

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4335**

BY DELEGATE LINVILLE

[BY REQUEST OF THE DIVISION OF MOTOR VEHICLES]

[Introduced on January 21, 2022; Referred  
to the Committee on Technology and Infrastructure  
then the Judiciary]

1 A BILL to amend and reenact §17C-5C-1a of the Code of West Virginia, 1931, as amended,  
 2 relating to the transfer of jurisdiction for Office of Administrative Hearings by establishing  
 3 that the Division of Motor Vehicles has jurisdiction to hear certain driver's license  
 4 suspension cases and appeals that are made in accordance with the Administrative  
 5 Procedures Act.

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

**ARTICLE 5C. OFFICE OF ADMINISTRATIVE HEARINGS.**

**§ 17C-5C-1a. Termination of Office of Administrative Hearings; transfer of jurisdiction.**

1 (a) The Office of Administrative Hearings shall retain jurisdiction over appeals described  
 2 in §17C-5C-3(3) of this code arising from offenses occurring on or before June 30, 2020. The  
 3 Office of Administrative Hearings has no jurisdiction over appeals described in said subdivision  
 4 arising from offenses occurring on or after July 1, 2020.

5 ~~(b) Beginning on July 1, 2020, jurisdiction over appeals described in §17C-5C-3 of this~~  
 6 ~~code, except for those described in §17C-5C-3(3) of this code, shall be transferred to the circuit~~  
 7 ~~court for the circuit in which the event giving rise to the contested decision of the Commissioner~~  
 8 ~~of the Division of Motor Vehicles occurred~~ The Commissioner of the Division of Motor Vehicles or  
 9 his or her designee has jurisdiction over administrative hearings where the Legislature has  
 10 established a hearing right to resolve contested cases from a matter enforced by the Division of  
 11 Motor Vehicles. Appeals of Final Orders of the Commissioner are made in accordance with the  
 12 Administrative Procedures Act.

13 (c) The Office of Administrative Hearings shall, in an orderly and efficient manner, dispose  
 14 of all matters pending before it, subject to the following:

15 (1) If any appeal of a revocation or suspension order, described in §17C-5C-3(3) of this  
 16 code, is pending before the office on or after July 1, 2021, the underlying revocation or suspension  
 17 order shall be dismissed.

18 (2) If any appeal described in §17C-5C-3 of this code, except for an appeal described in

19 §17C-5C-3(3) of this code, is pending before the Office of Administrative Hearings on or after July  
20 1, 2021, the appeal shall be transferred to the circuit court described in subsection (b) of this  
21 section. For any appeal transferred pursuant to this subdivision, the circuit court shall adopt any  
22 existing records of evidence and proceedings in the Office of Administrative Hearings, conduct  
23 further proceedings as it considers necessary, and issue a final decision or otherwise dispose of  
24 the case pursuant to the provisions governing the judicial review of contested administrative cases  
25 in §29A-5-1 et seq. of this code.

26 (d) Upon resolution of all matters pending before the Office of Administrative Hearings or  
27 on July 1, 2021, whichever occurs earlier, the Office of Administrative Hearings shall be  
28 terminated.

29 (e) The Secretary of the Department of Transportation may establish interim policies and  
30 procedures to aid in the orderly and efficient process during the disposition of remaining cases  
31 before the Office of Administrative Hearings during the phase-out period until termination.

NOTE: The purpose of this bill is to establish that the Division of Motor Vehicles is the forum for an administrative hearing and an appellate court is the forum for an appeal of certain driver's license suspensions that do not involve driving under the influence of alcohol or drugs. The current statutory framework uses the word appeal to refer to both an administrative hearing and the appeal of an administrative hearing.

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