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March 15, 1994

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SB 184 authorizing, **Title 91, Series 9, Motor Vehicle Alcohol Test & Lock Program**, passed the Legislature on **March 10, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 184, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 184** section **64-8-2(o)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Motor Vehicles

1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317-0010

Gaston Caperton
Governor

Charles L. Miller, P.E.
Secretary

Jane L. Cline
Commissioner

91CSR9

Motor Vehicle Alcohol Test and Lock Program
Promulgation History

Rule Title: Motor Vehicle Alcohol Test and Lock Program
Rule Cite: 91CSR9
Rule Type: Legislative

Initial Filing: May 19, 1993
Comment Period Expiration: June 21, 1993
Filing of Agency Approved Rule: June 23, 1993
Filed with LRMRC: June 23, 1993
Rule Authorized by LRMRC as
Modified by Agency: August 9, 1993
Filing of Modified Rule: August 10, 1993
Final Legislative Approval: March 10, 1994, Senate Bill 184, §64-8-2

Final Filing: March 30, 1994
Effective Date: March 31, 1994



Jane L. Cline, Commissioner

WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF MOTOR VEHICLES
91CSR9

Title: Motor Vehicle Alcohol Test and Lock Program

§91-9-1 General

1.1 Scope - This legislative rule establishes a motor vehicle alcohol test and lock program in accordance with the provisions of West Virginia Code §17C-5A-3a.

1.2 Authority - West Virginia Code §17A-2-9 and West Virginia Code §17C-5A-3a(a).

1.3 Filing Date -

1.4 Effective Date -

1.5 Application and Enforcement - This legislative rule applies to persons applying for early reinstatement of restricted driving privileges revoked for a driving under the influence offense under the provisions of West Virginia Code §17C-5A-3a and to providers and manufactures of alcohol test and lock equipment.

§91-9-2 Definitions

2.1 Applicant - Means the person applying for enrollment in the motor vehicle test and lock program as established in accordance with West Virginia Code §17C-5A-3a.

2.2 Commissioner - Means the executive officer of the Division of Motor Vehicles appointed by the Governor pursuant to West Virginia Code §17A-2-2 or his or her lawful designee.

2.3 Commercial Vehicle - Means any motor vehicle designed or used to transport passengers or property.

2.3.1 If the vehicle has a gross vehicle weight rating of 26,001 pounds or more.

2.3.2 If the vehicle is designed to transport sixteen (16) or more passengers, including the driver.

2.3.3 If the vehicle is transporting hazardous materials and is required to be placarded in accordance with Federal Rule 49 C.F.R. part 172, sup-part F.

2.4 Equipment - Means a mechanical or computerized system which prevents the operation of a motor vehicle when, through the system's assessment of the blood alcohol content of the person operating or attempting to operate the vehicle, that person is determined to be under the influence of alcohol.

2.5 Final Revocation - Means a license suspension or revocation which has run the full course of administrative and or judicial review. In the context of this rule, a person may not participate in the program if the person has any action pending on the offense either criminally or administratively. The revocation must be final.

2.6 Law Enforcement Officer - Means a law enforcement officer as defined in West Virginia Code §17C-5-4.

2.7 License - Means any camera card, permit or license issued by this State which authorizes a person to drive a motor vehicle, or the privilege to operate a motor vehicle.

2.8 Participant - Means the person accepted for enrollment in the motor vehicle test and lock program as established in accordance with West Virginia Code §17C-5A-3a.

2.9 Passenger Vehicle - Means a Class A vehicle weighing 8,000 pounds or less which is used for private, noncommercial use.

2.10 Program - Means the motor vehicle alcohol test and lock program as established in accordance with West Virginia Code §17C-5A-3a.

2.11 Safety and Treatment Program - Means the Safety and Treatment Program as established in accordance with West Virginia Code §17C-5A-3.

2.12 Service Provider - Means the vendor authorized by Division of Motor Vehicles to provide services related to the program.

2.13 Service Center - Means the physical location of the vendor where services related to the program are provided.

§91-9-3 Eligibility For Program Participation

3.1 An applicant must be a resident of West Virginia.

3.2 An applicant must be eighteen (18) years of age or older.

3.3 An applicant's license must be revoked for an offense in violation of West Virginia Code §17C-5-1 et. seq. or §17C-5A-1 et. seq. A person whose license is revoked for driving under the influence of controlled substances is not eligible.

3.4 An applicant must have served the minimum license revocation period as prescribed by West Virginia Code §17C-5A-3a, and this rule calculated from the date that all licenses are received by the Commissioner.

3.4.1 If the applicant's license has been revoked for a first offense described in West Virginia Code §17C-5A-2(i), the applicant must serve a minimum revocation period of thirty (30) days before he or she is eligible to participate in the program.

3.4.2 If an applicant's license has been revoked for a first offense described in West Virginia Code §17C-5-7, refusal to submit to designated secondary chemical test, the applicant must serve a minimum revocation period of ninety (90) days before he or she is eligible to participate in the program.

3.4.3 If an applicant's license has been revoked for a second offense described in West Virginia Code §17C-5A-1 et seq. or 17C-5-1 et. seq., the applicant must serve a minimum revocation period of one (1) year before he or she is eligible to participate in the program.

3.4.4 If an applicant's license has been revoked for a third or subsequent offense described in West Virginia Code §17C-5A-1 et seq. or §17C-5-1 et seq., the applicant must serve a minimum revocation period of two (2) years before he or she is eligible to participate in the program.

3.4.5 If an applicant is under the age of twenty-one (21), the applicant must serve a minimum revocation period of one (1) year before he or she is eligible to participate in the program.

3.5 An applicant must be enrolled in or have completed the Safety and Treatment Program. Applicants who have completed the Safety and Treatment program will have priority for enrollment in the program.

3.6 An applicant's license must not have been revoked for an offense described in West Virginia Code §17C-5-1 et seq. or §17C-5A-1 et seq. more than three (3) times in the ten (10) year period preceding the date of application.

3.7 An applicant's license must not have been revoked for an offense described in West Virginia Code §17C-5A-2(f) or (g) where the applicant caused the death or injury of a person.

3.8 An applicant's license must not be currently revoked or suspended for any other reason, or have any other suspensions or revocations pending final resolution.

3.9 An applicant must not have been previously enrolled in the program.

3.10 An applicant must not have been convicted of any violation of West Virginia Code §17B-4-3, for driving while the applicant's driver's license was suspended or revoked, within the five (5) year period preceding the date of application.

3.11 An applicant who holds a Class A, B, C or D driver's license must not have his or her driver's license revoked for an offense related to West Virginia Code §17C-5-1 et seq., §17C-5A-1 et seq., West Virginia Code §17E-1-14 or §17E-1-15 while driving a commercial vehicle.

3.12 An applicant who holds a Class A, B, C or D driver's license, whose driver's license has been revoked for an offense related to West Virginia Code § 17C-5-1 et seq. or West Virginia Code §17C-5A-1 et seq. while driving a passenger vehicle is not eligible for participating in the program by installing the equipment in a commercial vehicle. The applicant is however, eligible for participating in the program by installing the equipment in a passenger vehicle.

§91-9-4 Application Procedures.

4.1 An applicant shall complete a program application, agree in writing to the conditions of participation and completion and submit a non-refundable fee of twenty-five (\$25.00) dollars in the form of a certified check or money order.

4.2 The payment of the application fee shall cause the application to remain valid for a period of six (6) months.

4.3 The Commissioner shall either approve the application for participation, subject to the availability of equipment for installation, or shall rule the applicant ineligible for participation based on the criteria prescribed in this rule.

4.4 An applicant may reapply no more than two (2) times in a six (6) month period. An applicant initially ruled ineligible and subsequently found to be eligible within six (6) months of the initial application is not required to pay the application fee again.

§91-9-5 Applicant Requirements

5.1 The applicant, upon receipt of program entry approval is responsible for completing, signing and returning to the Commissioner, the agreement of conditions of participation and completion, and contacting an approved service provider for installation of the equipment.

5.2 A licensed driver shall drive the applicant to the service center in the vehicle in which the equipment is to be installed. The vehicle shall be a Class A passenger type vehicle registered in the State of West Virginia. No vehicle of any other vehicle class may be used in the program.

5.3 The applicant shall complete the orientation and training program provided by the service provider to the satisfaction of the service provider. Any other person who will operate the vehicle while the equipment is installed shall also complete the orientation and training program to the satisfaction of the service provider.

5.4 If the vehicle owner is not present at the time of the installation, the applicant shall provide the service provider with a notarized statement of authorization by the vehicle owner allowing the installation of the equipment.

5.5 The service provider shall notify the Commissioner of the applicant's successful completion of the orientation and training program and that the equipment was installed in accordance with the criteria established by the Commissioner.

5.6 The Commissioner shall issue the applicant a restricted license upon the Commissioner's receipt of the service provider's notification of equipment installation and successful orientation and training. The license shall restrict the applicant to operating only the vehicle in which the equipment is installed, and only for the purposes of:

5.6.1 Driving to and from work;

5.6.2 Incidental driving as a part of employment duties provided that the duties do not include transporting persons for hire;

5.6.3 Driving to and from school;

5.6.4 Driving to and from participation in the Safety and Treatment Program;

5.6.5 Driving to and from the service provider for monitoring and servicing of the equipment; and

5.6.6 Driving associated with a bona fide medical emergency.

5.7 Under no circumstances shall the applicant operate any motor vehicle until the equipment is installed and the applicant has received the specially marked restricted license.

5.8 The applicant is responsible for any consequences of operation of the vehicle by persons who have not been trained by the service provider, or who fail to operate the equipment in the manner prescribed by the service provider.

§91-9-6 Participant Requirements For Continued Eligibility

6.1 The Commissioner shall immediately revoke the restricted driving privileges of any participant who:

6.1.1 Fails to meet the attendance and participation requirements of the Safety and Treatment Program in which the participant is enrolled, if the participant has not already successfully completed the program;

6.1.2 Has his or her license suspended or revoked for any other offense;

6.1.3 Upon written notice from any law enforcement officer or service provider that the participant was operating a motor vehicle not containing the required equipment, or was operating a vehicle in violation of any restriction imposed by this rule or the program participation agreement;

6.1.4 Upon written notice from any service provider or law enforcement officer that the equipment in the vehicle has been altered, tampered with, bypassed or removed without the prior approval of the Commissioner;

6.1.5 Upon written notice from any law enforcement officer or service provider that the participant has allowed or caused another person to bypass, or attempt to bypass the equipment or to circumvent the device in any manner;

6.1.6 Upon written notice from any law enforcement officer, service provider or Safety and Treatment Program Coordinator that the participant operated or attempted to operate a motor vehicle under the influence of alcohol or controlled substances;

6.1.7 Is convicted of any motor vehicle offense contained in West Virginia Code §17B-3-5; or

6.1.8 Fails to abide by the terms and conditions of the lease agreement with the service provider. A service provider shall not remove a participant from the program without prior approval of the Commissioner.

§91-9-7 Eligibility For Reinstatement Of License

7.1 A participant whose license has been revoked for a first offense as described in West Virginia Code §17C-5A-1 et seq. is required to have the equipment in the participant's vehicle for a minimum period of five (5) months, complete the Safety and Treatment Program, and pay all required fees before his or her license may be reinstated.

7.2 A participant whose license has been revoked for more than one (1) offense as described in West Virginia Code §17C-5A-1 et seq. is required to have the equipment in his or her vehicle for a minimum period of one (1) year, complete the Safety and Treatment Program, and pay all required fees before his or her license may be reinstated.

7.3 A participant whose license has been revoked for a refusal to submit to a secondary chemical test is required to have the equipment in his or her vehicle for a minimum period of nine (9) months, and pay all required fees before his or her license may be reinstated.

7.4 A participant who is under the age of twenty-one (21) at the time of the offense is required to have the equipment in his or her vehicle until the participant reaches the age of twenty-(21) or for one (1) year, whichever is longer, complete the Safety and Treatment Program and pay all required fees before his or her license may be reinstated.

7.5 For purposes of this rule eligibility for reinstatement of driving privileges means, completion of the Safety and Treatment Program, expiration of the required period of time in which equipment is required to be installed and payment of all fees including any fees owed to the service provider.

7.6 A participant who withdraws or is removed from the program shall serve out the remainder of his or her original license revocation period pursuant to West Virginia Code §17C-5A-2. The period of time the participant had the equipment in use with restricted driving privileges shall not count towards fulfilling the requirements of the original revocation period.

7.7 If a participant has failed to complete the Safety and Treatment Program and pay all required fees by the end of the mandatory equipment usage time period, the participant shall either:

7.7.1 Continue to use the equipment while actively enrolled in and completing the Safety and Treatment Program or,

7.7.2 Return all equipment to the service provider and return all licenses to the Division and shall not operate any motor vehicle until all requirements are met for license reinstatement.

§91-9-8 Service Provider Standards

8.1 The service provider shall have a minimum of one (1) year experience providing similar service in another jurisdiction.

8.2 The service provider shall install only equipment which has been approved for use in the program by the Commissioner. No equipment shall be approved unless:

8.2.1 The equipment has been in actual field use for at least six (6) months; and,

8.2.2 The equipment has met minimum specifications established by the Commissioner by submission of test data from an independent alcohol testing laboratory.

8.3 The service provider shall initially establish at least one (1) service center to be located in the Charleston, West Virginia area. However, the service provider shall establish additional locations if the Commissioner determines the participation in the program justifies additional locations.

8.4 The Commissioner shall prescribe the hours of operation in consultation with the service provider based on the needs of the applicants in the service area, and the needs of the service provider.

§91-9-9 Program Cost

9.1 The program shall operate on a user fee basis with the cost of the program assumed by the applicant.

9.2 The fees for instruction or leasing, monitoring, servicing and deinstallation of equipment shall be set by the Commissioner and can not be changed without prior review and approval of the Commissioner, and can only be changed a maximum of one (1) time per year.

9.3 The established fees shall be based on average costs and shall not vary according to participant or make of vehicle. Fees shall be uniform at each service center. The service provider shall establish a fee schedule to be applied to indigent participants to be approved by the commissioner.

9.4 The manufacturer, service provider and or installer through the contract shall indemnify and hold harmless the State of West Virginia and or its employees and agents from any and all claims, demands, actions and costs whatsoever that may arise out of an act or omission by the manufacturer, service provider, installer, and employee or subcontractor of the service provider in the performance of the agreement.

9.5 The manufacturer, service provider and or subcontractor shall maintain comprehensive general liability insurance in the amount of at least one million dollars (\$1,000,000) per occurrence with a three million dollar \$3,000,000 aggregate total. The liability insurance shall cover defects or problems in or with product design, materials, and workmanship during the manufacture, calibration and installation of the equipment. The insurance shall be obtained through an insurer licensed to do business in the State of West Virginia and the policy shall be designed to provide the Commissioner with at least forty-five (45) days prior to written notice of any cancellation, material change or intent to allow coverage to lapse.

§91-9-10 SEVERABILITY

In the event any portion of this legislative rule is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this legislative rule.

SENATE BILL NO. 198

(By Senators Manchin, Anderson, Grubb, Macnaughtan
and Minard)

[Introduced January 31, 1994; referred to the
Committee on *Finance*
THE JUDICIARY

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10 A BILL to amend and reenact section two, article eight, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of motor vehicles to promulgate legislative rules
14 relating to the motor vehicle alcohol test and lock program.

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

16 That section two, article eight, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO**
20 **PROMULGATE LEGISLATIVE RULES.**

21 **§64-8-2. Division of motor vehicles.**

22 (a) The legislative rules filed in the state register on the
23 second day of December, one thousand nine hundred eighty-two,

1 relating to the commissioner of motor vehicles (denial of driving
2 privileges), are authorized with the amendments set forth below:

3 By inserting the words "licensed in the United States" after
4 the phrase "physician of the applicant's choice," on page five,
5 line two, and page seven, line one; and by striking out the words
6 "licensed vision specialist" and inserting in lieu thereof the
7 words "an optometrist or ophthalmologist licensed in the United
8 States," on page five, line three, and on page seven, line two.

9 (b) The legislative rules filed in the state register on the
10 ninth day of November, one thousand nine hundred eighty-three,
11 relating to the commissioner of motor vehicles (driving under the
12 influence, driver's license revocation administrative hearings),
13 are authorized.

14 (c) The legislative rules filed in the state register on the
15 fifteenth day of December, one thousand nine hundred
16 eighty-three, relating to the department of motor vehicles
17 (safety and treatment program), are authorized.

18 (d) The legislative rules filed in the state register on the
19 sixteenth day of June, one thousand nine hundred eighty-three,
20 relating to the commissioner of motor vehicles (compulsory
21 insurance), are authorized.

22 (e) The legislative rules filed in the state register on the
23 twentieth day of November, one thousand nine hundred eighty-four,
24 relating to the commissioner of motor vehicles (titling a
25 vehicle), are authorized.

1 (f) The legislative rules filed in the state register on the
2 tenth day of September, one thousand nine hundred eighty-four,
3 modified by the commissioner of motor vehicles to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the fifth day of October, one
6 thousand nine hundred eighty-four, relating to the commissioner
7 of motor vehicles (compulsory motor vehicle liability insurance),
8 are authorized.

9 (g) The legislative rules filed in the state register on the
10 fifth day of August, one thousand nine hundred eighty-five,
11 modified by the commissioner of motor vehicles to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the fourth day of October, one
14 thousand nine hundred eighty-five, relating to the commissioner
15 of motor vehicles (eligibility for reinstatement following
16 suspension or revocation of driving privileges), are authorized.

17 (h) The legislative rules filed in the state register on the
18 fifth day of August, one thousand nine hundred eighty-five,
19 relating to the commissioner of motor vehicles (the
20 administration and enforcement of motor vehicle inspections), are
21 authorized.

22 (i) The legislative rules filed in the state register on the
23 twenty-fifth day of July, one thousand nine hundred eighty-six,
24 modified by the commissioner of motor vehicles to meet the
25 objections of the legislative rule-making review committee and

1 refiled in the state register on the ninth day of October, one
2 thousand nine hundred eighty-six, relating to the commissioner of
3 motor vehicles (seizure of a driver's license and issuance of a
4 temporary driver's license), are authorized.

5 (j) The legislative rules filed in the state register on the
6 twenty-fifth day of July, one thousand nine hundred eighty-six,
7 modified by the commissioner of motor vehicles to meet the
8 objections of the legislative rule-making review committee and
9 refiled in the state register on the ninth day of October, one
10 thousand nine hundred eighty-six, relating to the commissioner of
11 motor vehicles (federal safety standards inspection program), are
12 authorized.

13 (k) The legislative rules filed in the state register on the
14 seventeenth day of August, one thousand nine hundred
15 eighty-seven, modified by the commissioner of motor vehicles to
16 meet the objections of the legislative rule-making review
17 committee and refiled in the state register on the twenty-second
18 day of September, one thousand nine hundred eighty-seven,
19 relating to the commissioner of motor vehicles (denial,
20 suspension, revocation or nonrenewal of driving privileges), are
21 authorized with the amendments set forth below:

22 On page 7, section 7.2 after the words "75 m.p.h.", add the
23 words "except on highways where the established speed limit is 65
24 m.p.h., and conviction was in excess of 80 m.p.h.,"

25 And,

1 On page 14, section 8.1 by inserting the words "not to exceed
2 fifteen hours" after the word "course" and in section 8.2 by
3 inserting the words "not to exceed fifteen hours" after the word
4 "course".

5 (l) The legislative rules filed in the state register on the
6 twenty-second day of November, one thousand nine hundred
7 eighty-eight, modified by the commissioner of motor vehicles to
8 meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the twentieth day
10 of January, one thousand nine hundred eighty-nine, relating to
11 the commissioner of motor vehicles (denial, suspension,
12 revocation or nonrenewal of driving privileges), are authorized.

13 (m) The legislative rules filed in the state register on the
14 thirteenth day of August, one thousand nine hundred ninety-one,
15 modified by the division of motor vehicles to meet the objections
16 of the legislative rule-making review committee and refiled in
17 the state register on the twenty-sixth day of September, one
18 thousand nine hundred ninety-one, relating to the division of
19 motor vehicles (denial, suspension, revocation or nonrenewal of
20 driving privileges), are authorized with the amendment set forth
21 below:

22 "On page nine, after the words "Following too closely", by
23 striking out the number "3" and inserting in lieu thereof the
24 number "2".

1 --(n) The legislative rules filed in the state register on the
2 fifteenth day of September, one thousand nine hundred ninety-two,
3 modified by the division of motor vehicles to meet the objections
4 of the legislative rule-making review committee and refiled in
5 the state register on the seventeenth day of November, one
6 thousand nine hundred ninety-two, relating to the division of
7 motor vehicles (motor vehicle dealers, wreckers/ dismantlers/
8 rebuilders and license services), are authorized.

9 (o) The legislative rules filed in the state register on the
10 twenty-third day of June, one thousand nine hundred ninety-three,
11 modified by the division of motor vehicles to meet the objections
12 of the legislative rule-making review committee and refiled in
13 the state register on the tenth day of August, one thousand nine
14 hundred ninety-three, relating to the division of motor vehicles
15 (motor vehicle alcohol test and lock program), are authorized.

16

17 NOTE: The purpose of this bill is to authorize the Division
18 of Motor Vehicles to promulgate legislative rules relating to the
19 motor vehicle alcohol test and lock program.

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21 Strike-throughs indicate language that would be stricken from
22 the present law, and underscoring indicates new language that
23 would be added.

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H. B. 4280

(By Delegates Gallagher, Douglas, Compton,
Huntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on the Judiciary)

A BILL to amend and reenact section two, article eight, chapter
sixty-four of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to authorizing the
division of motor vehicles to promulgate legislative rules
relating to the motor vehicle alcohol test and lock program.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter sixty-four of the
code of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted, to read as follows:

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO
PROMULGATE LEGISLATIVE RULES.**

§64-8-2. Division of motor vehicles.

(a) The legislative rules filed in the state register on the
second day of December, one thousand nine hundred eighty-two,

4280

1 relating to the commissioner of motor vehicles (denial of driving
2 privileges), are authorized with the amendments set forth below:

3 By inserting the words "licensed in the United States" after
4 the phrase "physician of the applicant's choice," on page five,
5 line two, and page seven, line one; and by striking out the words
6 "licensed vision specialist" and inserting in lieu thereof the
7 words "an optometrist or ophthalmologist licensed in the United
8 States," on page five, line three, and on page seven, line two.

9 (b) The legislative rules filed in the state register on the
10 ninth day of November, one thousand nine hundred eighty-three,
11 relating to the commissioner of motor vehicles (driving under the
12 influence, driver's license revocation administrative hearings),
13 are authorized.

14 (c) The legislative rules filed in the state register on the
15 fifteenth day of December, one thousand nine hundred
16 eighty-three, relating to the department of motor vehicles
17 (safety and treatment program), are authorized.

18 (d) The legislative rules filed in the state register on the
19 sixteenth day of June, one thousand nine hundred eighty-three,
20 relating to the commissioner of motor vehicles (compulsory
21 insurance), are authorized.

22 (e) The legislative rules filed in the state register on the
23 twentieth day of November, one thousand nine hundred eighty-four,
24 relating to the commissioner of motor vehicles (titling a
25 vehicle), are authorized.

1 (f) The legislative rules filed in the state register on the
2 tenth day of September, one thousand nine hundred eighty-four,
3 modified by the commissioner of motor vehicles to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the fifth day of October, one
6 thousand nine hundred eighty-four, relating to the commissioner
7 of motor vehicles (compulsory motor vehicle liability insurance),
8 are authorized.

9 (g) The legislative rules filed in the state register on the
10 fifth day of August, one thousand nine hundred eighty-five,
11 modified by the commissioner of motor vehicles to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the fourth day of October, one
14 thousand nine hundred eighty-five, relating to the commissioner
15 of motor vehicles (eligibility for reinstatement following
16 suspension or revocation of driving privileges), are authorized.

17 (h) The legislative rules filed in the state register on the
18 fifth day of August, one thousand nine hundred eighty-five,
19 relating to the commissioner of motor vehicles (the
20 administration and enforcement of motor vehicle inspections), are
21 authorized.

22 (i) The legislative rules filed in the state register on the
23 twenty-fifth day of July, one thousand nine hundred eighty-six,
24 modified by the commissioner of motor vehicles to meet the
25 objections of the legislative rule-making review committee and

1 refiled in the state register on the ninth day of October, one
2 thousand nine hundred eighty-six, relating to the commissioner of
3 motor vehicles (seizure of a driver's license and issuance of a
4 temporary driver's license), are authorized.

5 (j) The legislative rules filed in the state register on the
6 twenty-fifth day of July, one thousand nine hundred eighty-six,
7 modified by the commissioner of motor vehicles to meet the
8 objections of the legislative rule-making review committee and
9 refiled in the state register on the ninth day of October, one
10 thousand nine hundred eighty-six, relating to the commissioner of
11 motor vehicles (federal safety standards inspection program), are
12 authorized.

13 (k) The legislative rules filed in the state register on the
14 seventeenth day of August, one thousand nine hundred
15 eighty-seven, modified by the commissioner of motor vehicles to
16 meet the objections of the legislative rule-making review
17 committee and refiled in the state register on the twenty-second
18 day of September, one thousand nine hundred eighty-seven,
19 relating to the commissioner of motor vehicles (denial,
20 suspension, revocation or nonrenewal of driving privileges), are
21 authorized with the amendments set forth below:

22 . On page 7, section 7.2 after the words "75 m.p.h.", add the
23 words "except on highways where the established speed limit is 65
24 m.p.h., and conviction was in excess of 80 m.p.h.,"

25 . And,

1 On page 14, section 8.1 by inserting the words "not to exceed
2 fifteen hours" after the word "course" and in section 8.2 by
3 inserting the words "not to exceed fifteen hours" after the word
4 "course".

5 (1) The legislative rules filed in the state register on the
6 twenty-second day of November, one thousand nine hundred
7 eighty-eight, modified by the commissioner of motor vehicles to
8 meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the twentieth day
10 of January, one thousand nine hundred eighty-nine, relating to
11 the commissioner of motor vehicles (denial, suspension,
12 revocation or nonrenewal of driving privileges), are authorized.

13 (m) The legislative rules filed in the state register on the
14 thirteenth day of August, one thousand nine hundred ninety-one,
15 modified by the division of motor vehicles to meet the objections
16 of the legislative rule-making review committee and refiled in
17 the state register on the twenty-sixth day of September, one
18 thousand nine hundred ninety-one, relating to the division of
19 motor vehicles (denial, suspension, revocation or nonrenewal of
20 driving privileges), are authorized with the amendment set forth
21 below:

22 "On page nine, after the words "Following too closely", by
23 striking out the number "3" and inserting in lieu thereof the
24 number "2".

1 (n) The legislative rules filed in the state register on the
2 fifteenth day of September, one thousand nine hundred ninety-two,
3 modified by the division of motor vehicles to meet the objections
4 of the legislative rule-making review committee and refiled in
5 the state register on the seventeenth day of November, one
6 thousand nine hundred ninety-two, relating to the division of
7 motor vehicles (motor vehicle dealers, wreckers/ dismantlers/
8 rebuilders and license services), are authorized.

9 (o) The legislative rules filed in the state register on the
10 twenty-third day of June, one thousand nine hundred ninety-three,
11 modified by the division of motor vehicles to meet the objections
12 of the legislative rule-making review committee and refiled in
13 the state register on the tenth day of August, one thousand nine
14 hundred ninety-three, relating to the division of motor vehicles
15 (motor vehicle alcohol test and lock program), are authorized.

16

17 NOTE: The purpose of this bill is to authorize the Division
18 of Motor Vehicles to promulgate legislative rules relating to the
19 motor vehicle alcohol test and lock program.

20

21 Strike-throughs indicate language that would be stricken from
22 the present law, and underscoring indicates new language that
23 would be added.



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SECRETARY OF STATE

Building 1, Suite 157-K
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Charleston, WV 25305-0770

TO: Steve Dale

AGENCY: Motor Vehicles

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: March 31, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 9 TITLE: 91 Motor Vehicles

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Steve A. Dale
TITLE OF PERSON SIGNING: Executive Assistant
DATE: 4/5/94

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.