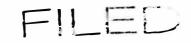
SB 556



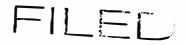
2009 MAY -8 PM 4: 55

WEST VIRGINIA LEGISLATURE SEVENTY-NINTH LEGISLATURE REGULAR SESSION, 2009

ENROLLED Senate Bill No. 556

(By Senators White and Stollings)

[Passed April 11, 2009; in effect ninety days from passage.]



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OFFICE WEST VIRGINIA SECRETARY OF STATE

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ENROLLED

Senate Bill No. 556

(BY SENATORS WHITE AND STOLLINGS)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §8-11-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17B-3-6 of said code, all relating to driver education courses; allowing proof of a completed defensive driving course to rescind pending license suspension; and expanding the time which judgement can be withheld by a municipal judge while a licensee completes a driver education course.

Be it enacted by the Legislature of West Virginia:

That §8-11-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §17B-3-6 of said code be amended and reenacted, all to read as follows:

ARTICLE 11. POWERS AND DUTIES WITH RESPECT TO ORDINANCES AND ORDINANCE PROCEDURES.

§8-11-5. Prejudgment alternative disposition of certain traffic offenses.

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(a) Municipal courts are hereby authorized to establish
 a prejudgment alternative disposition procedure for traffic
 offenses over which the court has jurisdiction.

4 (b) Under a prejudgment disposition procedure autho-5 rized by subsection (a) of this section, if a person is found 6 guilty of a traffic offense, the municipal court may, with 7 the person's consent, withhold for a reasonable time not to 8 exceed one hundred eighty days the entry of a judgment of 9 conviction so that the person may attend a driver safety 10 education course designated by the municipal court. If the 11 person attends said course, the municipal court, if satisfied 12 with the person's participation in the course, shall, 13 without entering a judgment of conviction, dismiss the 14 proceeding against the person.

(c) It shall be a condition of any prejudgment alternative disposition authorized by the provisions of this section
that the person pay any fine assessed by the court and pay
all fees and costs required to be paid by any provision of
this code where a person is convicted of a criminal traffic
offense. No municipal court shall utilize any prejudgment
alternative disposition procedure unless it collects such
fees and costs as are required by any provision of this code
and transmits the moneys collected as required by law. No
municipal court shall utilize any prejudgment alternative
disposition procedure unless it conforms with the requirements of this section.

27 (d) The procedure authorized by the provisions of this28 section shall not be available to any person who:

(1) Holds a commercial driver's license issued by this
state in accordance with chapter seventeen-e of this code,
or who holds a commercial driver's license issued by any
other state or jurisdiction;

33 (2) Is arrested while operating a commercial motor34 vehicle as defined in chapter seventeen-e of this code; or

35 (3) Is arrested for driving under the influence of alcohol

36 or drugs or any other offense for which a mandatory

37 period of confinement in jail is required.

ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LI-CENSES.

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

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

5 (1) Has committed an offense for which mandatory
6 revocation of a driver's license is required upon convic7 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 11 damage;

(3) Has been convicted with such frequency of serious
offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws
and a disregard for the safety of other persons on the
highways;

17 (4) Is an habitually reckless or negligent driver of a18 motor vehicle;

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

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

23 (7) Has failed to pay or has defaulted on a plan for the24 payment of all costs, fines, forfeitures or penalties imposed

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25 by a magistrate court or municipal court within ninety26 days, as required by section two-a, article three, chapter

27 fifty of this code or section two-a, article ten, chapter28 eight of this code;

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

(9) Is under the age of eighteen and has withdrawn
either voluntarily or involuntarily due to misconduct from
a secondary school or has failed to maintain satisfactory
academic progress, as provided in section eleven, article
eight, chapter eighteen of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in article five-a, chapter forty-eight-a of this code and the Child Support Enforcement Division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

49 (b) The driver's license of any person having his or her50 license suspended shall be reinstated if:

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

55 (2) The license was suspended under the provisions of 56 subdivision (8), subsection (a) of this section and the 57 person having his or her license suspended has appeared 58 in court and has prevailed against the motor vehicle 59 violations charged; or

60 (3) The license was suspended under the provisions of 61 subdivision (10), subsection (a) of this section and the 62 division has received a court order restoring the license or 63 a certification by the Child Support Enforcement Division 64 that the licensee is complying with the original support 65 order or a new or modified order that provides for the 66 payment of current support and any arrearage due.

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

71 (d) Upon suspending the driver's license of any person 72 as hereinbefore in this section authorized, the division 73 shall immediately notify the licensee in writing, sent by 74 certified mail, return receipt requested, to the address 75 given by the licensee in applying for license, and upon his 76 or her request shall afford him or her an opportunity for 77 a hearing as early as practical within not to exceed twenty 78 days after receipt of such request in the county wherein 79 the licensee resides unless the division and the licensee 80 agree that such hearing may be held in some other county. 81 Upon such hearing the commissioner or his or her duly 82 authorized agent may administer oaths and may issue 83 subpoenas for the attendance of witnesses and the produc-84 tion of relevant books and papers and may require a 85 reexamination of the licensee. Upon such hearing the 86 division shall either rescind its order of suspension or, 87 good cause appearing therefor, may extend the suspension 88 of such license or revoke such license. The provisions of 89 this subsection providing for notice and hearing are not 90 applicable to a suspension under subdivision (10), subsec-91 tion (a) of this section.

Enr. S. B. No. 556]

92 (e) Notwithstanding the provisions of legislative rule 91 93 CSR 5, the division may, upon completion of an approved 94 defensive driving course, deduct three points from a 95 licensee's point accumulation provided the licensee has not 96 reached fourteen points. If a licensee has been notified of 97 a pending thirty-day driver's license suspension based on 98 the accumulation of twelve or thirteen points, the licensee 99 may submit proof of completion of an approved defensive 100 driving course to deduct three points and rescind the 101 pending license suspension: *Provided*, That the licensee 102 submits proof of prior completion of the course and 103 payment of the reinstatement fee in accordance with 104 section nine, article three of this chapter to the division 105 prior to the effective date of the suspension.

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

man Senate Committee

Chairman Hoúse Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

mr. S

Clerk of the House of Delegates

pontele President of the Senate

Speaker House of Delegates

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PRESENTED TO THE GOVERNOR

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