
 82 ed the position. A nonexempt classified employee is one  
 83 to whom the provisions of the federal Fair Labor Stan-  
 84 dards Act, as amended, apply.

85 (e) In addition to any other information required,  
 86 any application for personnel governed by the provisions  
 87 of this section shall include the applicant's social security  
 88 number.

## CHAPTER 19. AGRICULTURE.

### ARTICLE 1. DEPARTMENT OF AGRICULTURE.

#### §19-1-10. Requirement for social security number on applica- tions.

1 The commissioner shall require every applicant for a  
 2 license, permit, certificate of registration, or registration  
 3 under this chapter to place his or her social security num-  
 4 ber on the application.

## CHAPTER 21. LABOR.

### ARTICLE 2. EMPLOYMENT AGENCIES.

#### §21-2-7. License required; displaying license; annual tax.

1 No employment agent shall engage in the business  
 2 for profit or receive any fee, charge commission or other  
 3 compensation, directly or indirectly, for services as em-  
 4 ployment agent, without first having obtained a license  
 5 therefor from the state tax commissioner. Such license  
 6 shall not be issued until the commissioner of labor shall  
 7 have approved in writing the application therefor, and,  
 8 when issued, such license shall constitute a license from  
 9 the state to operate as an employment agent for compen-  
 10 sation and shall not be transferable. Such license shall at  
 11 all times be kept posted in a conspicuous place at the place  
 12 of business of such employment agent. Every employ-  
 13 ment agent shall pay the annual license tax provided for in  
 14 article twelve, chapter eleven of this code.

15           In addition to any other information required, an  
16 application for a license under this section shall include  
17 the applicant's social security number.

**ARTICLE 3C. ELEVATOR SAFETY.**

**§21-3C-2. Inspectors; certificates of competency; application;  
examination; reexamination.**

1           No person may serve as an elevator inspector unless  
2 he or she successfully completes the examination required  
3 by this article and holds a certificate of competency for  
4 elevator inspections issued by the division.

5           Application for examination for elevator inspections  
6 shall be in writing, accompanied by a fee of ten dollars,  
7 upon a form designed and furnished by the division and  
8 shall, at a minimum, state the level of education of the  
9 applicant, list his or her employers, his or her period of  
10 employment and the position held with each. In addition  
11 to any other information required, the application shall  
12 include the applicant's social security number. The appli-  
13 cant shall also submit a letter from one or more of his or  
14 her previous employers concerning his or her character  
15 and experience.

16           Applications which contain any willfully submitted  
17 false or untrue information shall be rejected. After review  
18 of the application by the division, the applicant, if deemed  
19 appropriate by the division, shall be tested by means of a  
20 written examination as prescribed by the division dealing  
21 with the construction, installation, operation, maintenance  
22 and repair of elevators and their accessories.

23           The division shall issue a certificate of competency  
24 for elevator inspections to any applicant who successfully  
25 completes the examination, as determined by standards set  
26 in legislative rules promulgated by the division, as autho-  
27 rized by this article. An applicant who fails to successfully  
28 complete an initial examination may submit an application  
29 for a second examination ninety days or more after the  
30 initial examination and upon payment of the ten dollar  
31 examination fee. Should an applicant fail to successfully  
32 complete the prescribed examination on the second trial,  
33 he or she shall not be permitted to submit an application  
34 for another examination for a period of one year after the  
35 second failure.

36 Any person hired as an elevator inspector by a coun-  
37 ty or municipality shall possess a certificate of competen-  
38 cy issued by the division.

39 The division may hire certified inspectors or enter  
40 into a contract to hire inspectors who are certified by the  
41 division. The division shall hire an inspector supervisor  
42 who shall supervise the inspection activities under this  
43 article.

#### ARTICLE 5. WAGE AND PAYMENT COLLECTION.

##### **§21-5-5c. License required for polygraph examiners; qualifi- cations; promulgation of rules governing admin- istration of polygraph tests.**

1 (a) No person, firm or corporation shall administer a  
2 polygraph, lie detector or other such similar test utilizing  
3 mechanical measures of physiological reactions to evalu-  
4 ate truthfulness to an employee or prospective employee  
5 without holding a current valid license to do so as issued  
6 by the commissioner of labor. No test shall be adminis-  
7 tered by a licensed corporation except by an officer or  
8 employee thereof who is also licensed.

9 (b) A person is qualified to receive a license as an  
10 examiner if he:

11 (1) Is at least eighteen years of age;

12 (2) Is a citizen of the United States;

13 (3) Has not been convicted of a misdemeanor involv-  
14 ing moral turpitude or a felony;

15 (4) Has not been released or discharged with other  
16 than honorable conditions from any of the armed services  
17 of the United States or that of any other nation;

18 (5) Has passed an examination conducted by the  
19 commissioner of labor or under his supervision, to deter-  
20 mine his competency to obtain a license to practice as an  
21 examiner;

22 (6) Has satisfactorily completed not less than six  
23 months of internship training; and

24 (7) Has met any other qualifications of education or  
25 training established by the commissioner of labor in his  
26 sole discretion which qualifications are to be at least as  
27 stringent as those recommended by the American poly-  
28 graph association.

29 (c) The commissioner of labor may design and by  
30 procedural rule designate and thereafter administer any  
31 test he deems appropriate to those persons applying for a  
32 license to administer polygraph, lie detector or such simi-  
33 lar test to employees or prospective employees. The test  
34 designed by the commissioner of labor shall be so de-  
35 signed as to ensure that the applicant is thoroughly famil-  
36 iar with the code of ethics of the American polygraph  
37 association and has been trained in accordance with asso-  
38 ciation rules. The test must also include a rigorous exami-  
39 nation of the applicant's knowledge of a familiarity with  
40 all aspects of operating polygraph equipment.

41 (d) The license to give a polygraph, lie detector or  
42 similar test to employees or prospective employees shall  
43 be issued for a period of one year. It may be reissued  
44 from year to year.

45 (e) The commissioner of labor shall charge a fee of  
46 one hundred dollars for each issuance or reissuance of a  
47 license to give a polygraph, lie detector or similar test to  
48 employees or prospective employees. Such fee shall be  
49 deposited in the general revenue fund of the state. In  
50 addition to any other information required, an application  
51 for a license shall include the applicant's social security  
52 number.

53 (f) The commissioner of labor shall promulgate  
54 legislative rules pursuant to the provisions of chapter twenty-  
55 nine-a, article three, governing the administration of  
56 polygraph, lie detector or such similar test to employees.  
57 Such legislative rules shall include:

58 (1) The type and amount of training or schooling  
59 necessary for a person before which he may be licensed to  
60 give or interpret such polygraph, lie detector or similar  
61 test;

62 (2) Standards of accuracy which shall be met by  
63 machines or other devices to be used in polygraph, lie  
64 detector or similar tests; and

65 (3) The conditions under which a polygraph, lie  
66 detector or such similar test may be given.

#### ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

##### §21-11-7. Application for and issuance of license.

1 (a) A person desiring to be licensed as a contractor  
2 under this article shall submit to the board a written appli-

3 cation requesting licensure, providing the applicant's  
 4 social security number and such other information as the  
 5 board may require, on forms supplied by the board . The  
 6 applicant shall pay a license fee not to exceed one hun-  
 7 dred fifty dollars: *Provided*, That electrical contractors  
 8 already licensed under section four, article three-b, chapter  
 9 twenty-nine of this code, shall pay no more than twenty  
 10 dollars.

11 (b) A person holding a business registration certifi-  
 12 cate to conduct business in this state as a contractor on the  
 13 thirtieth day of September, one thousand nine hundred  
 14 ninety-one, may register with the board, certify by affida-  
 15 vit the requirements of subsection (c), section fifteen here-  
 16 of, and pay such license fee not to exceed one hundred  
 17 fifty dollars and shall be issued a contractor's license  
 18 without further examination.

#### **CHAPTER 22A. MINERS' HEALTH, SAFETY AND TRAINING.**

##### **ARTICLE 9. MINE INSPECTORS' EXAMINING BOARD.**

##### **§22A-9-1. Mine inspectors' examining board.**

1 The mine inspectors' examining board is continued.  
 2 It consists of five members who, except for the public  
 3 representative on such board, shall be appointed by the  
 4 governor, by and with the advice and consent of the Sen-  
 5 ate. Members so appointed may be removed only for the  
 6 same causes and in like manner as elective state officers.  
 7 One of the members of the board shall be a representative  
 8 of the public, who shall be the director of the school of  
 9 mines at West Virginia university. Two members of the  
 10 board shall be persons who by reason of previous training  
 11 and experience may reasonably be said to represent the  
 12 viewpoint of coal mine operators and two members shall  
 13 be persons who by reason of previous training and experi-  
 14 ence may reasonably be said to represent the viewpoint of  
 15 coal mine workers.

16 The director of the office of miners' health, safety  
 17 and training is an ex officio member of the board and  
 18 shall serve as secretary of the board, without additional  
 19 compensation; but the director has no right to vote with  
 20 respect to any matter before the board.

21 The members of the board, except the public repre-  
 22 sentative, shall be appointed for overlapping terms of eight  
 23 years, except that the original appointments shall be for

24 terms of two, four, six and eight years, respectively. Any  
25 member whose term expires may be reappointed by the  
26 governor. Members serving on the effective date of this  
27 article may continue to serve until their terms expire.

28 Each member of the board shall be paid the same  
29 compensation, and each member of the board shall be  
30 paid the expense reimbursement, as is paid to members of  
31 the Legislature for their interim duties as recommended  
32 by the citizens legislative compensation commission and  
33 authorized by law for each day or portion thereof en-  
34 gaged in the discharge of official duties. Any such  
35 amounts shall be paid out of the state treasury upon a  
36 requisition upon the state auditor, properly certified by  
37 such members of the board.

38 The public member is chair of the board. Members  
39 of the board, before performing any duty, shall take and  
40 subscribe to the oath required by section 5, article IV of  
41 the constitution of West Virginia.

42 The mine inspectors' examining board shall meet at  
43 such times and places as shall be designated by the chair.  
44 It is the duty of the chair to call a meeting of the board on  
45 the written request of three members or the director of the  
46 office of miners' health, safety and training. Notice of  
47 each meeting shall be given in writing to each member by  
48 the secretary at least five days in advance of the meeting.  
49 Three members is a quorum for the transaction of busi-  
50 ness.

51 In addition to other duties expressly set forth else-  
52 where in this article, the board shall:

53 (1) Establish, and from time to time revise, forms of  
54 application for employment as mine inspectors, which  
55 shall include the applicant's social security number, and  
56 forms for written examinations to test the qualifications of  
57 candidates for that position;

58 (2) Adopt and promulgate reasonable rules relating  
59 to the examination, qualification and certification of can-  
60 didates for appointment as mine inspectors, and hearing  
61 for removal of inspectors, required to be held by section  
62 twelve, article one of this chapter. All of such rules shall  
63 be printed and a copy thereof furnished by the secretary  
64 of the board to any person upon request;

65 (3) Conduct, after public notice of the time and place  
66 thereof, examinations of candidates for appointment as

67 mine inspector. By unanimous agreement of all members  
68 of the board, one or more members of the board or an  
69 employee of the office of miners' health, safety and train-  
70 ing may be designated to give a candidate the written  
71 portion of the examination;

72 (4) Prepare and certify to the director of the office of  
73 miners' health, safety and training a register of qualified  
74 eligible candidates for appointment as mine inspectors.  
75 The register shall list all qualified eligible candidates in the  
76 order of their grades, the candidate with the highest grade  
77 appearing at the top of the list. After each meeting of the  
78 board held to examine such candidates, and at least annu-  
79 ally, the board shall prepare and submit to the director of  
80 the office of miners' health, safety and training a revised  
81 and corrected register of qualified eligible candidates for  
82 appointment as mine inspector, deleting from such revised  
83 register all persons (a) who are no longer residents of West  
84 Virginia, (b) who have allowed a calendar year to expire  
85 without, in writing, indicating their continued availability  
86 for such appointment, (c) who have been passed over for  
87 appointment for three years, (d) who have become ineligi-  
88 ble for appointment since the board originally certified  
89 that such person was qualified and eligible for appoint-  
90 ment as mine inspector, or (e) who, in the judgment of at  
91 least four members of the board, should be removed from  
92 the register for good cause;

93 (5) Cause the secretary of the board to keep and  
94 preserve the written examination papers, manuscripts,  
95 grading sheets, and other papers of all applicants for ap-  
96 pointment as mine inspector for such period of time as  
97 may be established by the board. Specimens of the exam-  
98 inations given, together with the correct solution of each  
99 question, shall be preserved permanently by the secretary  
100 of the board;

101 (6) Issue a letter or written notice of qualification to  
102 each successful eligible candidate;

103 (7) Hear and determine proceedings for the removal  
104 of mine inspectors in accordance with the provisions of  
105 this article;

106 (8) Hear and determine appeals of mine inspectors  
107 from suspension orders made by the director pursuant to  
108 the provisions of section four, article one of this chapter:  
109 *Provided*, That an aggrieved inspector, in order to appeal  
110 from any order of suspension, shall file such appeal in



111 writing with the mine inspectors' examining board not  
112 later than ten days after receipt of notice of suspension.  
113 On such appeal the board shall affirm the act of the direc-  
114 tor unless it be satisfied from a clear preponderance of the  
115 evidence that the director has acted arbitrarily;

116 (9) Make an annual report to the governor and the  
117 director concerning the administration of mine inspection  
118 personnel in the state service, making such recommenda-  
119 tions as the board considers to be in the public interest.

**CHAPTER 22C. ENVIRONMENTAL  
RESOURCES; BOARDS,  
AUTHORITIES, COMMISSIONS AND COMPACTS.**

**ARTICLE 7. OIL AND GAS INSPECTORS' EXAMINING BOARD.**

**§22C-7-3. Oil and gas inspectors' examining board created;  
composition; appointment, term and compensa-  
tion of members; meetings; powers and duties  
generally; continuation following audit.**

1 (a) There is hereby continued an oil and gas inspec-  
2 tors' examining board consisting of five members, two of  
3 whom shall be ex officio members and three of whom  
4 shall be appointed by the governor, by and with the advice  
5 and consent of the Senate. Appointed members may be  
6 removed only for the same causes and like manner as  
7 elective state officers. One member of the board who shall  
8 be the representative of the public at large and shall be a  
9 person who is knowledgeable about the subject matter of  
10 this article and has no direct or indirect financial interest  
11 in oil and gas production other than the receipt of royalty  
12 payments which do not exceed a five year average of six  
13 hundred dollars per year; one member shall be a person  
14 who by reason of previous training and experience may  
15 reasonably be said to represent the viewpoint of independ-  
16 ent oil and gas operators; and one member shall be a  
17 person who by reason of previous training and experience  
18 may reasonably be said to represent the viewpoint of ma-  
19 jor oil and gas producers.

20 The chief of the office of oil and gas of the division  
21 of environmental protection and the chief of the office of  
22 water resources of the division of environmental protec-  
23 tion shall be ex officio members.

24 The appointed members of the board shall be ap-  
25 pointed for overlapping terms of six years, except that the

26 original appointments shall be for terms of two, four and  
27 six years, respectively. Any member whose term expires  
28 may be reappointed by the governor.

29 The board shall pay each member the same compen-  
30 sation and expense reimbursement as is paid to members  
31 of the Legislature for their interim duties as recommended  
32 by the citizens legislative compensation commission and  
33 authorized by law for each day or portion thereof en-  
34 gaged in the discharge of official duties.

35 The chief of the office of oil and gas shall serve as  
36 chair of the board. The board shall elect a secretary from  
37 its members.

38 Members of the board, before performing any duty,  
39 shall take and subscribe to the oath required by section 5,  
40 article IV of the constitution of West Virginia.

41 The board shall meet at such times and places as shall  
42 be designated by the chair. It is the duty of the chair to  
43 call a meeting of the board on the written request of two  
44 members. Notice of each meeting shall be given in writ-  
45 ing to each member by the secretary at least five days in  
46 advance of the meeting. A majority of members is a quo-  
47 rum for the transaction of business.

48 (b) In addition to other powers and duties expressly  
49 set forth elsewhere in this article, the board shall:

50 (1) Establish, and from time to time revise, forms of  
51 application for employment as an oil and gas inspector  
52 and supervising inspector, which shall include the appli-  
53 cant's social security number, and forms for written exam-  
54 inations to test the qualifications of candidates, with such  
55 distinctions, if any, in the forms for oil and gas inspector  
56 and supervising inspector as the board may from time to  
57 time deem necessary or advisable;

58 (2) Adopt and promulgate reasonable rules relating  
59 to the examination, qualification and certification of can-  
60 didates for appointment, and relating to hearings for re-  
61 moval of inspectors or the supervising inspector, required  
62 to be held by this article. All of such rules shall be printed  
63 and a copy thereof furnished by the secretary of the board  
64 to any person upon request;

65 (3) Conduct, after public notice of the time and place  
66 thereof, examinations of candidates for appointment. By  
67 unanimous agreement of all members of the board, one or

68 more members of the board or an employee of the divi-  
69 sion of environmental protection may be designated to  
70 give to a candidate the written portion of the examination;

71 (4) Prepare and certify to the director of the division  
72 of environmental protection a register of qualified eligible  
73 candidates for appointment as oil and gas inspectors or as  
74 supervising inspectors, with such differentiation, if any,  
75 between the certification of candidates for oil and gas  
76 inspectors and for supervising inspectors as the board may  
77 from time to time deem necessary or advisable. The regis-  
78 ter shall list all qualified eligible candidates in the order of  
79 their grades, the candidate with the highest grade appear-  
80 ing at the top of the list. After each meeting of the board  
81 held to examine such candidates and at least annually, the  
82 board shall prepare and submit to the director of the divi-  
83 sion of environmental protection a revised and corrected  
84 register of qualified eligible candidates for appointment,  
85 deleting from such revised register all persons: (a) Who  
86 are no longer residents of West Virginia; (b) who have  
87 allowed a calendar year to expire without, in writing, indi-  
88 cating their continued availability for such appointment;  
89 (c) who have been passed over for appointment for three  
90 years; (d) who have become ineligible for appointment  
91 since the board originally certified that such persons were  
92 qualified and eligible for appointment; or (e) who, in the  
93 judgment of at least three members of the board, should  
94 be removed from the register for good cause;

95 (5) Cause the secretary of the board to keep and  
96 preserve the written examination papers, manuscripts,  
97 grading sheets and other papers of all applicants for ap-  
98 pointment for such period of time as may be established  
99 by the board. Specimens of the examinations given, to-  
100 gether with the correct solution of each question, shall be  
101 preserved permanently by the secretary of the board;

102 (6) Issue a letter or written notice of qualification to  
103 each successful eligible candidate;

104 (7) Hear and determine proceedings for the removal  
105 of inspectors or the supervising inspector in accordance  
106 with the provisions of this article;

107 (8) Hear and determine appeals of inspectors or the  
108 supervising inspector from suspension orders made by  
109 said director pursuant to the provisions of section two,  
110 article six, chapter twenty-two of this code: *Provided,*  
111 That in order to appeal from any order of suspension, an

112 aggrieved inspector or supervising inspector shall file such  
 113 appeal in writing with the oil and gas inspectors' examin-  
 114 ing board not later than ten days after receipt of the notice  
 115 of suspension. On such appeal the board shall affirm the  
 116 action of said director unless it be satisfied from a clear  
 117 preponderance of the evidence that said director has acted  
 118 arbitrarily;

119 (9) Make an annual report to the governor concern-  
 120 ing the administration of oil and gas inspection personnel  
 121 in the state service; making such recommendations as the  
 122 board considers to be in the public interest; and

123 (10) Render such advice and assistance to the direc-  
 124 tor of the division of environmental protection as the di-  
 125 rector shall from time to time determine necessary or  
 126 desirable in the performance of such duties.

127 (c) After having conducted a preliminary perfor-  
 128 mance review through its joint committee on government  
 129 operations, pursuant to article ten, chapter four of this  
 130 code, the Legislature hereby finds and declares that the oil  
 131 and gas inspectors' examining board within the division  
 132 of environmental protection should be continued and  
 133 reestablished. Accordingly, notwithstanding the provi-  
 134 sions of said article, the oil and gas inspectors' examining  
 135 board within the division of environmental protection shall  
 136 continue to exist until the first day of July, two thousand.

## CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

### ARTICLE 3B. SUPERVISION OF ELECTRICIANS.

**§29-3B-4. Licenses; classes of licenses; issuance of licenses by commissioner; qualifications required for license; nontransferability and nonassignability of licenses; expiration of license; renewal; reciprocity.**

1 (a) The following four classes of license may be  
 2 issued by the state fire marshal: "Master electrician li-  
 3 cense," "journeyman electrician's license," "apprentice  
 4 electrician license" and "temporary electrician license."  
 5 Additional classes of specialty electrician license may be  
 6 issued by the state fire marshal.

7 (b) The state fire marshal shall issue the appropriate  
 8 class of license to a person, firm or corporation upon a

9 finding that such person, firm or corporation possesses the  
10 qualifications for the class of license to be issued.

11 (c) The qualifications for each class of license to be  
12 issued are as follows:

13 (1) For a "master electrician license" a person must  
14 have five years of experience in electrical work of such  
15 breadth, independence and quality that such work indi-  
16 cates that the applicant is competent to perform all types  
17 of electrical work and can direct and instruct journeyman  
18 electricians and apprentice electricians in the performance  
19 of electrical work. Such applicant, or a member of a firm  
20 or an officer of a corporation if the applicant be a firm or  
21 corporation, must also pass the master electrician examina-  
22 tion given by the state fire marshal with a grade of eighty  
23 percent correct or better;

24 (2) For a "journeyman electrician's license," a per-  
25 son must have at least four years of experience in per-  
26 forming electrical work under the direction or instruction  
27 of a master electrician or must have completed a formal  
28 apprentice program, or an electrical vocational education  
29 program of at least one thousand eighty hours in length  
30 and approved by the state board of education or its suc-  
31 cessor, providing actual electrical work experience and  
32 training conducted by one or more master electricians.  
33 Such applicant must also pass the journeyman electri-  
34 cian's examination given by the state fire marshal with a  
35 grade of eighty percent correct or better;

36 (3) For an "apprentice electrician license," a person  
37 must pass the apprentice electrician's examination given  
38 by the state fire marshal with a grade of eighty percent  
39 correct or better or be enrolled in an electrical apprentice  
40 program approved by the state fire marshal;

41 (4) A one time temporary master or journeyman  
42 electrician license of ninety-days duration may be issued  
43 to an applicant providing the applicant has completed a  
44 United States department of labor/bureau of apprentice-  
45 ship and training registered electrical apprenticeship pro-  
46 gram, or an electrical vocational education program of at  
47 least one thousand eighty hours in length and approved  
48 by the state board of education or its successor, and have  
49 at least four years of experience in performing electrical  
50 work and furnishes the state fire marshal with satisfactory  
51 evidence of electrical work;

52 (5) Other specialty electrician license may be issued  
53 by the state fire marshal which limits the work in a limited  
54 area of expertise. Such applicant must pass the specialty  
55 electrician's examination given by the state fire marshal  
56 with a grade of eighty percent correct or better.

57 (d) (1) Certificates of license for a master electrician's  
58 license issued by the state fire marshal shall specify  
59 the name of the person, firm or corporation so qualifying  
60 and the name of the person, who in the case of a firm shall  
61 be one of its members and in the case of a corporation  
62 shall be one of its officers, passing the master electrician  
63 examination.

64 (2) Licenses issued to electricians shall specify the  
65 name of the person who is thereby authorized to perform  
66 electrical work or, in the case of apprentice electricians, to  
67 work with other classes of electricians to perform electrical  
68 work.

69 (e) No license issued under this article is assignable  
70 or transferable.

71 (f) All licenses issued by the state fire marshal shall  
72 expire on the thirtieth day of June following the year of  
73 issue or renewal.

74 (g) (1) Each expiring license may be renewed with-  
75 out need for examination and without limit as to the num-  
76 ber of times renewed, for the same class of license previ-  
77 ously issued and for the same person, firm or corporation  
78 to whom it was originally issued upon payment to the state  
79 fire marshal of a renewal fee of fifty dollars if such appli-  
80 cation for renewal and payment of such fee is made be-  
81 fore the date of expiration of the license.

82 (2) In the case of a failure to renew a license on or  
83 before the thirtieth day of June the person named in the  
84 license may, upon payment of the renewal fee and an  
85 additional fee of fifteen dollars, receive from the state fire  
86 marshal a deferred renewal of such license which shall  
87 expire on the thirtieth day of June in the ensuing year.  
88 No person, firm or corporation may perform electrical  
89 work upon expiration of such person's, firm's or corpora-  
90 tion's license until a deferred renewal for such license is  
91 issued by the state fire marshal even if such person, firm  
92 or corporation has applied for the deferred renewal of  
93 such license.

94 (h) To the extent that other jurisdictions provide for  
95 the licensing of electricians, the state fire marshal may  
96 grant the same or equivalent classification of license with-  
97 out written examination upon satisfactory proof furnished  
98 to the state fire marshal that the qualifications of such  
99 applicant are equal to the qualifications required by this  
100 article and upon payment of the required fee: *Provided*,  
101 That as a condition to reciprocity, the other jurisdictions  
102 must extend to licensed electricians of this state, the same  
103 or equivalent classification.

104 (i) In addition to any other information required, the  
105 applicant's social security number shall be recorded on  
106 any application for a license submitted pursuant to the  
107 provisions of this section.

### CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

#### ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REG- ISTRATION REFERRED TO IN CHAPTER.

##### §30-1-6. Application for license or registration; examination fee.

1 (a) Every applicant for license or registration under  
2 the provisions of this chapter shall apply for such license  
3 or registration in writing to the proper board and shall  
4 transmit with his or her application an examination fee  
5 which the board is authorized to charge for an examina-  
6 tion or investigation into the applicant's qualifications to  
7 practice.

8 (b) Each board referred to in this chapter is autho-  
9 rized to establish by rule a deadline for application for  
10 examination which shall be no less than ten nor more than  
11 ninety days prior to the date of the examination.

12 (c) Boards may set by rule fees relating to the licens-  
13 ing or registering of individuals, which shall be sufficient  
14 to enable the boards to carry out effectively their responsi-  
15 bilities of licensure or registration and discipline of indi-  
16 viduals subject to their authority: *Provided*, That when  
17 any board proposes to promulgate a rule regarding fees  
18 for licensing or registration, that board shall notify its  
19 membership of the proposed rule by mailing a copy of  
20 the proposed rule to the membership at the time that the  
21 proposed rule is filed with the secretary of state for publi-  
22 cation in the state register in accordance with section five,  
23 article three, chapter twenty-nine-a of this code.

24 (d) In addition to any other information required, the  
 25 applicant's social security number shall be recorded on  
 26 the application.

**§30-1-13. Roster of licensed or registered practitioners.**

1 The secretary of every such board shall also prepare  
 2 and maintain a complete roster of the names, social securi-  
 3 ty numbers and office addresses of all persons licensed, or  
 4 registered, and practicing in this state the profession or  
 5 occupation to which such board relates, arranged alpha-  
 6 betically by name and also by the counties in which their  
 7 offices are situated. The board may call for and require a  
 8 registration whenever it deems it necessary or expedient to  
 9 secure an accurate roster.

**CHAPTER 33. INSURANCE.**

**ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINES.**

**§33-12-3. Application.**

1 (a) Application for an agent's, broker's or solicitor's  
 2 license or renewal thereof shall be made to the commis-  
 3 sioner upon a form prescribed by him and shall contain  
 4 the applicant's name, social security number and such  
 5 information and supporting documents as the commis-  
 6 sioner may require, and the commissioner may require  
 7 such application to be made under the applicant's oath.

8 (b) If for an agent's license, the application shall  
 9 show the kinds of insurance to be transacted, and shall be  
 10 accompanied by the written appointment of the applicant  
 11 as agent by at least one licensed insurer for each kind of  
 12 insurance for which application is made.

13 (c) If for a solicitor's license, the application shall be  
 14 accompanied by written appointment of the applicant as  
 15 solicitor by a licensed agent.

16 (d) If for a broker's license, the application shall be  
 17 accompanied by a statement upon a form prescribed by  
 18 the commissioner as to the trustworthiness and competen-  
 19 cy of the applicant, signed by at least three licensed resi-  
 20 dent agents of this state.

21 (e) Wilful misrepresentation of any fact in any such  
 22 application or any documents in support thereof is a viola-  
 23 tion of this chapter.



**CHAPTER 37. REAL PROPERTY.**

**ARTICLE 14. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.**

**§37-14-9. Applications for license.**

1           An individual who desires to engage in real estate  
2 appraisal activity in this state shall make application for a  
3 license, in writing, in such form as the board may pre-  
4 scribe. In addition to any other information required, the  
5 applicant's social security number shall be recorded on  
6 the application.

7           To assist the board in determining whether grounds  
8 exist to deny the issuance of a license to an applicant, the  
9 board may require the fingerprinting of every applicant  
10 for an original license.

**CHAPTER 47. REGULATION OF TRADE.**

**ARTICLE 12. REAL ESTATE COMMISSION, BROKERS AND SALESPERSONS.**

**§47-12-5. Applications for licenses.**

1           Every applicant for a real estate broker's license shall  
2 apply therefor in writing upon blanks prepared by the  
3 commission which shall contain the applicant's social  
4 security number and such other data and information as  
5 the commission shall require.

6           (a) Such application for broker's license shall be  
7 accompanied by the recommendation of at least two citi-  
8 zens who are property owners at the time of signing said  
9 application and have been property owners for at least  
10 twelve months preceding such application, who have  
11 known the applicant for two years and are not related to  
12 the applicant, certifying that the applicant bears a good  
13 reputation for honesty and trustworthiness, and recom-  
14 mending that a license be granted to the applicant.

15           (b) Every applicant for a salesperson's license shall  
16 apply therefor in writing upon blanks prepared by the  
17 commission which shall contain the applicant's social  
18 security number such other data and information as the  
19 commission may require. The application shall be accom-  
20 panied by a sworn statement by the broker in whose em-  
21 ploy the applicant desires to enter, certifying that, in his or

22 her opinion, the applicant is honest and trustworthy, and  
 23 recommending the license be granted to the applicant.

**CHAPTER 48A. ENFORCEMENT OF  
 FAMILY OBLIGATIONS.**

**ARTICLE 1A. ENFORCEMENT OF FAMILY OBLIGATIONS.**

**§48A-1A-30. Support order.**

1           “Support order” means a judgment, decree, or or-  
 2 der, whether temporary, final, or subject to modification,  
 3 issued by a court or an administrative agency of compe-  
 4 tent jurisdiction, for the support and maintenance of a  
 5 child, including a child who has attained the age of major-  
 6 ity under the law of the issuing state, or a child and the  
 7 parent with whom the child is living, which provides for  
 8 monetary support, health care, arrearage, or reimburse-  
 9 ments, and which may include related costs and fees, inter-  
 10 est and penalties, income withholding, attorneys’ fees, and  
 11 other relief.

**ARTICLE 2. WEST VIRGINIA SUPPORT ENFORCEMENT COM-  
 MISSION; CHILD SUPPORT ENFORCEMENT  
 DIVISION; ESTABLISHMENT AND ORGANIZA-  
 TION.**

**§48A-2-31. Providing information to consumer reporting  
 agencies.**

1           (a) For purposes of this section, the term “consumer  
 2 reporting agency” means any person who, for monetary  
 3 fees, dues, or on a cooperative nonprofit basis, regularly  
 4 engages, in whole or in part, in the practice of assembling  
 5 or evaluating consumer credit information or other infor-  
 6 mation on consumers for the purpose of furnishing con-  
 7 sumer reports to third parties.

8           (b) The commission shall propose and adopt a pro-  
 9 cedural rule in accordance with the provisions of sections  
 10 four and eight, article three, chapter twenty-nine-a of this  
 11 code, establishing procedures whereby information re-  
 12 garding the amount of overdue support owed by an obli-  
 13 gor will be reported periodically by the child support  
 14 enforcement division to any consumer reporting agency,  
 15 after a request by the consumer reporting agency that it be  
 16 provided with the periodic reports.

17           (c) The procedural rule adopted by the commission  
 18 shall provide that any information with respect to an obli-  
 19 gor shall be made available only after notice has been sent

20 to the obligor of the proposed action, and such the obligor  
21 has been given a reasonable opportunity to contest the  
22 accuracy of the information.

23 (d) The procedural rule adopted shall afford the  
24 obligor with procedural due process prior to making in-  
25 formation available with respect to the obligor.

26 (e) The information made available to a consumer  
27 reporting agency regarding overdue support may only be  
28 made available to an entity that has furnished evidence  
29 satisfactory to the division that the entity is a consumer  
30 reporting agency as defined in subsection (a) of this sec-  
31 tion.

32 (f) The child support enforcement division may  
33 impose a fee for furnishing such information, not to ex-  
34 ceed the actual cost thereof.

**§48A-2-32. Establishment of central state case registry.**

1 (a) The child support enforcement division shall  
2 establish and maintain a central state case registry of child  
3 support orders. All orders in cases when any party re-  
4 ceives any service provided by the child support enforce-  
5 ment division shall be included in the registry. Any other  
6 support order entered or modified in this state on or after  
7 the first day of October, one thousand nine hundred nine-  
8 ty-eight shall be included in the registry. The child sup-  
9 port enforcement division, upon receipt of any informa-  
10 tion regarding a new hire provided pursuant to section  
11 three, article five of this chapter shall compare information  
12 received to determine if the new hire's income is subject  
13 to wage withholding and notify the employer pursuant to  
14 that section.

**§48A-2-33. Subpoenas.**

1 In order to obtain financial and medical insurance  
2 information pursuant to the establishment, enforcement  
3 and modification provisions set forth in this chapter or  
4 chapter forty-eight of this code, the child support enforce-  
5 ment division may serve, by certified mail or personal  
6 service, an administrative subpoena on any person, corpo-  
7 ration, partnership, financial institution, labor organization  
8 or state agency, for an appearance or for production of  
9 financial or medical insurance information. In case of  
10 disobedience to the subpoena, the child support enforce-  
11 ment division may invoke the aid of any circuit court in  
12 requiring the appearance or production of records and

13 financial documents. The child support enforcement  
14 division may assess a civil penalty of no more than one  
15 hundred dollars for the failure of any person, corporation,  
16 financial institution, labor organization or state agency to  
17 comply with requirements of this section.

**§48A-2-33a. Nonliability for financial institutions providing  
financial records to the division of child sup-  
port enforcement.**

1 (a) Notwithstanding any other provision of this code,  
2 a financial institution shall not be liable under the law of  
3 this state to any person for disclosing any financial record  
4 of an individual to the division of child support enforce-  
5 ment in response to a subpoena issued by the division  
6 pursuant to section thirty-three of this article.

7 (b) The division of child support enforcement, after  
8 obtaining a financial record of an individual from a finan-  
9 cial institution may disclose such financial record only for  
10 the purpose of, and to the extent necessary in, establishing,  
11 modifying, or enforcing a child support obligation of  
12 such individual.

13 (c) The civil liability of a person who knowingly, or  
14 by reason of negligence, discloses a financial record of an  
15 individual in violation of subsection (b) of this section is  
16 governed by the provisions of federal law as set forth in  
17 42 U.S.C. §669A.

18 (d) For purposes of this section the term "financial  
19 institution" means:

20 (1) Any bank or savings association;

21 (2) A person who is an institution-affiliated party, as  
22 that term is defined in the federal deposit insurance act, 12  
23 U.S.C. 1813(u);

24 (3) Any federal credit union or state-chartered credit  
25 union, including an institution-affiliated party of a credit  
26 union; and

27 (4) Any benefit association, insurance company, safe  
28 deposit company, money-market mutual fund, or similar  
29 entity authorized to do business in this state.

30 (e) For purposes of this section, the term "financial  
31 record" means an original of, a copy of, or information  
32 known to have been derived from, any record held by a

33 financial institution pertaining to a customer's relationship  
34 with the financial institution.

**§48A-2-34. Employment and income reporting.**

1 (a) Except as provided in subsections (b) and (c) of  
2 this section, all employers doing business in the state of  
3 West Virginia shall report to the child support enforce-  
4 ment division:

5 (1) The hiring of any person who resides or works in  
6 this state to whom the employer anticipates paying earn-  
7 ings; and

8 (2) The rehiring or return to work of any employee  
9 who resides or works in this state.

10 (b) Employers are not required to report the hiring,  
11 rehiring or return to work of any person who:

12 (1) Is employed for less than one month's duration;  
13 or

14 (2) Is employed sporadically so that the employee  
15 will be paid for less than three hundred fifty hours during  
16 a continuous six-month period; or

17 (3) Has gross earnings of less than three hundred  
18 dollars per month.

19 (c) The commission may establish additional exemp-  
20 tions to reduce unnecessary or burdensome reporting  
21 through promulgation of a legislative rule pursuant to  
22 chapter twenty-nine-a of this code.

23 (d) Employers shall report by mailing to the child  
24 support enforcement division a copy of the employee's  
25 W-4 form. However, an employer may transmit such  
26 information through another means if approved in writing  
27 by the child support enforcement division prior to the  
28 transmittal.

29 (e) Employers shall submit a report within fourteen  
30 days of the date of the hiring, rehiring or return to work  
31 of the employee. The report shall include the employee's  
32 name, address, social security number and date of birth  
33 and the employer's name and address, any different ad-  
34 dress of the payroll office and the employer's federal tax  
35 identification number.

36 (f) An employer of an obligor shall provide to the  
37 child support enforcement division, upon its written re-

38 quest, information regarding the obligor's employment,  
 39 wages or salary, medical insurance and location of em-  
 40 ployment.

41 (g) Any employer who fails to report in accordance  
 42 with the provisions of this section shall be assessed a civil  
 43 penalty of no more than twenty dollars. If the failure to  
 44 report is the result of a conspiracy between the employer  
 45 and the employee to not supply the required report or to  
 46 supply a false or incomplete report, the employer shall be  
 47 assessed a civil penalty of no more than three hundred  
 48 fifty dollars.

49 (h) Employers required to report under this section  
 50 may assess each employee so reported one dollar for the  
 51 administrative costs of reporting.

**ARTICLE 5A. ENFORCEMENT OF SUPPORT ORDER THROUGH  
 ACTION AGAINST LICENSE.**

**§48A-5A-1. Definitions.**

1 For purposes of this article, the words or terms de-  
 2 fined in this section have the meanings ascribed to them.  
 3 These definitions are applicable unless a different mean-  
 4 ing clearly appears from the context.

5 (1) "Action against a license" means action taken  
 6 by the child support enforcement division to cause the  
 7 denial, nonrenewal, suspension or restriction of a license  
 8 applied for or held by (A) a support obligor owing over-  
 9 due support, or (B) a person who has failed to comply  
 10 with subpoenas or warrants relating to paternity or child  
 11 support proceedings;

12 (2) "License" means a license, permit, certificate of  
 13 registration, registration, credential, stamp or other indicia  
 14 that evidences a personal privilege entitling a person to do  
 15 an act that he or she would otherwise not be entitled to do,  
 16 or evidences a special privilege to pursue a profession,  
 17 trade, occupation, business or vocation.

**§48A-5A-2. Licenses subject to action.**

1 The following licenses are subject to an action  
 2 against a license as provided for in this article:

3 (1) A permit or license issued under chapter seven-  
 4 teen-b of this code, authorizing a person to drive a motor  
 5 vehicle;

- 6           (2) A commercial driver's license, issued under  
7 chapter seventeen-e of this code, authorizing a person to  
8 drive a class of commercial vehicle;
- 9           (3) A permit, license or stamp issued under article  
10 two or two-b, chapter twenty of this code, regulating a  
11 person's activities for wildlife management purposes,  
12 authorizing a person to serve as an outfitter or guide, or  
13 authorizing a person to hunt or fish;
- 14           (4) A license or registration issued under chapter  
15 thirty of this code, authorizing a person to practice or  
16 engage in a profession or occupation;
- 17           (5) A license issued under article twelve, chapter  
18 forty-seven of this code, authorizing a person to transact  
19 business as a real estate broker or real estate salesperson;
- 20           (6) A license or certification issued under article  
21 fourteen, chapter thirty-seven of this code, authorizing a  
22 person to transact business as a real estate appraiser;
- 23           (7) A license issued under article twelve, chapter  
24 thirty-three of this code, authorizing a person to transact  
25 insurance business as an agent, broker or solicitor;
- 26           (8) A registration made under article two, chapter  
27 thirty-two of this code, authorizing a person to transact  
28 securities business as a broker-dealer, agent or investment  
29 advisor;
- 30           (9) A license issued under article twenty-two, chapter  
31 twenty-nine of this code, authorizing a person to transact  
32 business as a lottery sales agent;
- 33           (10) A license issued under articles thirty-two or  
34 thirty-four, chapter sixteen of this code, authorizing per-  
35 sons to pursue a trade or vocation in asbestos abatement or  
36 radon mitigation;
- 37           (11) A license issued under article eleven, chapter  
38 twenty-one of this code, authorizing a person to act as a  
39 contractor;
- 40           (12) A license issued under article two-c, chapter  
41 nineteen of this code, authorizing a person to act as a  
42 auctioneer; and
- 43           (13) A license, permit or certificate issued under  
44 chapter nineteen of this code, authorizing a person to sell,  
45 market or distribute agricultural products or livestock.

**§48A-5A-3. Action against license; notice to licensee.**

1 (a) The child support enforcement division shall  
2 send a written notice of an action against a license to a  
3 person who:

4 (1) Owes overdue child support, if the child support  
5 arrearage equals or exceeds the amount of child support  
6 payable for six months;

7 (2) Has failed for a period of six months to pay  
8 medical support ordered under section fifteen-a, article  
9 two, chapter forty-eight of this code; or

10 (3) Has failed, after appropriate notice, to comply  
11 with subpoenas or warrants relating to paternity or child  
12 support proceedings.

13 (b) In the case of overdue child support or noncom-  
14 pliance with a medical support order, notice of an action  
15 against a license shall be served only if other statutory  
16 enforcement methods to collect the support arrearage have  
17 been exhausted or are not available.

18 (c) The division shall send a notice of action against  
19 a license by regular mail and by certified mail, return  
20 receipt requested, to the person's last-known address or  
21 place of business or employment. Simultaneous certified  
22 and regular mailing of the written notice shall constitute  
23 effective service unless the United States Postal Service  
24 returns the mail to the child support enforcement division  
25 within the thirty-day response period marked "moved,  
26 unable to forward," "addressee not known," "no such  
27 number/street," "insufficient address," or "forwarding  
28 order expired." If the certified mail is returned for any  
29 other reason without the return of the regular mail, the  
30 regular mail service shall constitute effective service. If  
31 the mail is addressed to the person at his or her place of  
32 business or employment, with postal instructions to deliver  
33 to addressee only, service will be deemed effective only if  
34 the signature on the return receipt appears to be that of the  
35 person. Acceptance of the certified mail notice signed by  
36 the person, the person's attorney, or a competent member  
37 of the person's household above the age of sixteen shall  
38 be deemed effective service.

39 (d) The notice shall be substantially in the following  
40 form:



| <b>NOTICE OF ACTION AGAINST LICENSE</b>  |   |          |
|--|---|----------|
| Name and address:  | Date:   | Case No: |
|  | Social Security No:                             |          |
|  | Circuit Court of _____ County,<br>West Virginia |          |
| <b>Section 1.</b>  |   |          |
| <input type="checkbox"/> The child support enforcement division has determined that you have failed to comply with an order to pay child support, and that the amount you owe equals six months child support or more. The amount you owe is calculated to be \$ _____ as of the _____ day of _____, _____.  |   |          |
| <input type="checkbox"/> The child support enforcement division has determined that you have failed to comply with a medical support order for a period of six months. The amount you owe is calculated to be \$ _____ as of the _____ day of _____, _____.  |   |          |
| <input type="checkbox"/> The child support enforcement division has determined that you have failed to comply with a medical support order requiring you to obtain health insurance for your child or children.  |   |          |
| <input type="checkbox"/> The child support enforcement division has determined that you have failed to comply with a subpoena or warrant relating to a paternity or child support proceeding.  |   |          |
| <b>Section 2.</b>  |   |          |
| Under West Virginia law, your failure to comply as described in Section 1 may result in an action against certain licenses issued to you by the State of West Virginia. Action may be taken against a driver's license, a recreational license such as a hunting and fishing license, and a professional or occupational license necessary for you to work. An application for a license may be denied. A renewal of a license may be refused. A license which you currently hold may be suspended or restricted in its use. |   |          |
| The Child Support Enforcement Division has determined that you are a current license holder, have applied for, or are likely to apply for the following license or licenses:   |   |          |
| _____<br>_____   |   |          |
| <b>To avoid an action against your licenses, check which of the following actions you will take:</b>   |   |          |
| <input type="checkbox"/> I want to pay in full the overdue amount I owe as child support. I am enclosing a check or order in the amount of \$ _____.   |   |          |
| <input type="checkbox"/> I want pay in full the amount I owe as medical support. I am enclosing a check or money order in the amount of \$ _____.  |   |          |
| <input type="checkbox"/> I am requesting a meeting with a representative of the Child Support Enforcement Division to arrange a payment plan that will allow me to make my current payments as they become due and to pay on the arrearage I owe or to otherwise bring me into compliance with current support orders.   |   |          |
| <input type="checkbox"/> I am requesting a hearing before the family law master or circuit judge to contest an action against my licenses. Please serve me with any petition filed, and provide me with notice of the time and place of the hearing.   |   |          |
| Signed X _____ Date: _____   |   |          |
| <b>Section 3.</b>  |   |          |
| You must check the appropriate box or boxes in Section 2, sign your name and mail this form to the Child Support Enforcement Division before the _____ day of _____, _____. Otherwise, the Child Support Enforcement Division may begin an action against your licenses in the Circuit Court without further notice to you. Mail this form to the following address:   |   |          |

41 (e) The notice shall advise the person that further  
42 failure to comply may result in an action against licenses  
43 held by the person, and that any pending application for a  
44 license may be denied, renewal of a license may be re-  
45 fused, or an existing license may be suspended or restrict-  
46 ed unless, within thirty days of the date of the notice, the  
47 person pays the full amount of the child support arrearage  
48 or the medical support arrearage, makes a request for a  
49 meeting with a representative of the child support enforce-  
50 ment division to arrange a payment plan or to otherwise  
51 arrange compliance with existing support orders, or makes  
52 a request for a court hearing to the child support enforce-  
53 ment division. An action against a license shall be termi-  
54 nated if the person pays the full amount of the child sup-  
55 port arrearage or medical support arrearage, or provides  
56 proof that health insurance for the child has been obtained  
57 as required by a medical support order or enters into a  
58 written plan with the child support enforcement division  
59 for the payment of current payments and payment on the  
60 arrearage.

61 (f) If the person fails to take one of the actions de-  
62 scribed in subsection (e) of this section within thirty days  
63 of the date of the notice and there is proof that service on  
64 the person was effective, the child support enforcement  
65 division shall file a certification with the circuit court set-  
66 ting forth the person's noncompliance with the support  
67 order or failure to comply with a subpoena or warrant and  
68 the person's failure to respond to the written notice of the  
69 potential action against his or her license. If the circuit  
70 court is satisfied that service of the notice on the person  
71 was effective as set forth in this section, it shall without  
72 need for further due process or hearing, enter an order  
73 suspending or restricting any licenses held by the person.  
74 Upon the entry of the order, the child support enforce-  
75 ment division shall forward a copy to the person and to  
76 any appropriate agencies responsible for the issuance of a  
77 license.

78 (g) If the person requests a hearing, the child support  
79 enforcement division shall file a petition for a judicial  
80 hearing before the family law master. The hearing shall  
81 occur within forty-two days of the receipt of the person's  
82 request. If, prior to the hearing, the person pays the full  
83 amount of the child support arrearage or medical support  
84 arrearage or provides health insurance as ordered, the  
85 action against a license shall be terminated. No action

86 against a license shall be initiated if the child support en-  
87 forcement division has received notice that the person has  
88 pending a motion to modify the child support order, if  
89 that motion was filed prior to the date that the notice of  
90 the action against the license was sent by the child support  
91 enforcement division. The court shall consider the child  
92 support enforcement division's petition to deny, refuse to  
93 renew, suspend or restrict a license in accordance with  
94 section four of this article.

**§48A-5A-4. Hearing on denial, nonrenewal, suspension or  
restriction of license.**

1 (a) The court shall order a licensing authority to  
2 deny, refuse to renew, suspend or restrict a license if it  
3 finds that:

4 (1) All appropriate enforcement methods have been  
5 exhausted or are not available;

6 (2) The person is the holder of a license or has an  
7 application pending for a license;

8 (3) The requisite amount of child support or medical  
9 support arrearage exists or health insurance for the child  
10 has not been provided as ordered, or the person has failed  
11 to comply with a subpoena or warrant relating to a pater-  
12 nity or child support proceeding;

13 (4) No motion to modify the child support order,  
14 filed prior to the date that the notice was sent by the child  
15 support enforcement division, is pending before the court;  
16 and

17 (5) There is no equitable reason, such as involuntary  
18 unemployment, disability, or compliance with a  
19 court-ordered plan for the periodic payment of the child  
20 support arrearage amount, for the person's non compli-  
21 ance with the child support order.

22 (b) If the court is satisfied that the conditions de-  
23 scribed in subsection (a) of this section exist, it shall first  
24 consider suspending or restricting a driver's license prior  
25 to professional license. If the person fails to appear at the  
26 hearing after being properly served with notice, the court  
27 shall order the suspension of all licenses held by the per-  
28 son.

29 (c) If the court finds that a license suspension will  
30 result in a significant hardship to the person, to the per-

31 son's legal dependents under eighteen years of age living  
32 in the person's household, to the person's employees, or  
33 to persons, businesses or entities to whom the person pro-  
34 vides goods or services, the court may allow the person to  
35 pay a percentage of the past-due child support amount as  
36 an initial payment, and establish a payment schedule to  
37 satisfy the remainder of the arrearage within one year, and  
38 require that the person comply with any current child  
39 support obligation. If the person agrees to this arrange-  
40 ment, no suspension or restriction of any licenses shall be  
41 ordered. Compliance with the payment agreement shall  
42 be monitored by the child support enforcement division.

43 (d) If a person has good cause for not complying  
44 with the payment agreement within the time permitted, the  
45 person shall immediately file a motion with the court and  
46 the child support enforcement division requesting an ex-  
47 tension of the payment plan. The court may extend the  
48 payment plan if it is satisfied that the person has made a  
49 good faith effort to comply with the plan and is unable to  
50 satisfy the full amount of past-due support within the time  
51 permitted due to circumstances beyond the person's con-  
52 trol. If the person fails to comply with the court-ordered  
53 payment schedule, the court shall, upon receipt of a certif-  
54 ication of noncompliance from the child support enforce-  
55 ment division, and without further hearing, order the im-  
56 mediate suspension or restriction of all licenses held by  
57 the person.

**§48A-5A-5. Enforcement of order by licensing authority.**

1 (a) The child support enforcement division shall  
2 provide the licensing authority with a copy of the order  
3 requiring the denial, nonrenewal, suspension or restriction  
4 of a license. Upon receipt of an order requiring the sus-  
5 pension or restriction of a license for nonpayment of child  
6 support, the licensing authority shall immediately notify  
7 the applicant or licensee of the effective date of the denial,  
8 nonrenewal, suspension or limitation, which shall be twenty  
9 days after the date of the notice, direct any licensee to  
10 refrain from engaging in the activity associated with the  
11 license, surrender any license as required by law, and in-  
12 form the applicant or licensee that the license shall not be  
13 approved, renewed or reinstated until the court or child  
14 support enforcement division certifies compliance with  
15 court orders for the payment of current child support and  
16 arrearage. The child support enforcement division, in

17 association with the affected licensing authorities, may  
18 develop electronic or magnetic tape data transfers to noti-  
19 fy licensing authorities of denials, nonrenewals, suspen-  
20 sions and reinstatements. No liability shall be imposed on  
21 a licensing authority for suspending or restricting a license  
22 if the action is in response to a court order issued in accor-  
23 dance with this article. Licensing authorities shall not have  
24 jurisdiction to modify, remand, reverse, vacate or stay a  
25 court order to deny, not renew, suspend or restrict a li-  
26 cense for nonpayment of child support.

27 (b) The denial, nonrenewal, suspension or restriction  
28 of a license ordered by the court shall continue until the  
29 child support enforcement division files with the licensing  
30 authority either a court order restoring the license or a  
31 child support enforcement division certification attesting  
32 to compliance with court orders for the payment of cur-  
33 rent child support and arrearage.

34 (c) Each licensing authority shall require license  
35 applicants to certify on the license application form, under  
36 penalty of false swearing, that the applicant does not have  
37 a child support obligation, the applicant does have such an  
38 obligation but any arrearage amount does not equal or  
39 exceed the amount of child support payable for six  
40 months, or the applicant is not the subject of a  
41 child-support related subpoena or warrant. A license shall  
42 not be granted to any person who applies for a license if  
43 there is an arrearage equal to or exceeding the amount of  
44 child support payable for six months or if it is determined  
45 that the applicant has failed to comply with a warrant or  
46 subpoena in a paternity or child support proceeding. The  
47 application form shall state that making a false statement  
48 may subject the license holder to disciplinary action in-  
49 cluding, but not limited to, immediate revocation or sus-  
50 pension of the license.

51 (d) The provisions of this article apply to all orders  
52 issued before or after the enactment of this article. All  
53 child support, medical support and health insurance provi-  
54 sions in existence on or before the effective date of this  
55 article shall be included in determining whether a case is  
56 eligible for enforcement. This article applies to all child  
57 support obligations ordered by any state, territory or dis-  
58 trict of the United States that are being enforced by the  
59 child support enforcement division, that are payable di-  
60 rectly to the obligee, or have been registered in this State

61 in accordance with the uniform interstate family support  
62 act.

**§48A-5A-6. Procedure where license to practice law may be subject to denial, suspension or restriction.**

1 If a person who has been admitted to the practice of  
2 law in this State by order of the supreme court of appeals  
3 is determined to be in default under a support order or has  
4 failed to comply with a subpoena or warrant in a paternity  
5 or child support proceeding, such that his or her other  
6 licenses are subject to suspension or restriction under this  
7 article, the child support enforcement division may send a  
8 notice listing the name and social security number or  
9 other identification number to the lawyer disciplinary  
10 board established by the supreme court of appeals. The  
11 Legislature hereby requests the supreme court of appeals  
12 to promptly adopt rules pursuant to its constitutional au-  
13 thority to govern the practice of law that would include as  
14 attorney misconduct for which an attorney may be disci-  
15 plined, situations in which a person licensed to practice law  
16 in West Virginia has been determined to be in default  
17 under a support order or has failed to comply with a sub-  
18 poena or warrant in a paternity or child support proceed-  
19 ing.

**§48A-5A-7. Effect of determination as to authority of federal government to require denials, suspensions or restrictions of licenses.**

1 The provisions of this article have been enacted to  
2 conform to the mandates of the federal "Personal Re-  
3 sponsibility and Work Opportunity Reconciliation Act of  
4 1996". If a court of competent jurisdiction should deter-  
5 mine, or if it is otherwise determined that the federal gov-  
6 ernment lacked authority to mandate the license denials,  
7 nonrenewals, suspensions or restrictions contemplated by  
8 this article, then the provisions of this article shall be null  
9 and void and of no force and effect.

**ARTICLE 6. ESTABLISHMENT OF PATERNITY.**

**§48A-6-3. Medical testing procedures to aid in the determination of paternity.**

1 (a) Prior to the commencement of an action for the  
2 establishment of paternity, the child support enforcement  
3 division may order the mother, her child and the man to  
4 submit to genetic tests to aid in proving or disproving

5 paternity. The division may order the tests upon the re-  
6 quest of a party, supported by a sworn statement. If the  
7 request is made by a party alleging paternity, the statement  
8 shall set forth facts establishing a reasonable possibility of  
9 requisite sexual contact between the parties. If the request  
10 is made by a party denying paternity, the statement may  
11 set forth facts establishing a reasonable possibility of the  
12 nonexistence of sexual contact between the parties or  
13 other facts supporting a denial of paternity. If genetic  
14 testing is not performed pursuant to an order of the child  
15 support enforcement division, the court may, on its own  
16 motion, or shall upon the motion of any party, order such  
17 tests. A request or motion may be made upon ten days'  
18 written notice to the mother and alleged father, without the  
19 necessity of filing a complaint. When the tests are or-  
20 dered, the court or the division shall direct that the inher-  
21 ited characteristics, including, but not limited to, blood  
22 types be determined by appropriate testing procedures at a  
23 hospital, independent medical institution or independent  
24 medical laboratory duly licensed under the laws of this  
25 state, or any other state, and an expert qualified as an ex-  
26 aminer of genetic markers shall analyze, interpret and  
27 report on the results to the court or to the division of child  
28 support enforcement. The results shall be considered as  
29 follows:

30 (1) Blood or tissue test results which exclude the man  
31 as the father of the child are admissible and shall be clear  
32 and convincing evidence of nonpaternity and, if a com-  
33 plaint has been filed, the court shall, upon considering  
34 such evidence, dismiss the action.

35 (2) Blood or tissue test results which show a statistical  
36 probability of paternity of less than ninety-eight percent  
37 are admissible and shall be weighed along with other evi-  
38 dence of the defendant's paternity.

39 (3) Undisputed blood or tissue test results which  
40 show a statistical probability of paternity of more than  
41 ninety-eight percent shall, when filed, legally establish the  
42 man as the father of the child for all purposes and child  
43 support may be established pursuant to the provisions of  
44 this chapter.

45 (4) When a party desires to challenge the results of  
46 the blood or tissue tests or the expert's analysis of inher-  
47 ited characteristics, he or she shall file a written protest with  
48 the family law master or circuit court or with the division

49 of child support enforcement, if appropriate, within thirty  
50 days of the filing of such test results, and serve a copy of  
51 such protest upon the other party. The written protest  
52 shall be filed at least thirty days prior to any hearing in-  
53 volving the test results. The court or the child support  
54 enforcement division, upon reasonable request of a party,  
55 shall order that additional tests be made by the same labo-  
56 ratory or another laboratory within thirty days of the entry  
57 of the order, at the expense of the party requesting addi-  
58 tional testing. Costs shall be paid in advance of the test-  
59 ing. When the results of the blood or tissue tests or the  
60 expert's analysis which show a statistical probability of  
61 paternity of more than ninety-eight percent are confirmed  
62 by the additional testing, then the results are admissible  
63 evidence which is clear and convincing evidence of pater-  
64 nity. The admission of the evidence creates a presumption  
65 that the man tested is the father.

66 (b) Documentation of the chain of custody of the  
67 blood or tissue specimens is competent evidence to estab-  
68 lish the chain of custody. A verified expert's report shall  
69 be admitted at trial unless a challenge to the testing proce-  
70 dures or a challenge to the results of test analysis has been  
71 made before trial. The costs and expenses of making the  
72 tests shall be paid by the parties in proportions and at  
73 times determined by the court.

74 (c) Except as provided in subsection (d) of this sec-  
75 tion, when a blood test is ordered pursuant to this section,  
76 the moving party shall initially bear all costs associated  
77 with the blood test unless that party is determined by the  
78 court to be financially unable to pay those costs. This  
79 determination shall be made following the filing of an  
80 affidavit pursuant to section one, article two, chapter fifty-  
81 nine of this code. When the court finds that the moving  
82 party is unable to bear that cost, the cost shall be borne by  
83 the state of West Virginia. Following the finding that a  
84 person is the father based on the results of a blood test  
85 ordered pursuant to this section, the court shall order that  
86 the father be ordered to reimburse the moving party for  
87 the costs of the blood tests unless the court determines,  
88 based upon the factors set forth in this section, that the  
89 father is financially unable to pay those costs.

90 (d) When a blood test is ordered by the child support  
91 enforcement division, the division shall initially bear all



92 costs subject to recoupment from the alleged father if  
93 paternity is established.

**§48A-6-6. Establishing paternity by acknowledgment of natural father.**

1 (a) A written, notarized acknowledgment by both the  
2 man and woman that the man is the father of the named  
3 child legally establishes the man as the father of the child  
4 for all purposes and child support may be established  
5 under the provisions of this chapter.

6 (b) The written acknowledgment shall include:

7 (1) Filing instructions;

8 (2) The parties' social security numbers and address-  
9 es; and

10 (3) A statement, given orally and in writing, of the  
11 alternatives to, the legal consequences of, and the rights  
12 and obligations of acknowledging paternity, including, but  
13 not limited to, the duty to support a child. If either of the  
14 parents is a minor, the statement shall include an explana-  
15 tion of any rights that may be afforded due to the minori-  
16 ty status.

17 (c) Failure or refusal to include all information re-  
18 quired by subsection (b) of this section shall not affect the  
19 validity of the written acknowledgment, in the absence of a  
20 finding by a court of competent jurisdiction that the ac-  
21 knowledgment was obtained by fraud, duress or material  
22 mistake of fact, as provided in subsection (d) of this sec-  
23 tion.

24 (d) An acknowledgment executed under the provi-  
25 sions of this section may be rescinded within the earlier of  
26 sixty days from the date of execution or the date of an  
27 administrative or judicial proceeding relating to the child  
28 in which the signatory is a party. After the sixty day peri-  
29 od has expired, the acknowledgment may thereafter be  
30 challenged only on the basis of fraud, duress or material  
31 mistake of fact, upon a finding of clear and convincing  
32 evidence by a court of competent jurisdiction. The legal  
33 responsibilities, including child support obligations, of a  
34 signatory to the acknowledgment may not be suspended  
35 during any challenge, except for good cause shown.

36 (e) The original written acknowledgment should be  
37 filed with the state registrar of vital statistics. Upon receipt  
38 of any acknowledgment executed pursuant to this section,  
39 the registrar shall forward the copy of the acknowledg-  
40 ment to the child support enforcement division and the  
41 parents, if the address of the parents is known to the regis-  
42 trar. If a birth certificate for the child has been previously  
43 issued which is incorrect or incomplete, a new birth certifi-  
44 cate shall be issued.

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

*Philip Sparover*  
Chairman Senate Committee

*Nick Tommaso*  
Chairman House Committee

Originating in the House.

*ok to print*

Takes effect <sup>July 1, 1997</sup> from passage.

*Harold E. Palmer*  
Clerk of the Senate

*Bryony M. Gray*  
Clerk of the House of Delegates

*Carl Roy Tomblin*  
President of the Senate

*T. Ki*  
Speaker of the House of Delegates

The within *is approved* this the *7th*  
day of *May*, 1997.

*[Signature]*  
Governor

TO THE

Date 5/1/97

Time 3:11 pm