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DEPARTMENT OF MOTOR VEHICLES
STATE OFFICE BUILDING
CHARLESTON, W. VA.
25317

OFFICE OF THE CLERK
SECRETARY OF STATE

ARCH A. MOORE, JR.
Governor

L. W. BECHTOLD
Commissioner

NOTICE OF FINAL FILING - LEGISLATIVE RULE

LEGISLATIVE RULE: Eligibility for Reinstatement Following Suspension
or Revocation of Driving Privileges

The attached legislative rule is hereby filed by the Department of Motor
Vehicles as authorized by Enrolled Senate Bill 434, §64-2-17a(2)(9)(c).


L. W. Bechtold, Commissioner



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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Charleston 25305

March 11, 1986

IMPORTANT NOTICE

TO: Steve Dale
FROM: RICH O. HARTMAN, DIRECTOR
RE: LEGISLATIVE RULE Eligibility for Reinstatement Following Suspension
or Revocation of Driving Privileges

THE 1986 LEGISLATURE HAS AUTHORIZED YOUR AGENCY TO FINAL FILE AND ADOPT THE ABOVE LEGISLATIVE RULE. THIS AUTHORIZATION IS IN S.B. 434 SECTION 64-2-17a(2)(9)(c) PASSED ON March 8, 1986, EFFECTIVE FROM PASSAGE. YOU HAVE 60 DAYS FROM THAT DATE TO FINAL FILE THE ABOVE RULE WITH THIS OFFICE. NO RULE WILL BE ACCEPTED AFTER THAT DATE. YOU MAY ESTABLISH ANY EFFECTIVE DATE FOR YOUR RULE RANGING FROM THE SAME DATE YOU FINAL FILE TO 90 DAYS FROM THE DATE YOU FINAL FILE. REMEMBER TO RE-TYPE YOUR RULE IN ITS ENTIRETY FOLLOWING THE PROPER FORMAT. PLEASE CALL IF YOU HAVE ANY QUESTIONS.

FILED

1985 OCT -4 AM 10: 01

STATE OF WEST VIRGINIA
DEPARTMENT OF STATE

(Proposed)
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES
CHAPTER 17A-2
SERIES XVI

Subject: Eligibility For Reinstatement Following Suspension or Revocation
of Driving Privileges

INDEX

	Page
Section 1. General	1
Section 2. Application and Enforcement	1
Section 3. Suspension or Revocation of Driving Privileges	1
Section 4. Eligibility for Reinstatement	2
Section 5. Cross Reference	2

(Proposed)
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES
CHAPTER 17A-2
SERIES XVI

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1985 OCT -4 AM 10:01

WEST VIRGINIA
LEGISLATIVE STATE

Title: Eligibility For Reinstatement Following Suspension or Revocation
of Driving Privileges

Section 1. General

1.1 Scope - These legislative rules relate to the policy of the Department of Motor Vehicles in determination of eligibility for reinstatement following suspension or revocation of driving privileges by the Commissioner of Motor Vehicles.

1.2 Authority - §17A-2-9.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Application and Enforcement

2.1 Application - These legislative rules apply to any person whose driving privileges have been suspended or revoked, and to any person making application for reinstatement of a drivers license following suspension or revocation of driving privileges by the Commissioner of Motor Vehicles.

2.2 Enforcement - Enforcement of these legislative rules is vested with the Commissioner of Motor Vehicles or lawful designee.

Section 3. Suspension or Revocation of Driving Privileges

3.1 Surrender - Any person whose driving privileges have been suspended or revoked by the Commissioner of Motor Vehicles shall surrender all operator's and chauffeur's licenses in their possession pursuant to the provisions of the suspension or revocation order entered.

3.2 Lost or Destroyed Operator's or Chauffeur's Licenses - Any person who is unable to surrender their operator's or chauffeur's license because it has been lost or destroyed shall submit a sworn affidavit stating that the operator's or chauffeur's license has been lost or destroyed. The affidavit shall be held by the Commissioner in lieu of the actual operator's or chauffeur's license. Provided, that any person making a false affidavit shall, pursuant to the provisions of §17B-4-2 be guilty of perjury. During the period of time such affidavit is being held by the Commissioner, such person shall not be eligible for an operator's or chauffeur's license until he is determined eligible for reinstatement.

~~3-2~~ 3.3 Failure To Surrender - ~~The Commissioner shall proceed~~
Pursuant to the provisions of §17B-3-9 which provide that any person who
drives when his privilege to do so has been suspended or revoked shall upon
conviction for the first offense, be imprisoned in the county jail for
forty-eight hours, and fined; the Commissioner shall proceed against any
person who fails to comply with the terms of the suspension or revocation
order directed to them.

~~3-3~~ 3.4 Effective Date - The effective date of suspension or
revocation of driving privileges shall be the date as listed in the suspension
or revocation order entered. All provisions of §17B-4-3 which provides that
any person who fails to return any suspended or revoked operator's or
chauffeur's licenses as ordered by the Commissioner, the Commissioner shall
notify the Superintendent of the Department of Public Safety to secure
possession of such licenses and return the same to the Department, shall
apply after the effective date of suspension or revocation.

Section 4. Eligibility for Reinstatement

4.1 Period of Suspension or Revocation - All time periods provided
in the West Virginia Code for eligibility for reinstatement of a drivers license
shall be calculated from the date of receipt by the Commissioner of all
operator's and chauffeur's licenses pursuant to the suspension or revocation
order entered.

~~4-2~~ ~~Lost or Destroyed Operator's or Chauffeur's Licenses~~ - ~~The~~
~~provisions of §17B-2-9 require that every licensee have his operator's or~~
~~chauffeur's license in his immediate possession at all times when operating a~~
~~motor vehicle. Any person who is unable to surrender their operator's or~~
~~chauffeur's license because it has been lost or destroyed shall submit a sworn~~
~~affidavit stating that the operator's or chauffeur's license has been lost or~~
~~destroyed. The affidavit shall be held by the Commissioner in lieu of the~~
~~actual operator's or chauffeur's license. Provided, that any person making a~~
~~false affidavit shall, pursuant to the provisions of §17B-4-2 be guilty of~~
~~perjury.~~

~~4-3~~ 4.2 Expired License - ~~The provisions of §17B-2-1 require that~~
~~any person operating a motor vehicle have a valid operator's or chauffeur's~~
~~license. Any person whose operator's or chauffeur's license expires after his~~
~~driving privileges have been suspended or revoked, and who has failed to~~
~~comply with the provisions of the order of suspension or revocation by~~
~~surrendering such license to the Commissioner, shall have his eligibility for~~
~~reinstatement calculated from the date of the expiration of the license.~~

Section 5. Cross Reference

5.1 These legislative rules relate to matters contained in Chapter
17A-2, Series V, Section 5 of the Department of Motor Vehicle legislative
rules.

1 Bill 20

SENATE BILL NO. 448

2 (By Senator R. Williams

3 _____
4 [Introduced February 3, 1986

5 referred to the Committee on the Judiciary

6 _____
7
8
9
10 A BILL to amend and reenact section seventeen-a(two)(nine
11 article two, chapter sixty-four of the code of West Virginia,
12 one thousand nine hundred thirty-one, as amended, relating to
13 authorizing the commissioner of motor vehicles to promulgate
14 legislative rules relating to eligibility for reinstatement
15 following suspension or revocation of driving privileges.

16 Be it enacted by the Legislative of West Virginia:

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

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE
22 LEGISLATIVE RULES.

23 §64-2-17a(2)(9). Commissioner of motor vehicles.

1 (a) The legislative rules filed in the state register on the
2 second day of December, one thousand nine hundred eighty-two,
3 relating to the commissioner of motor vehicles (denial of driving
4 privileges), are authorized with the amendments set forth below:

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

11 These rules were proposed by the commissioner pursuant to
12 section nine, article two, chapter seventeen-a and section six,
13 article three-c, chapter seventeen-b of this code.

14 (b) The legislative rules filed in the state register on the
15 twentieth day of November, one thousand nine hundred eighty-four,
16 relating to the commissioner of motor vehicles (titling a
17 vehicle) are authorized.

18 (c) The legislative rules filed in the state register on the
19 fifth day of August, one thousand nine hundred eighty-five,
20 modified by the the commissioner of motor vehicles to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the fourth day of October, one
23 thousand nine hundred eighty-five, relating to the commissioner
24 of motor vehicles (eligibility for reinstatement following
25 suspension or revocation of driving privileges) are authorized.

26

1
2 NOTE: The purpose of this bill is to authorize the
3 commissioner of motor vehicles to promulgate legislative rules
4 relating to eligibility for reinstatement following suspension or
5 revocation of driving privileges.
6

7 Strike-throughs indicate language that would be stricken from
8 the present law, and underscoring indicates new language that
9 would be added.
10

1 Bill 20

2 H. B. 1765

3 (By Delegate Casey)

4 (Introduced February 5, 1986; referred to the

5 Committee on Roads and Transportation with the)

6 direction that it alter be referred to the Com-
7 mittee on the Judiciary.]

9

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