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DEPARTMENT OF MOTOR VEHICLES

STATE OFFICE BUILDING  
CHARLESTON, W. VA.  
25317

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

ARCH A. MOORE, JR.  
Governor

L. W. BECHTOLD  
Commissioner

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Seizure of Driver's License, Issuance of  
the Temporary Driver's License prescribed in §17C-5A-1

The attached legislative rule constitutes the official rule approved by the Department of Motor Vehicles on the 25th day of July, 1986 and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule-Making Review Committee.

L. W. Bechtold  
Commissioner

FISCAL NOTE FOR RULES

Rule Title: Seizure of Driver's License, Issuance of the Temporary  
Driver's License Prescribed by §17C-5A-1

Type of Rule:  X  Legislative       Interpretive       Procedural      

Agency  Department of Motor Vehicles  Address  1800 Washington St. East   
 Charleston, West Virginia 25317

| 1. Effect of Proposed Rule | ANNUAL   |          | FISCAL YEAR |      |            |
|----------------------------|----------|----------|-------------|------|------------|
|                            | Increase | Decrease | Current     | Next | Thereafter |
| Estimated Total Cost       | \$       | \$       | \$          | \$   | \$         |

Personal Services

Current Expenses

Repairs and Alterations    N O T    A P P L I C A B L E

Equipment

Other

2. Explanation of above estimate:

These rules do not in themselves either increase or decrease the costs of the Department.

3. Objectives of these rules:

These rules:

- 1) Prescribe the temporary driver's license provided for in §17C-5A-1.
- 2) Establish procedures for the seizure of the permanent license at the time of arrest, and
- 3) Establish procedures for extension of the temporary license after an administrative appeal.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Not applicable

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

None

C. Economic Impact on Citizens/Public at Large.

None

Date: July 25, 1986

Signature of Agency Head or Authorized Representative

L. W. Bechtold  
L. W. Bechtold, Commissioner

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(PROPOSED)  
WEST VIRGINIA LEGISLATIVE RULES  
DEPARTMENT OF MOTOR VEHICLES  
CHAPTER 17A-2  
SERIES 20  
INDEX

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Title: Seizure of Driver's License, Issuance of the Temporary Driver's License Prescribed by §17C-5A-1

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Section 1. General

1.1 Scope - These legislative rules establish the procedures for seizure of a person's driver's license and issuance of a temporary driver's license in accordance with the provisions of Chapter 17C, Article 5A of the West Virginia Code.

1.2 Authority - §17A-2-9 related to §17C-5A-1 and §17C-5A-2.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Application and Enforcement

2.1 Application - These legislative rules apply to any law enforcement officer arresting a person for an offense described in §17C-5-2 or for an offense described in a municipal ordinance which has the same elements as an offense described in §17C-5-2. These rules also apply to any person issued a temporary driver's license in accordance with the provisions of §17C-5A-1 or §17C-5A-2.

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

Section 3. Seizure and Disposition of Driver's License

3.1 Seizure of License - In accordance with §17C-5A-1(b), any law enforcement officer arresting a person for an offense described in §17C-5-2 or similar municipal ordinance shall take the driver's license at the time of arrest.

3.2 Disposition of License - Any driver's license secured in accordance with §17C-5A-1(b) shall be taped to the written statement known as the "Statement of Arresting Officer" and, in accordance with §17C-5A-1(b), both documents shall be submitted to the Commissioner within forty-eight hours.

Section 4. Issuance of Temporary Driver's License

4.1 Prescribed Form - The form contained on the lower portion of the "Statement of Arresting Officer" supplied to law enforcement agencies by the Department shall constitute the prescribed temporary driver's license form.

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Series 20, Sec. 4

4.2 Completion of License - The temporary driver's license form shall be completed in full by the arresting officer at the time of arrest, and upon completion, shall be given to the arrested person. The temporary driver's license shall not be valid unless signed by the licensee.

4.3 Issuance - A temporary driver's license shall only be issued when the arresting officer secures a valid West Virginia driver's license. The temporary driver's license provisions of §17C-5A-1(b) do not apply to a person with an out-of-state driver's license or to a person who fails to surrender a valid West Virginia driver's license at the time of arrest. The temporary driver's license form shall not be detached from the "Statement of Arresting Officer" form and shall be marked "void" when a temporary driver's license is not issued.

4.4 Revoked or Suspended License - A temporary driver's license shall not be issued to a person whose driving privilege has been suspended or revoked. Any West Virginia driver's license taken from such person in accordance with 3.1 shall be taped to the "Statement of Arresting Officer" and the temporary driver's license form shall not be detached from the "Statement of Arresting Officer Form" and shall be marked void.

4.5 Term of License - Any temporary driver's license issued by an arresting officer shall be valid for a period of thirty (30) days from the date of arrest.

4.6 Failure to Surrender License - A person who fails to surrender a valid West Virginia driver's license at the time of arrest shall be ordered to surrender such driver's license through the order of revocation directed to such person in accordance with the provisions of §17C-5A-1(c). Failure to surrender the driver's license as directed by the order of revocation shall result in an order being directed to the Department of Public Safety, local law enforcement agency or other lawful means to secure such driver's license in accordance with §17B-3-8.

## Section 5. Extension of Temporary Driver's License

5.1 Perfection of Hearing Request - Upon a timely request for a hearing in accordance with §17C-5A-2(a), a temporary driver's license, if issued, shall be extended by the Commissioner.

5.2 Term of License Extension - An extension of a temporary driver's license shall be for for a period of time to be determined by the Commissioner to extend the temporary driver's license until the final order is made and entered either affirming or reversing the original order of revocation.

5.3 Further Extension - It shall be the responsibility of the holder of a temporary driver's license to apply for a further extension of the temporary license should a final order not be made and entered prior to the

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expiration of the extension granted pursuant to Section 5.2. Such further extension shall be for a period of time to be determined by the Commissioner to extend the temporary driver's license until a final order is made and entered either affirming or reversing the original order of revocation.

5.4 License Status - Upon the granting of a request for hearing in accordance with §17C-5A-2(a), revocation of the licensees' privilege to operate a motor vehicle is stayed pending the making and entering of the final order of the Commissioner. However, such licensee who has been issued a temporary license, shall not be issued a duplicate operator or chauffeurs license during the pendency of any such proceedings.

Section 6. Severability

In the event any portion of these rules shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of these rules.



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### PUBLIC COMMENT ON PROPOSED RULES

Rule Title: Seizure of Driver's License, Issuance of Temporary Driver's License prescribed by §17C-5A-1

Rule Type: Legislative

Comment Period Expiration: July 15, 1986

Persons/Groups notified of intent to promulgate rules.

1. George M. Banker, Comm., ABCC (Commission on Drunk Driving Prevention)
2. Vernon F. Harless, Boone Co. Sheriff (Commission on Drunk Driving Prevention)
3. Thomas D. Hagg, Prosecuting Atty. (Commission on Drunk Driving Prevention)
4. Mrs. Joann Wiblin (Commission on Drunk Driving Prevention)
5. Bernard Zelewicz, Wheeling PD (Commission on Drunk Driving Prevention)
6. W. F. Donohoe, So. Charleston DPS (Commission on Drunk Driving Prevention)
7. H. W. Richardson II, Director, (Commission on Drunk Driving Prevention)
8. Capitol City Press Room
9. Glen O. Pauley, DMV Winfield Office
10. Harlan Tetrick, DMV Martinsburg Office
11. American Automobile Association, Charleston
12. WV State Bar Association
13. Phyllis Gatson, Kanawha County Magistrate
14. WV Safety Council
15. J. R. Bias, Planning and Research, State Police
16. Corporal Gray, Planning and Research, State Police
17. WV Prosecuting Attorney's Association
18. Deloras Martin, AAA State Association
19. Joseph Panelinto, Assoc. of Community Mental Health
20. Aubrey Bailey, WV Assoc. of Alcoholism & Drug Abuse Counselors
21. West Virginia Legal Services Plan
22. American Civil Liberties Union
23. Joyce Salamy, C.A.D.D.
24. WV Association of Counties
25. WV Police Chiefs Association
26. WV Sheriff's Association
27. Jamie Albert, Director, Criminal Justice & Highway Safety
28. John Bennett, Executive Director, WV Safety Council
29. Jack Clohan, Dept. of Health



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30. Robert L. Bailey, Jr., Huntington Sheriff
31. Rebecca D. Ross, Charleston
32. Dr. Carl Hadsell, WVU Admissions and Records
33. Paul Stewart, Department of Education
34. Wate T. Watson, McDowell County Prosecuting Attorney
35. Robert Lightner, Marshall County Sheriff
36. Maybell Hoit, Hancock-Brooke Mental Health Center
37. John Mays, Logan-Mingo Mental Health Center
38. John Stoehr, Northern Panhandle Mental Health Center
39. Phil Harris, Potomac Highlands Mental Health Guild
40. Johanna Lampert, Prestera Center
41. Hubert Lake, Seneca Mental Health Center
42. Toni Estep, Shawnee Hills Mental Health Center
43. James Baker, Southern Highlands Mental Health Center
44. Emily Futch, Summit Center for Human Development
45. Mimmie Byrne, Valley Mental Health Center
46. Eric Ostot, Western District Guidance Center

Comments received for the Record: None

Amendments prior to Agency Adoption: None



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L. W. Bechtold  
Commissioner