

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Engrossed

Committee Substitute

for

Committee Substitute

for

Senate Bill 173

BY SENATORS BLAIR AND SYPOLT

[Originating in the Committee on the Judiciary;

reported on March 6, 2017]

1 A BILL to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section,
3 designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to
4 certain motor vehicles, including motorcycles, motor-driven cycles and autocycles;
5 creating an autocycle exemption from motorcycle examination, licensing and
6 endorsement requirements; allowing a person with a valid driver's license to operate an
7 autocycle; creating an autocycle exemption from helmet and certain other motorcycle or
8 motor-driven cycle safety requirements; defining terms; eliminating requirement that
9 persons age eighteen and older operating or riding a motorcycle or motor-driven cycle
10 wear a protective helmet; prohibiting individuals under the age of eighteen from operating
11 or being a passenger on any motorcycle or motor-driven cycle without a protective helmet;
12 deleting obsolete language regarding the motorcycle safety and education committee; and
13 making technical corrections.

Be it enacted by the Legislature of West Virginia:

1 That §17B-1-1 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; that §17B-2-7b of said code be amended and reenacted; that said code be amended
3 by adding thereto a new section, designated §17C-1-69; and that §17C-15-44 of said code be
4 amended and reenacted, all to read as follows:

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.

1 ~~The following words and phrases when used in this chapter shall, for the purpose of this~~
2 ~~chapter, have the meanings respectively ascribed to them in this article:~~

3 ~~(a) *Vehicle*. — Every device in, upon, or by which any person or property is or may be~~
4 ~~transported or drawn upon a public highway, excepting devices moved by human power or used~~
5 ~~exclusively upon stationary rails or tracks;~~

6 ~~(b) Motor vehicle.~~ — Every vehicle which is self-propelled and every vehicle which is
7 propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

8 ~~(c) Motorcycle.~~ — Every motor vehicle having a seat or saddle for the use of the rider and
9 designed to travel on not more than three wheels in contact with the ground, but excluding a farm
10 tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c
11 of this code, a snowmobile as defined in section one-mm, article one, chapter seventeen-a of this
12 code and an all-terrain vehicle as defined in section one-ii, article one, chapter seventeen-a of
13 this code;

14 ~~(d) Farm tractor.~~ — Every motor vehicle designed and used primarily as a farm implement
15 for drawing plows, mowing machines, and other implements of husbandry;

16 ~~(e) School bus.~~ — Every motor vehicle owned by a public governmental agency and
17 operated for the transportation of children to or from school or privately owned and operated for
18 compensation for the transportation of children to or from school;

19 ~~(f) Person.~~ — Every natural person, firm, copartnership, association or corporation;

20 ~~(g) Operator.~~ — Every person, other than a chauffeur, who drives or is in actual physical
21 control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle
22 being towed by a motor vehicle;

23 ~~(h) Chauffeur.~~ — Every person who is employed by another for the principal purpose of
24 driving a motor vehicle and every person who drives a school bus transporting school children or
25 any motor vehicle when in use for the transportation of persons or property for compensation;

26 ~~(i) Driver.~~ — Means any person who drives, operates or is in physical control of a motor
27 vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required
28 to hold a driver's license;

29 ~~(j) Driver's License.~~ — Means any permit or license issued by this state to a person which
30 authorizes the person to drive a motor vehicle of a specific class or classes subject to any
31 restriction or endorsement contained thereon;

32 ~~(k) *Owner.* — A person who holds the legal title of a vehicle or in the event a vehicle is the~~
33 ~~subject of an agreement for the conditional sale or lease thereof with the right of purchase upon~~
34 ~~performance of the conditions stated in the agreement and with an immediate right of possession~~
35 ~~vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to~~
36 ~~possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for~~
37 ~~the purpose of this chapter;~~

38 ~~(l) *Nonresident.* — Every person who is not a resident of this state;~~

39 ~~(m) *Street or highway.* — The entire width between the boundary lines of every way~~
40 ~~publicly maintained when any part thereof is open to the use of the public for purposes of vehicular~~
41 ~~travel;~~

42 ~~(n) *Commissioner.* — The Commissioner of Motor Vehicles of this state;~~

43 ~~(o) *Division.* — The Division of Motor Vehicles of this state acting directly or through its~~
44 ~~duly authorized officers or agents;~~

45 ~~(p) *Suspension.* — Suspension means that the driver's license and privilege to drive a~~
46 ~~motor vehicle on the public highways are temporarily withdrawn but only during the period of such~~
47 ~~suspension;~~

48 ~~(q) *Revocation.* — Revocation means that the driver's license and privilege to drive a~~
49 ~~motor vehicle on the public highways are terminated and shall not be renewed or restored, except~~
50 ~~that an application for a new license may be presented and acted upon by the division after the~~
51 ~~expiration of at least one year after the date of revocation, except as otherwise provided in section~~
52 ~~two, article five-a, chapter seventeen-c of this code;~~

53 ~~(r) *Cancellation.* — Cancellation means that a driver's license is annulled and terminated~~
54 ~~because of some error or defect or because the licensee is no longer entitled to such license, but~~
55 ~~the cancellation of a license is without prejudice and application for a new license may be made~~
56 ~~at any time after such cancellation;~~

57 ~~(e) 9-1-1 system means an emergency telephone system or enhanced emergency~~
58 ~~telephone system as defined in section two, article six, chapter twenty-four of this code;~~

59 ~~(t) Wireless communication device means a handheld device used to access a wireless~~
60 ~~telephone service or a text messaging device.~~

61 The following words and phrases when used in this chapter, for the purpose of this
62 chapter, have the meanings respectively ascribed to them in this article:

63 Autocycle. — Every enclosed motorcycle that is equipped with safety belts, airbags, a roll
64 bar, a windshield, wipers, a rearview mirror, automotive seating, a steering wheel and equipment
65 otherwise required on a motorcycle and which has no more than three wheels in contact with the
66 roadway at any one time;

67 Cancellation. — Means that a driver's license is annulled and terminated because of some
68 error or defect or because the licensee is no longer entitled to that license, but the cancellation of
69 a license is without prejudice and application for a new license may be made at any time after
70 such cancellation;

71 Chauffeur. — Every person who is employed by another for the principal purpose of driving
72 a motor vehicle and every person who drives a school bus transporting school children or any
73 motor vehicle when in use for the transportation of persons or property for compensation;

74 Commissioner. — The Commissioner of Motor Vehicles of this state;

75 Division. — The Division of Motor Vehicles of this state acting directly or through its duly
76 authorized officers or agents;

77 Driver. — Means any person who drives, operates or is in physical control of a motor
78 vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required
79 to hold a driver's license;

80 Driver's License. — Means any permit or license issued by this state to a person which
81 authorizes the person to drive a motor vehicle of a specific class or classes subject to any
82 restriction or endorsement contained thereon;

83 Farm tractor. — Every motor vehicle designed and used primarily as a farm implement for
84 drawing plows, mowing machines and other implements of husbandry;

85 Motorcycle. — Every motor vehicle having a seat or saddle for the use of the rider and
86 designed to travel on not more than three wheels in contact with the ground, but excluding a farm
87 tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c
88 of this code, a snowmobile as defined in subsection (mm), section one, article one, chapter
89 seventeen-a of this code and an all-terrain vehicle as defined in subsection (ii), section one of this
90 article;

91 Motor vehicle. — Every vehicle which is self-propelled and every vehicle which is propelled
92 by electric power obtained from overhead trolley wires, but not operated upon rails;

93 9-1-1 system. — Means an emergency telephone system or enhanced emergency
94 telephone system as defined in section two, article six, chapter twenty-four of this code;

95 Nonresident. — Every person who is not a resident of this state;

96 Operator. — Every person, other than a chauffeur, who drives or is in actual physical
97 control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle
98 being towed by a motor vehicle;

99 Owner. — A person who holds the legal title of a vehicle or in the event a vehicle is the
100 subject of an agreement for the conditional sale or lease thereof with the right of purchase upon
101 performance of the conditions stated in the agreement and with an immediate right of possession
102 vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession,
103 then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter;

104 Person. — Every natural person, firm, copartnership, association or corporation;

105 Revocation. — Means that the driver's license and privilege to drive a motor vehicle on
106 the public highways are terminated and shall not be renewed or restored, except that an
107 application for a new license may be presented and acted upon by the division after the expiration

108 of at least one year after the date of revocation, except as otherwise provided in section two,
109 article five-a, chapter seventeen-c of this code;

110 School bus. — Every motor vehicle owned by a public governmental agency and operated
111 for the transportation of children to or from school or privately owned and operated for
112 compensation for the transportation of children to or from school;

113 Street or highway. — The entire width between the boundary lines of every way publicly
114 maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

115 Suspension. — Suspension means that the driver's license and privilege to drive a motor
116 vehicle on the public highways are temporarily withdrawn but only during the period of the
117 suspension;

118 Vehicle. — Every device in, upon, or by which any person or property is or may be
119 transported or drawn upon a public highway, excepting devices moved by human power or used
120 exclusively upon stationary rails or tracks;

121 Wireless communication device. — Means a handheld device used to access a wireless
122 telephone service or a text messaging device.

ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.

§17B-2-7b. Separate examination and endorsement for a license valid for operation of motorcycle.

1 (a) The State Police shall administer a separate motorcycle examination for applicants for
2 a license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor
3 Vehicles shall administer the examination provided for in this section. Any applicant for a license
4 valid for operation of a motorcycle shall be required to successfully complete the motorcycle
5 examination, which is in addition to the examination administered pursuant to section seven of
6 this article and, if under the age of eighteen, shall be required to complete the requirements for a
7 level two intermediate driver's license set forth in paragraphs (B), (C) and (D), subdivision (1),
8 subsection (j), section three-a of this article: *Provided*, That the commissioner may exempt an
9 applicant for a motorcycle driver's license or endorsement from all or part of the motorcycle license

10 examination as provided in section six, article one-d of this chapter. The motorcycle examination
11 shall test the applicant's knowledge of the operation of a motorcycle and of any traffic laws
12 specifically relating to the operation of a motorcycle and shall include an actual demonstration of
13 the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An
14 applicant for a license valid for the operation of only a motorcycle shall be tested as provided in
15 this section and in section seven of this article, but need not demonstrate actual driving ability in
16 any vehicle other than a motorcycle. The examination provided in this section ~~shall~~ may not be
17 made a condition upon the renewal of the license of any person under this section. For an
18 applicant who successfully completes the motorcycle examination, upon payment of the required
19 fee, the division shall issue a motorcycle endorsement on the driver's license of the applicant, or
20 shall issue a special motorcycle-only license if the applicant does not possess a driver's license:
21 *Provided, however,* That any holder of a motorcycle-only license under the age of eighteen ~~shall~~
22 ~~be~~ is subject to the provisions of paragraphs (A), (B), (E), (F), (G) and (H), subdivision (2),
23 subsection (j), section three-a of this article.

24 Every person, including those holding a valid driver's license, is required to take the
25 examination specified in this section to obtain a motorcycle license or endorsement, unless
26 exempted under subsection (b) of this section.

27 (b) Notwithstanding any provision of this code to the contrary, a person with a valid driver's
28 license who is operating an autocycle is exempt from the motorcycle examination, licensing and
29 endorsement requirements set forth in this article.

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

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-69. Autocycle.

1 "Autocycle" means an enclosed motorcycle that is equipped with safety belts, airbags, a
2 roll bar, a windshield, wipers, a rearview mirror, automotive seating, a steering wheel and

3 equipment otherwise required on a motorcycle, and which has no more than three wheels in
4 contact with the roadway at any one time.

ARTICLE 15. EQUIPMENT.

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

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

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

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

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

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

36 ~~(f) There is hereby created a six member motorcycle safety and education committee~~
37 ~~consisting of: The superintendent of the State Police or a designee; the Commissioner of Motor~~
38 ~~Vehicles or a designee; the director of the West Virginia safety council or a designee; a licensed~~
39 ~~motorcycle operator; an owner of a motorcycle dealership; and a supplier of aftermarket~~
40 ~~nonfranchised motorcycle supplies. The nongovernmental representatives shall be appointed by~~
41 ~~the Governor with the advice and consent of the Senate, shall serve without compensation, and~~
42 ~~the terms shall be for three years, except that as to the members first appointed, one shall be~~
43 ~~appointed for a term of one year, one shall be appointed for a term of two years and one shall be~~
44 ~~appointed for a term of three years. Members may be reappointed to the committee.~~

45 ~~The committee shall continue to exist pursuant to the provisions of article ten, chapter four~~
46 ~~of this code until July 1, 1999, to allow for the completion of a preliminary performance review by~~
47 ~~the joint committee on government operations.~~

48 ~~The committee is hereby authorized to recommend to the superintendent of public safety~~
49 ~~types and makes of protective helmets, eye protection devices and equipment offered for sale,~~
50 ~~purchased or used by any person. The committee is authorized to make recommendations to the~~
51 ~~Commissioner of Motor Vehicles regarding the use of the moneys in the motorcycle safety fund~~
52 ~~created under section seven, article one-d, chapter seventeen-b of this code~~ Notwithstanding any
53 provision of this code to the contrary, a person with a valid driver's license who is operating an
54 autocycle, as defined in section sixty-nine, article one of this chapter, is exempt from the
55 provisions of this section.