

FILING OF ADMINISTRATIVE REGULATIONS

References are to sections in W. Va. Adm. Reg. 17A-2, Series V

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SAFETY RESPONSIBILITY DIVISION

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
Department of Motor Vehicles

Chapter 17A-2  
Series V  
(1964)

Subject: Safety Responsibility Division  
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Section 5. Rules and Regulations Pertaining to this Division.

5:01. Mental Incapacity, Epilepsy, etc.

When a person holding an Operator's or Chauffeur's License is found to be mentally ill and is ordered to be hospitalized for an indeterminate period in accordance with the provisions of Chapter 27, Article 5 of the Code of West Virginia, 1931, as amended, such license shall be suspended pursuant to the provisions of Chapter 17B, Article 3, Section 6 of the Code of West Virginia, 1931, as amended, on the ground that such person is obviously incompetent to operate a motor vehicle. Upon receipt of a proper certificate of discharge showing that such person has been discharged from the hospital in question, the suspension will be vacated.

Chapter 17B, Article 2, Section 3 of the Code of West Virginia, as amended, provides that the Department shall not issue any Operator's or Chauffeur's License to any person when the Commissioner has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare. Chapter 17-B, Article 3, Section 6 of the Code of West Virginia, 1931, as amended, authorizes the Department to suspend the license of an operator or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee is incompetent to drive a motor vehicle.

Chapter 17B, Article 3, Section 7 of the Code of West Virginia, 1931, as amended, provides that when the Department has good cause to believe that a licensed operator or chauffeur is incompetent, or otherwise not qualified to be licensed, the Department may upon written notice of at least five days to the licensee require such licensee to submit to an examination, and upon the conclusion of such examination take such action as may be appropriate. In this connection, Section 7 provides that the Department may suspend or revoke the license of such person, or permit such licensee to retain such license, or issue a license subject to restrictions pursuant to Chapter 17B, Article 2, Section 10 of the Code of West Virginia, 1931, as amended. Said Section 7 makes refusal or neglect of the licensee to submit to such examination ground for suspension or revocation of such license. In view of these statutory provisions, an Operator's or Chauffeur's license will not be issued to any person suffering from epilepsy or afflictions with similar symptoms unless the application for any such license is accompanied by:

(1) An affidavit of the applicant stating that he or she has been seizure-free for a continuous period of at least two years immediately prior to the date of application for such license; and

(2) A certificate of a physician, duly licensed to practice medicine in the State of West Virginia in accordance with the provisions of Article 3, Chapter 30 of the Code of West Virginia, 1931, as amended, to the effect that:

a. The applicant has been under the care of such physician for a period of at least one year and has been taking medication prescribed by such physician for at least one year;

b. In the professional opinion of the physician the affliction is so controlled by medication that future attacks are with a reasonable degree of medical certainty unlikely, and that it may be anticipated with a reasonable degree of medical certainty that so far as such affliction is concerned the applicant can drive a vehicle on the public streets and highways of this state with safety to himself or herself and the public generally.

Likewise, the Operator's or Chauffeur's License of any person suffering from epilepsy or afflictions with similar symptoms shall be suspended and not thereafter reinstated unless the application for reinstatement is accompanied by such an affidavit and certificate.

An Operator's or Chauffeur's License issued or reinstated upon an affidavit and certificate as aforesaid shall contain a restriction requiring additional certificates by such a physician at such periods of time (less than the time for expiration of Operator's and Chauffeur's Licenses specified in Chapter 17B, Article 2, Section 12 of the Code of West Virginia, 1931, as amended) as to the Department may seem to be reasonable and proper in view of all the available information.

The provisions herein contained with respect to persons suffering from epilepsy or other afflictions with similar symptoms are designed to assure the safety of such persons and the public generally with the least inconvenience to such persons.

5:02. Reinstatement of Suspended Registration

Upon suspension of any registration in accordance with any of the provisions of the West Virginia Motor Vehicle Safety Responsibility Law, Chapter 17D of the Code of West Virginia, 1931, as amended, the license or registration plate involved shall be forthwith destroyed upon receipt of same by the Department. This procedure is necessary because of the limited storage facilities available to the Department and by virtue of the cost which would be involved in attempting to store such plates. Accordingly, upon reinstatement of any such registration within the registration period, application must be made for a duplicate or substitute registration or license plate upon the form prescribed for such purpose, and the fee required shall be that established by Chapter 17A, Article 10, Section 11 of the Code of West Virginia, 1931, as amended. If the registration card pertaining to the registration which was suspended was not returned to the Department during the period of suspension, and such applicant does not possess such card at the time of reinstatement of the suspended registration, the fee established by said Section 11 for obtaining a duplicate or substitute registration card shall also be required.

5:03. Reinstatement of Driving Privileges of Persons Whose Operator's and Chauffeur's Licenses Were Revoked.

Any person whose Operator's or Chauffeur's license has been revoked may apply for restoration of his or her driving privileges at the end of the period of revocation or minimum period of revocation as the case may be. Any such person whose driving privileges were revoked for a conviction under Chapter 17C, Article 5, Section 2 of the Code of West Virginia, 1931, as amended, must execute and file with the Department, on the form prescribed therefor, a duly notarized petition seeking to have such person's driving privileges restored. In addition to filing proof of financial responsibility as required by Chapter 17D, Article 4 of the Code of West Virginia, 1931, as amended, any such person convicted for a second or subsequent offense under said Section 2 within a period of five (5) years must also, in light of the provisions of said Chapter 17C, Article 5, Section 2, of the Code of West Virginia, 1931, as amended, obtain and file with the petition four letters from reputable business men in the applicant's community, on their printed letterhead, as well as a letter from a member of the Department of Public Safety, sheriff or municipal police officer. Each of these letters must state that the writer has known the applicant personally for more than five years; that the applicant has not driven a motor vehicle during the period of revocation; that in the writer's opinion the applicant is not likely again to repeat the offense for which the license was revoked; that the public good does not require that the applicant's license be revoked any longer; and that the applicant has not, to the knowledge of the writer, been addicted to the use of intoxicating beverages or narcotic drugs or used the

the same during the preceding five years. All hearings upon the petition deemed necessary by the Department, if any, shall be held in accordance with the provisions of Series II, Section 2:06.

5:04. Proof of Financial Responsibility Resulting in Restricted Operator's or Chauffeur's Licenses

Any Operator's or Chauffeur's license issued or reinstated upon the filing of proof of financial responsibility in the form of either an owner's policy certificate or an operator's policy certificate of liability insurance, in accordance with the provisions of Chapter 17D, Article 4 of the Code of West Virginia, 1931, as amended, shall contain restrictions showing the type of vehicles the licensee may operate, viz.: If an owner's policy certificate, restricting the licensee to the operation of vehicles owned by such licensee and registered in the licensee's name, which vehicles must be described in the certificate and policy; if an operator's policy certificate, restricting the licensee to the operation of vehicles not owned by such licensee and not registered in the licensee's name. Where an owner's policy certificate issued in the name of the licensee's employer or a member of the licensee's household and endorsed to cover the licensee as an employee or household member is filed, the license shall contain a restriction showing that the licensee is restricted to the operation of vehicles described in the endorsed owner's policy certificate. Of course, an unrestricted Operator's or Chauffeur's license will be issued if both an owner's policy certificate and an operator's policy certificate issued in the name of the licensee are filed. (When automobile liability insurance is relied upon as proof of financial responsibility, the Department will not accept the policy of insurance or a copy thereof as proof of financial responsibility. Instead the insurance company involved must file with the Department the form prescribed by the Department entitled "West Virginia Financial Responsibility Insurance Certificate.")