

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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JUL 30 11 22 AM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91CSR14

RULE TYPE: Procedural; CITE AUTHORITY \$17A2-9 and \$17C-15-49(b)

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 91CSR14

TITLE OF RULE BEING PROPOSED: _____

Waiver of Safety Belt Requirements

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 30, 1993 AT 10:00 A.M.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Division of Motor Vehicles

Attention: Steven O. Dale, Room 113

Building 3, Capitol Complex

Charleston, WV 25317

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Jane L. Cline, Commissioner

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

340



**WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION**

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • 304/558-0444

Gaston Caperton
Governor

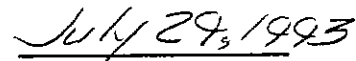
Charles L. Miller, P.E.
Secretary

The Honorable Ken Hechler
Secretary of State
State Capitol
Charleston, WV 25305

Dear Mr. Secretary:

The Commissioner of Motor Vehicles is hereby authorized to promulgate proposed rule 91CSR14 Waiver of Safety Belt Requirements.


Charles L. Miller, Secretary


Date

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Safety Belt Waiver 91 csr 14

Type of Rule: Legislative Interpretive X Procedural

Agency Division of Motor Vehicles

Address Building 3, Capitol Complex
Charleston, WV 25317

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$1,415	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE	1,415				
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

* Cost is based on

1) Printing 5,000 Applications	\$,175.00
2) Mailing 5,000 Applications	1,240.00
	<u>\$1,415.00</u>

3. Objectives of these rules:

This rule provides a standard form for a physician to certify that a person has a physically disabling condition which prevents appropriate restraint in a safety belt use of which is required under the provisions of West Virginia Code §17C-15-49. The completed form serves as the waiver which is kept by the applicant.

Rule Title: 91CSR14 Waiver of Seat Belt Requirements

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Cost to print and mail form to applicants is estimated on cover sheet.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: 7/30/93

Signature of Agency Head or Authorized Representative

Jane L. Cline

Jane L. Cline, Commissioner



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

91CSR14
Waiver of Safety Belt Requirement
Proposed Procedural Rule (1993)

Summary of Content
Statement of Circumstances Requiring Filing

The purpose of this rule is to prescribe the form upon which applicants may apply for Waiver of the Safety Belt Requirement pursuant to West Virginia Code §17C-15-49(b).

This standard form will be used by physicians to certify the eligibility for a waiver based on the nature of the disability and the reason why a safety belt is inappropriate.

The rule prescribes the form to be used and the information which the form must include in order to serve as the applicant's Waiver of Safety Belt Certificate.

A handwritten signature in cursive script, reading "Jane L. Cline", positioned above a horizontal line.

Jane L. Cline
Commissioner

FILED

(PROPOSED)
WEST VIRGINIA PROCEDURAL RULES
DIVISION OF MOTOR VEHICLES
91CSR14

JUL 30 11 22 AM '93
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Title: Waiver of Safety Belt Requirements

§91-14-1 General

1.1 Scope - This rule establishes the procedure for certifying an exemption from the required use of safety belts in a passenger motor vehicle in accordance with West Virginia Code §17C-15-49.

1.2 Authority - West Virginia Code §17A-2-9 and §17C-15-49(b).

1.3 Filing Date -

1.4 Effective Date -

1.5 This rule applies to persons who, due to a physically disabling condition, are unable to comply with the required use of safety belts as provided by West Virginia Code §17C-15-49.

§91-14-2 Application

2.1 The applicant for a waiver of the safety belt requirement pursuant to West Virginia Code §17C-15-49 shall complete Part I of the Safety Belt Waiver Certificate form prescribed by the Division of Motor Vehicles.

2.2 The applicant shall submit the form with Part I completed to a physician of his or her choice, licensed to practice medicine in the United States.

§91-14-3 Physician Certification

3.1 A physician, licensed to practice medicine in the United States, after examination of the applicant, may at his or her discretion complete Part II of the application.

3.2 Completion of the application shall, in accordance with West Virginia Code §17C-15-49(b) include:

3.2.1 Nature of Physical Disability - typed or printed in ink in the designated area.

3.2.2 Reason for Waiver of Safety Belt Requirement - typed or printed in ink in the designated area.

3.2.3 Alternate Restraint System - if applicable, may, at the physician's discretion be prescribed for the applicant. The physician shall type or write in ink a description of the alternative restraint system in the designated area. Completion of this part of the application shall serve to require the applicant to use the described alternative restraint system when operating or as a passenger in a passenger vehicle.

3.2.4 The certifying physician, at his or her discretion, may limit the period of time for which the Safety Belt Waiver Certificate is valid.

3.3 Signature of Physician - shall serve to certify the applicant as having a physical disability which prevents the use of safety belts and validate the Safety Belt Waiver Certificate form as evidence of the disability in accordance with West Virginia Code §17C-15-49(b).

3.4 Nothing in this rule shall require any physician to either examine an applicant to determine eligibility for a Safety Belt Waiver, or require the physician to certify an applicant has qualified for a waiver under the provisions of West Virginia Code §17C-15-49(b), unless the physician makes a determination that in his or her medical opinion, the applicant's use of a safety belt is inappropriate due to the applicant's physical disability.

91-14-4 Display and Use of Safety Belt Waiver

4.1 The completion and certification of Part II of the Safety Belt Waiver Certificate form by a physician licensed to practice medicine in the United States, shall serve to:

4.1.1 Completely waive the safety belt requirement of West Virginia Code §17C-15-49, for the applicant when operating or as a passenger in a passenger vehicle, or

4.1.2 Require the applicant to use an alternative restraint system, prescribed by the certifying physician, when operating or as a passenger in a passenger vehicle.

4.2 The applicant shall keep the Safety Belt Waiver Certificate in any passenger vehicle in which he or she is either an operator or a passenger.

4.3 The applicant may make copies of the Safety Belt Waiver Certificate for use as a duplicate Safety Belt Waiver Certificate if the original is lost or destroyed. The copy shall serve as a valid waiver.

4.4 The applicant shall present the Safety Belt Waiver Certificate upon the demand of any member of a law enforcement agency enforcing the provisions of West Virginia Code §17C-15-49(b).

4.5 The Safety Belt Waiver Certificate shall not expire unless the certifying physician includes an expiration date by including a period of time for which the waiver is valid.

§91-14-5 Enforcement

5.1 Enforcement - A member of a law enforcement agency may, at his or her discretion, undertake any investigation necessary to determine the validity or genuineness of any Safety Belt Waiver Certificate.



West Virginia State Police
725 Jefferson Road
South Charleston, West Virginia 25309-1698
Executive Office

Gaston Caperton
Governor

Colonel Thomas L. Kirk
Superintendent

August 9, 1993

The Honorable Ken Hechler
Secretary of State of West Virginia
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0770

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AUG 23 4 24 PM 1993

FILED

Dear Mr. Secretary:

Upon review of the Waiver of Safety Belt Requirements filed by the Division of Motor Vehicles on July 30, 1993, Title Number 91CSR14, the following comments are being submitted.

The Division of Public Safety is against section 4.3 which states "The applicant may make copies of the Safety Belt Waiver Certificate for use as a duplicate Safety Belt Waiver Certificate if the original is lost or destroyed. The copy shall serve as a valid waiver." If the original waiver is lost, it is the opinion of this Division an individual should have to return to a physician and obtain a new waiver.

Sincerely yours,

COLONEL THOMAS L. KIRK
SUPERINTENDENT

TLK/ab