

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 173**

BY SENATORS BLAIR AND SYPOLT

[Introduced February 8, 2017; referred  
to the Committee on Transportation and Infrastructure; and  
then to the Committee on the Judiciary]

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 autocycles; defining “autocycle”; creating an autocycle exemption from motorcycle  
 5 examination, licensing and endorsement requirements; allowing a person with a valid  
 6 driver’s license to operate an autocycle; creating an autocycle exemption from helmet and  
 7 certain other motorcycle or motor-driven cycle safety requirements; deleting obsolete  
 8 language regarding the motorcycle safety and education committee; and making technical  
 9 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 publicly~~  
40 ~~maintained when any part thereof is open to the use of the public for purposes of vehicular travel;~~

41 ~~(n) *Commissioner.* -- The Commissioner of Motor Vehicles of this state;~~

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

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45 ~~motor vehicle on the public highways are temporarily withdrawn but only during the period of such~~  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

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

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

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

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

60 The following words and phrases when used in this chapter, for the purpose of this

61 chapter, have the meanings respectively ascribed to them in this article:

62 (a) *Autocycle*. — “Autocycle” means an enclosed motorcycle that is equipped with safety  
63 belts, airbags, a roll bar, a windshield, wipers, a steering wheel and equipment otherwise required  
64 on a motorcycle and which has no more than three wheels in contact with the roadway at any one  
65 time.

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

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

73 (d) *Commissioner*. — The Commissioner of Motor Vehicles of this state;

74 (e) *Division*. — The Division of Motor Vehicles of this state acting directly or through its  
75 duly authorized officers or agents;

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

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

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

84 (i) *Motorcycle*. — Every motor vehicle having a seat or saddle for the use of the rider and  
85 designed to travel on not more than three wheels in contact with the ground, but excluding a farm  
86 tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c

87 of this code, a snowmobile as defined in subsection (mm), section one, article one, chapter  
88 seventeen-a of this code and an all-terrain vehicle as defined in subsection (ii), section one of that  
89 article;

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

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

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

96 (m) *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 (n) *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 (o) *Person.* — Every natural person, firm, copartnership, association or corporation;

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

110 (q) *School bus.* — Every motor vehicle owned by a public governmental agency and  
111 operated 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 (r) 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 (s) Suspension. — Suspension means that the driver's license and privilege to drive a  
116 motor vehicle on the public highways are temporarily withdrawn but only during the period of the  
117 suspension;

118 (t) 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 (u) Wireless communication device. — Wireless communication device means a handheld  
122 device used to access a wireless 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 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 auticycle 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. Auticycle.**

1 "Auticycle" means an enclosed motorcycle that is equipped with safety belts, airbags, a  
 2 roll bar, a windshield, wipers, a steering wheel and equipment otherwise required on a motorcycle,  
 3 and which has no more than three wheels in 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.

NOTE: The purpose of this bill is to create an exemption for autocycles which are enclosed motorcycles that are equipped with safety belts, airbags, a roll bar, a windshield, wipers, a steering wheel and equipment otherwise required on a motorcycle, and which have no more than three wheels in contact with the roadway at any one time. A person may operate an autocycle with a valid driver's license and is exempt from the motorcycle examination, licensing and endorsement requirements set forth in article two, chapter seventeen-b of this code. The bill would also exempt autocycles from helmet and certain other safety requirements set forth in §17C-15-44. The bill also removes obsolete language.

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