

Motor Vehicles and Traffic

CHAPTER 11.

MOTOR VEHICLES AND TRAFFIC.

For state law as to authority of city council to provide for use of city's streets, roads and highways, see W. Va. Code, §§ 8-12-2, 8-12-5(4). As to authority of city to adopt traffic regulations not inconsistent with state law, see W. Va. Code, §§ 17C-2-7, 17C-2-8, 17C-6-3, 17C-8-5. As to motor vehicle registration certificate of title, etc., see W. Va. Code, § 17A-1-1 et seq. As to operators' and chauffeurs' licenses, see W. Va. Code, § 17B-1-1 et seq. As to traffic regulations and rules of the road, see W. Va. Code, § 17C-1-1 et seq. As to state motor vehicle safety responsibility law, see W. Va. Code, § 17D-1-1 et seq. As to state inspection of vehicles, see W. Va. Code, § 17C-16-1 et seq.

As to mobile homes, travel trailers, etc., generally, see ch. 10 of this Code. As to noise generally, see ch. 12. As to parades, picketing, demonstrations, etc., generally, see ch. 15. As to streets and sidewalks generally, see ch. 17.

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Article I. Stopping, Standing and Parking.

Division 1. Generally.

For state law as to authority of city to regulate the use of streets, crosswalks and public places belonging to city, see W. Va. Code, § 8-12-5, subsec. (4). As to authority of city to regulate the standing and parking of vehicles on streets under city's jurisdiction, see W. Va. Code, § 17C-2-8, subsec. (a)(1). For state motor vehicle law relating to stopping, standing and parking, see W. Va. Code, § 17C-13-1 et seq.

Sec. 11-1. Parking areas for handicapped persons.

The mayor is hereby authorized to designate parking spaces upon public streets and alleys at places where parking is reasonably possible, consistent with traffic conditions and other parking ordinances, for the sole and exclusive use of persons having serious physical handicaps; provided, that such spaces for such exclusive parking can reasonably be provided near the home or place of business of such physically handicapped person who owns an automobile and has definite need for such consideration. After any such space is so designated by the mayor and shall have been clearly marked, any owner or operator of any motor vehicle violating such exclusive privileges by parking in or encroaching upon such reserved space shall be punished as provided in this article. (6-1-50.)

Sec. 11-2. Repair of vehicles on public streets, etc.

It shall be unlawful for any owner or operator of any motor vehicle to repair or to permit the repairing of same upon any street or alley within the city, and it shall be unlawful for any person to do or perform any such repair work upon the streets and alleys within the city, except in case of emergency and then only at such place and for such time as authority may be first obtained from the city police. (4-15-48, § 6.)

Sec. 11-3. Taxi stands; license.

(a) Every owner and operator of a taxicab within the city shall be required to have a stand or designated place from which to operate, which stand or place shall be designated by the council of the city, unless such stand or place has been previously designated by some state authority.

(b) Every owner and operator of a taxicab within the city shall obtain a municipal license for such stand or place from which to operate, for which license the tax shall be ten dollars per year, from July 1 until June 30 of the following year.



(c) Any such owner and operator who shall have obtained his license and paid his tax as required above shall have the right, under the supervision of the council of the city, to identify such stand or place with distinctive markings upon the street, curb or other place, as may be approved by the council.

Such space so marked and designated as a taxi stand shall be of a sufficient size and dimension to accommodate reasonably the parking of the taxicab or cabs owned and operated by such licensee, the size and dimension thereof to be approved by the council.

(d) Any such licensee may at his own expense erect conspicuous "No Parking" signs, as may be approved by the council, and in case such "No Parking" signs are erected, the space so marked off and designated as a taxi stand shall not be used for general parking by other vehicles, and anyone violating this regulation may be punished as provided for violation of other traffic ordinances. (9-5-40, §§ 1 to 5.)

Sec. 11-4. Restricted areas generally.

When signs are appropriate markings are in place giving notice that stopping, standing or parking is restricted or prohibited in a given location, no person shall stop, stand or park any vehicle except in compliance with the directions of such signs or markings.

Sec. 11-5. Parking trucks and commercial vehicles in residential districts.

No commercial vehicle or motor truck larger than half-ton capacity shall be parked or left standing on any street or alley located in a residential district for more than five hours at any time, except when actually engaged in loading or unloading merchandise; provided, that trucks belonging to or operated by the occupant of a business premises located in a residential district shall be permitted to stand in front of business premises actually occupied by him; and provided further, that any tradesman or mechanic, while actually engaged in work on premises located in a residential district, shall be permitted to have any truck owned or operated by him stand in front of such premises.

Sec. 11-6. Prohibited uses.

No person shall stand or park or permit the standing or parking of a vehicle upon any street or public place for the principal purpose of displaying it for sale; for the primary purpose of advertising; for the purpose of utilizing the street or public place for storage or warehousing; or for washing, greasing or repairing such vehicle; except, that temporary emergency repairs to permit removal of the vehicle may be made on a public street or public place.

Sec. 11-7. Right-of-way at parking areas.

All moving vehicles passing a space lawfully available for the parking of vehicles shall have the right-of-way over parked vehicles; provided, that when a vehicle is being moved into or from a parking space and is actually in motion, operators of passing vehicles shall be alert to the movement of such other vehicle and shall use reasonable diligence to prevent accidents.

Sec. 11-8. Clearing of streets and parking areas.

The mayor may require that parking sections on any of the streets of the city be cleared temporarily for the purpose of cleaning or for any other public purpose, and may cause notices to be given by posting, by barriers or otherwise; and any person neglecting or refusing to move his vehicle as required by such notice shall be guilty of an offense under this chapter.

Division 2. Metered Parking.

For state law as to authority of city to maintain and operate municipal parking facilities, including parking lots, curb-line parking, meters, etc., see W. Va. Code, §§ 8-16-1, 8-16-2.

Sec. 11-9. Compliance with instructions on meters.

At any place within the city where a parking meter is now or shall hereafter be installed and in place, pursuant to the authority of the common council, the instructions printed on the legend attached to the meters shall be complied with by each person using the parking space appurtenant to such meter.

Sec. 11-10. Additional zones.

(a) Establishment by mayor. Pursuant to resolution hereafter adopted by the council, declaring that traffic conditions justify and required additional parking zones, the mayor is hereby authorized to establish additional parking meter zones and positions upon the streets of the city, and to cause such to be marked, designated and controlled as specified by this division for the parking of vehicles.

(b) Contracts for obtaining meters. Upon adoption by the council of a resolution establishing additional parking meter zones, as provided by subsection (a) of this section, the mayor is directed and empowered to enter into negotiations for the making of a contract to acquire and install suitable parking meters for the purpose of carrying such resolution into effect; and when the terms, provisions and conditions of such contract shall be found by the mayor to be suitable, he shall submit the contract to the common council and the council shall have the sole right of authorizing the making of such contract; provided, that no contract shall be negotiated or entered into for the purposes

aforesaid save and except upon the condition that the payment of the cost, including the cost of the installation of such parking meters, shall be derived wholly from the revenue and funds obtained from the operation of such parking meters, and no debt shall be imposed upon the city for the cost of such meters and the installation thereof.

Sec. 11-11. Parking spaces; positions of parked vehicles; movement of vehicles.

(a) In each parking meter zone a parking space of approximately twenty feet in length shall be marked on the street or curb adjacent to the meter and parallel with the curb; except, that where angle parking is required, such parking space shall be marked on the street at an angle of forty-five degrees, and the width of such space shall be approximately ten feet.

(b) Vehicles parked parallel to the curb shall have both front and rear wheels nearest the curb placed within one foot thereof, and the front wheels of vehicles parked diagonally shall be placed in contact with the curb.

(c) Vehicles parked in parallel positions shall be so placed that the center of the forward half of the vehicle, as nearly as is practicable, shall be opposite the parking meter. Vehicles parked in diagonal positions shall be so placed that the foremost part of the vehicle shall be opposite to and fully in clearance of the meter.

(d) Parking movements shall be in the normal direction of traffic movement.

Sec. 11-12. Position and indications of parking meters.

Parking meters shall be installed in the parking meter zones in the parking positions indicated, as closely adjacent to the curb as is practicable without exposing the meters to danger of injury by vehicles and without interfering with the free passage of vehicles or pedestrians. Each parking meter shall be so set as to show or display, by some appropriate device, that the respective allotted parking position is or is not legally in use; and each such meter shall be provided with an appropriate designation to indicate the legal parking time established by this chapter; and the operation of such meters shall indicate, by proper device and characters, the duration of legal parking in such position and the expiration of such period and the period of illegal or overtime parking.

Sec. 11-13. Operation of meters; time limits; exceptions.

(a) Duty of driver; limited exception for commercial vehicles; general exception on Sundays and holidays. It shall be unlawful and a violation of this section to park a vehicle in a parking position indicated by a meter unless a coin of the United States of the denomination indicated on the meter for the time for which parking is desired is deposited immediately in the parking

meter at such position; and failure to make such deposit shall constitute a violation of this section; provided, that commercial vehicles may load or unload in such parking space as provided by subsection (c) of this section; and provided, further, that vehicles may park in such parking spaces on Sundays and other holidays as provided by subsection (e) of this section.

(b) Indication of parking time; overtime parking. Upon depositing such coin, such driver shall place the parking meter in operation in accordance with the directions contained thereon, and each parking position may be lawfully occupied by such vehicle for the parking time prescribed for such parking position. If the vehicle shall remain in such parking position beyond the permitted parking time limit, the parking meter shall, by its dial or appropriate device, indicate illegal parking and thereafter such vehicle shall be held to be parked overtime and beyond the period of legal parking time and such overtime or illegal parking shall be a violation of this section.

(c) Loading or unloading trucks or commercial vehicles. No truck or commercial vehicle shall be parked at any time in any metered parking position, unless such parking is solely for the purpose of immediately loading or unloading such vehicle.

(d) Time limits. Subject to the provisions for deposit of a coin, as specified by subsection (a) of this section, the permitted parking time in any metered parking position shall be limited to the period shown on that particular meter.

(e) Sundays and holidays. The time limit for parking vehicles shall not apply on Sunday or on any legal holiday which is generally observed by business places located within the parking zone areas, nor to the days devoted to any city-wide events or celebrations announced by the mayor; and during such excluded days vehicles may be parked in metered positions without the deposit of a coin in the parking meter.

Sec. 11-14. Extension of parking time.

It shall be unlawful and a violation of this section for any person to deposit or cause to be deposited in a parking meter a coin for the purpose of increasing or extending the parking time for any vehicle beyond the limit indicated on the parking meter at the parking position of such vehicle.

Sec. 11-15. Permitting vehicle to remain parked when meter shows overtime.

It shall be unlawful and a violation of this section for any person to permit a vehicle to remain or be placed in a metered parking position while the parking meter at such parking position displays a signal indicating that such parking position has already been occupied beyond the period of legal parking time permitted for such parking position.

Sec. 11-16. Use of slugs, etc., in meters.

It shall be unlawful and a violation of the provisions of this section to deposit or cause to be deposited in any parking meter any slug, device or any other metal article or object as a substitute for a lawful coin of the United States. Any person violating this section shall, upon conviction, be fined not more than five hundred dollars or imprisoned for not more than thirty days or shall be both so fined and imprisoned.

Sec. 11-17. Wilful damage or injury to meters.

It shall be unlawful and a violation of this section for any person wilfully to deface, tamper with, damage, open or break, destroy or impair the usefulness of any parking meter installed under this division, and the unauthorized removal of any parking meter or of money therefrom shall also constitute a violation of this section. In addition, any person who shall wilfully or negligently and without authority of law, deface, tamper with, damage, open or break, impair the usefulness of or remove any parking meter installed under this division shall be liable to the city or to the owner of the meter for the actual damage done, for which the city shall have a right of action in its name for its own benefit or for the benefit of the owner of the meters.

Sec. 11-18. Parking of bicycles in metered spaces.

No bicycle shall be parked at any time in any metered parking position, with or without the deposit of a coin of the United States in the parking meter; and any such parking of a bicycle shall be unlawful and a violation of this section.

Sec. 11-19. Exemptions.

The provision of this division shall not apply to authorized emergency vehicles.

Sec. 11-20. Regulation of parking other than by meters.

Full power and authority is reserved to the common council to designate, from time to time, in the interest of the general public welfare, parking positions within any parking meter zone, the use of which positions may be limited or regulated otherwise than by parking meters; provided, that such parking positions be appropriately marked and designated as the common council shall require.

Article II. Operation of Vehicles.Division 1. Generally.Sec. 11-21. Definitions.

The following words and phrases when used in this article shall, for the purpose of this article, have the meanings respectively ascribed to them in this section:

Authorized emergency vehicle. Vehicles of the fire department, duly chartered rescue squad, police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the commissioner or the chief of police of an incorporated city, and such privately owned ambulances and emergency vehicles as are designated by the commissioner.

Bicycle. Every device which does not have a motor attached and which is propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter.

Bus. Every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

Business district. The territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

Controlled-access highway. Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Crosswalk. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver. Every person who drives or is in actual physical control of a vehicle.

Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosive and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Farm tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

Flammable liquid. Any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

Gross weight. The weight of a vehicle without load plus the weight of any load thereon.

Institution of higher education. "State colleges," "state college," "state universities" and "universities," "state university," and "university," and "community college" as defined in subsections (b), (c), (d), (e) and (f), of section 18-26-2 of the Code of West Virginia and any other institution as defined by sections 401(f), (g) and (h) of the Federal Higher Education Facilities Act of 1963, as amended.

Intersection.

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Laned roadway. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Metal tire. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

Moped. Every motorcycle or motor-driven cycle, unless otherwise specified in this chapter, which is equipped with two or three wheels, foot pedals to permit muscular propulsion and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed thirty miles per hour on a level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motor-driven cycle. Every motorcycle having a piston displacement of more than fifty cubic centimeters but not more than one hundred fifty cubic centimeters, or with more than five brake horsepower.

Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Owner. A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

Park. When prohibited, the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Parking area. Lots, areas or other accommodations for the parking of vehicles off the street or highway and open to public use with or without charge.

Pedestrian. Any person afoot.

Pneumatic tire. Every tire in which compressed air is designed to support the load.

Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, trusses or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Police officer. Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway; private property.

(a) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(b) "Private property" means real estate in private ownership without regard to the manner in which it is used.

Railroad. A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

Railroad sign or signal. Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

Railroad train. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

Residence district. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

Residential street. The entire width between the boundary lines of every way, whether publicly or privately maintained, located within any subdivision, development or other similar area used primarily for residential purposes when any part thereof is open to the common use of those living in said area for the purpose of vehicular travel.

Right-of-way. The privilege of the immediate use of the highway.

Road tractor. Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

Roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadways separately but not to all such roadways collectively.

Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

School bus. Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

School grounds. The land on which a school is built together with such other land used by students for play, recreation or athletic events while attending school.

Semitrailer. Every vehicle with or without motive power, other than a police trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

Solid tire. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

Stop. When required, the complete cessation from movement.

Stop, stopping or standing. When prohibited, any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

Street or highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Through highway. Every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

Traffic. Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

Traffic-control devices. All signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Traffic-control signal. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Trailer. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Truck. Every motor vehicle designed, used or maintained primarily for the transportation of property.

Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

For similar state law, see W. Va. Code, §§ 17C-1-1 to 17C-1-62.

Division 2. Obedience to and Effect of Traffic Laws.

Sec. 11-22. Applicability to vehicles upon streets and highways; exceptions.

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets and highways except:

- (a) Where a different place is specifically referred to in a given section.
- (b) The provisions of sections 19-69 to 19-151 shall apply upon streets and highways.

For similar state law, see W. Va. Code, § 17C-2-1.

Sec. 11-23. Obedience--Required.

It is unlawful and, unless otherwise declared in this article with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this article.

For similar state law, see W. Va. Code, § 17C-2-2.

Sec. 11-24. Same--Public officers and employees; inapplicable to persons engaged in highway surface work.

- (a) The provisions of this article applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated

by the United States, this state, or any county, city, town, district or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this chapter with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this article shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work.

For similar state law, see W. Va. Code, § 17C-2-4.

Sec. 11-25. Authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this article;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement of turning in specified direction.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted flashing lamp as authorized by section 17C-15-26 of the Code of West Virginia, which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a warning light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

*For similar state law, see W. Va. Code, § 17C-2-5.
As to emergency services generally, see §§ 2-27 to
2-34 of this Code.*

Sec. 11-26. Applicability to persons riding animals or driving animal-drawn vehicles.

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this article, except those provisions of this article which by their very nature can have no application.

For similar state law, see W. Va. Code, § 17C-2-6.

Sec. 11-27. No interference with rights of owners of real property.

Nothing in this article shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this article, or otherwise regulating such use as may seem best to such owner.

For similar state law, see W. Va. Code, § 17C-2-9.

Division 3. Traffic, Signs, Signals and Markings.

Sec. 11-28. Obedience to traffic-control devices and instructions--Official signs to be in proper position, etc.

(a) The driver of any vehicle and the motorman of any streetcar shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this article, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this article.

(b) No provision of this article for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

For similar state law, see W. Va. Code, § 17C-3-4.

Sec. 11-29. Same--At site of street or highway construction or maintenance.

The driver of any vehicle shall obey the traffic-control instructions of persons authorized by the state department of highways or by proper local authorities to operate traffic-control devices, act as flagmen or operate follow-vehicles at or near the site of street or highway construction or maintenance work, for the purpose of regulating, warning or guiding traffic, subject to the exceptions granted the driver of an authorized emergency vehicle in this article. Any person failing to comply with the requirements of this section shall be guilty of a misdemeanor.

For similar state law, see W. Va. Code, § 17C-3-5.

Sec. 11-30. Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting the words "go," "caution" or "stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green alone or "go":

(1) Vehicular traffic facing the signal, except when prohibited under section 17C-12-2 of the West Virginia Code may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(b) Yellow alone or "caution" when showing following the green or "go" signal:

(1) Vehicular traffic facing the signal is thereby warned that the red or "stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "stop" signal is exhibited.

(2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(c) Red alone or "stop":

(1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "go" is shown alone except as provided in paragraphs (2) and (3) of this subdivision (c).

(2) A vehicle which is stopped in obedience to a red or "stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection, may cautiously make a right turn but such vehicle shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that local authorities in their respective jurisdictions may by ordinance prohibit any such right turn against a red or "stop" signal at any intersection within such jurisdiction, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

(3) A vehicle which is stopped in obedience to a red or "stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection on a one-way street which intersects another one-way street on which traffic moves to the left, may cautiously make a left turn into said one-way street but such vehicle shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that local authorities in their respective jurisdictions may by ordinance prohibit any such left turn against a red or "stop" signal at any intersection within such jurisdiction, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

(4) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Red with green arrow:

(1) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(e) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(f) The motorman of any streetcar shall obey the above signals as applicable to vehicles.

For similar state law, see W. Va. Code, § 17C-2-5.

Sec. 11-31. Pedestrian walks and wait signals.

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" are in place such signals shall indicate as follows:

(a) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

For similar state law, see W. Va. Code, § 17C-3-6.

Sec. 11-32. Flashing signals.

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

For similar state law, see W. Va. Code, § 17C-3-7.

Sec. 11-33. Display of unauthorized devices, signs, etc.; such devices, etc., declared nuisance and subject to removal.

(a) No local authority or person shall place, maintain or display upon or in view of any highway any unauthorized traffic-control device or traffic-control signal, or any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person

shall place or maintain nor shall any public authority permit upon any highway any traffic-control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highway of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited device, signal, sign or marking is hereby declared to be a public nuisance and the state road commissioner or other authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

For similar state law, see W. Va. Code, § 17C-3-8.

Sec. 11-34. Interference with official traffic-control devices or railroad signs or signals.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

For similar state law, see W. Va. Code, § 17C-3-9.

Division 4. Serious Traffic Offenses.

Sec. 11-35. Driving under influence of alcohol, controlled substances or drugs.

(a) It is unlawful and punishable as provided in subsection (c), (d) and (e) of this section for any person to drive any vehicle in this city while:

- (1) He is under the influence of alcohol;
- (2) He is a habitual user of or under the influence of any controlled substance or he is under the influence of any other drug to a degree which renders him incapable of safely driving; or
- (3) He is under the combined influence of alcohol and any controlled substance or any other drug to a degree which renders him incapable of safely driving.

The fact that any person charged with a violation of subsection (a) or (b) of this section is or has been legally entitled to use alcohol, a controlled substance or a drug shall not constitute a defense against any charge of violating subsection (a) or (b) of this section.

For purposes of this section, the term "controlled substance" shall have the meaning ascribed to it in section 60A-1-101 et seq of the Code of West Virginia.

(b) It is unlawful and punishable as provided in subsections (c), (d) and (e) of this section for the owner of any vehicle to knowingly permit his vehicle to be driven in this city by any other person who is under the influence of alcohol, or who is a habitual user of or under the influence of any controlled substance or who is under the influence of any other drug to a degree or in the manner set forth in subdivisions (1), (2) and (3) of subsection (a) of this section.

(c) A person violating any provisions of subsection (a) or (b) of this section shall, for the first offense, be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail for a period of not less than twenty-four hours nor more than six months and, in addition to such mandatory jail sentence, such person may be fined not less than fifty nor more than one hundred dollars; and, in every case of such conviction, such convicted person's operator's or chauffeur's license shall be revoked for a period of six months. The court which convicted such person shall require him to surrender his operator's or chauffeur's license to it and the court shall cause such license and a certified abstract of the judgment on such conviction to be sent to the department as provided in section 17B-3-4 of the Code of West Virginia.

A person convicted for a first offense under subsection (a) or (b) of this section and if the records of the department do not disclose that he had been previously convicted for such an offense shall be granted the option to attend an alcohol and drug countermeasure school conducted under the jurisdiction and supervision of the division of alcoholism and drug abuse of the department of mental health. Such person who elects to attend the school shall have a temporary operator's or chauffeur's license issued to him by the department upon it receiving certification from the division of alcoholism and drug abuse of the department of mental health that the person is enrolled in a course of instruction in the school. Any person who is issued such temporary operator's or chauffeur's license may use it only for the limited purpose of driving to and from the school and to and from his regular place of education or employment, or both, and to drive any vehicle required as a necessary part of his employment. If any person who has been issued such temporary operator's or chauffeur's license fails to attend any session of an alcohol and drug countermeasure school in which he is enrolled without proper reason or excuse, the division of alcoholism and drug abuse of the department of mental health shall promptly notify the department and the department shall revoke that person's temporary operator's or chauffeur's license immediately.

Such person shall have his operator's or chauffeur's license restored to him by the department upon the expiration of the six-month period for which his operator's or chauffeur's license was revoked, without any limitation as to use, upon his compliance with all applicable requirements of state law and the rules and regulations promulgated thereunder by the commissioner.

A person convicted for a first offense under subsection (a) or (b) of this section shall receive written notification from the department of the provisions of this section and complete information regarding the revocation and restoration of his operator's or chauffeur's license and the alcohol and drug countermeasure school.

At the time a person is convicted for a first offense under subsection (a) or (b) of this section, the court shall inform the division of alcoholism and drug abuse of the department of mental health of such conviction and the division shall notify the person of when and where he can enroll and attend an alcohol and drug countermeasure school.

(d) A person violating any provision of subsection (a) or (b) of this section shall, for the second offense occurring within a five-year period, be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the city jail for a period of not less than six months nor more than one year, which sentence shall not be subject to probation; and whenever the records of the department disclose that a conviction is the second such conviction of such person within a period of five years for a violation of subsection (a) or (b) of this section, his operator's or chauffeur's license shall be revoked by the commissioner for a period of ten years, unless it is restored by the department as hereinafter provided. Whenever the commissioner, after full investigation, shall find that the character of any person who was convicted of a second offense under subsection (a) or (b) of this section and the circumstances at the time indicate that he is not likely to repeat his offense again and that the public good does not require that his license be longer revoked, the commissioner may if it is deemed advisable restore such license at any time more than five years after the date on which it was revoked.

(e) A person violating any provision of subsection (a) or (b) of this section shall, for the third or any subsequent offense occurring within a five-year period, be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for not less than one nor more than three years; and whenever the records of the department disclose that a conviction is the third such or any subsequent conviction of such person within a period of five years for a violation of subsection (a) or (b) of this section, his operator's or chauffeur's license shall be revoked by the commissioner for a period of ten years and indefinitely thereafter unless it is restored by the department as hereinafter provided. Whenever the commissioner, after full investigation, shall find that the character of any person who was convicted of a third or subsequent offense under subsection (a) or (b) of this section and the circumstances at the time indicate that he is not likely to repeat his offense again and the public good does not require that his license be longer revoked, the commissioner may if it is deemed advisable restore such license at any time more than ten years after the date on which it was revoked.

The discretionary power herein conferred may be exercised by the commissioner and the department with respect to the restoring of licenses revoked because of convictions prior to the passage hereof.

*For similar state law, see W. Va. Code, § 17C-5-2.
As to alcoholic beverages generally, see ch. 3 of
this Code.*

Sec. 11-35.1. Phrases synonymous with "driving under influence of alcohol"; validation of warrants and indictments.

(a) When used in this Code, the terms or phrases "driving under the influence of intoxicating liquor," "driving or operating a motor vehicle while intoxicated," "for any person who is under the influence of intoxicating liquor to drive any vehicle," or any similar term or phrase shall be construed to mean and be synonymous with the term or phrase "while under the influence of alcohol" as the latter term or phrase is used in this Code.

(b) From and after the effective date of this section, a warrant or indictment which charges or alleges the offense prohibited by the provisions of this Code and which uses any of the terms or phrases set forth in this Code shall not thereby be fatally defective if such warrant or indictment otherwise informs the person so accused of the charges against him. (10-16-80.)

Sec. 11-36. Reckless driving.

(a) Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private, or upon the ways of any state institution, or upon the property of any county boards of education, or upon any property within the state park and public recreation system established by the director of the department of natural resources in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) The provisions of subsection (a) of this section shall not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the director of the department of natural resources within the state park and recreation system for exclusive use by motorcycles or other recreational vehicles.

Division 5. Implied Consent for Chemical Test
for Intoxication.

*As to alcoholic beverages generally, see ch. 3 of
this Code.*

Sec. 11-37. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

Any person who drives a motor vehicle upon the public streets or highways of the city shall be deemed to have given his consent, by the operation thereof, subject to the provisions of this article, to a preliminary breath analysis and a secondary chemical test of either his blood, breath or urine for the purposes of determining the alcoholic content of his blood. A preliminary breath analysis may be administered in accordance with the provisions of section 11-37.1 whenever a law-enforcement officer has reasonable cause to believe a person to have been driving a motor vehicle upon the public streets and highways while under the influence of alcohol, controlled substances or drugs as prohibited by section 11-35. A secondary test of blood, breath or urine shall be incidental to a lawful arrest and shall be administered at the direction of the arresting law-enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle upon the public streets or highways while under the influence of alcohol, controlled substances or drugs. The law-enforcement agency by which such law-enforcement officer is employed shall designate which one of the aforesaid secondary tests shall be administered; provided, that if the test so designated is a blood test and the person so arrested refuses to submit to such blood test, then the law-enforcement officer making such arrest shall designate in lieu thereof either a breath or urine test be administered, and notwithstanding the provisions of section 11-39, such refusal to submit to a blood test only shall not result in the suspension of the arrested person's license to operate a motor vehicle in this state. Any person to whom a preliminary breath test is administered who is then arrested shall be told that his refusal to submit to the secondary test finally designated as provided in this section will result in the suspension of his license to operate a motor vehicle in this state for a period of one year.

For the purposes of this division, the term "law-enforcement officer" shall mean and be limited to any member of the department of public safety of this state, any sheriff and any deputy sheriff of Nicholas County and any member of the city police department. (10-16-80.)

For similar state law, see W. Va. Code, § 17C-5-4.

Sec. 11-37.1. Preliminary analysis of breath to determine alcoholic content of blood.

When a law-enforcement officer has reason to believe a person to have been driving a motor vehicle upon the streets and highways of the city while under the influence of alcohol, controlled substances or drugs, the law-enforcement officer may require such person to submit to a preliminary breath analysis for the purpose of determining such person's blood alcohol content. Such breath analysis must be administered as soon as possible after the law-enforcement officer has a reasonable belief that the person has been driving under the influence of alcohol, controlled substances or drugs. Any preliminary breath analysis required under this section must be administered with a device and in a manner approved by the department of health for that purpose. The results of a preliminary breath analysis shall be used solely for purpose of guiding the officer in deciding whether an arrest should be made. When a driver is arrested following a preliminary breath analysis, the tests as hereinafter provided in this division shall be administered in accordance with the provisions thereof. (10-16-80.)

Sec. 11-38. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.

Only a doctor of medicine or osteopathy, or registered nurse, or trained medical technician at the place of his employment, acting at the request and direction of the law-enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof. These limitations shall not apply to the taking of a breath test or a urine specimen. In withdrawing blood for the purpose of determining the alcoholic content thereof, only a previously unused and sterile needle and sterile vessel may be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to venapuncture. The person tested may, at his own expense, have a doctor of medicine or osteopathy, or registered nurse, or trained medical technician at the place of his employment, of his own choosing, administer a chemical test in addition to the test administered at the direction of the law-enforcement officer. The failure or inability of the person arrested to obtain an additional test shall not preclude the admission into evidence at any administrative or judicial proceeding of the results of the test taken at the direction of the law-enforcement officer. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law-enforcement officer shall be made available to him. No person who administers any such test upon the request of a law-enforcement officer as herein defined, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm or corporation by whom or with which such person

is employed or is in any way associated, shall be in anywise criminally liable for the administration of such test, or civilly liable in damages to the person tested unless for gross negligence or wilful or wanton injury.

For similar state law, see W. Va. Code, § 17C-5-6.

Sec. 11-39. Refusal to submit to tests; suspension of license or privilege; consent not withdrawn if person arrested is incapable of refusal.

If any person under arrest as specified in section 11-37 refuses to submit to the test finally designated in the manner provided in section 11-37, no test shall be given, but the commissioner of motor vehicles, upon receipt of a sworn statement of the law-enforcement officer that (1) he had reasonable grounds to believe such person had been driving a motor vehicle upon the public streets or highways of the city while under the influence of intoxicating liquor, (2) such person was lawfully placed under arrest for the offense of driving a motor vehicle upon the public streets or highways of the city while under the influence of intoxicating liquor, (3) such person refused to submit to the test finally designated in the manner provided in section 11-37, and (4) such person was told that his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive would be suspended for a period of six months if he refused to submit to the test finally designated in the manner provided in section 11-37, shall make and enter an order suspending such person's operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive for a period of six months. A copy of such order shall be forwarded to such person by registered or certified mail, return receipt requested. No such suspension shall become effective until ten days after receipt of the copy of such order. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn his consent for a test of his blood, breath or urine as provided in section 11-37 and the test may be administered although such person is not told that his failure to submit to the test will result in the suspension of his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to operate a motor vehicle for a period of six months.

A suspension hereunder shall run concurrently with the period of any suspension or revocation imposed in accordance with other provisions of this



Code and growing out of the same incident which gave rise to the arrest for driving a motor vehicle while under the influence of intoxicating liquor and the subsequent refusal to undergo the test finally designated in accordance with the provisions of section 11-37.

For similar state law, see W. Va. Code, § 17C-5A-3.

Sec. 11-40. Hearing procedures; judicial review.

Upon the written request of a person whose operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive has been so suspended, the commissioner of motor vehicles shall afford the person an opportunity to be heard. Such written request must be filed with the commissioner in person or by registered or certified mail, return receipt requested, within ten days after receipt of a copy of the order of suspension. The hearing shall be before said commissioner or authorized deputy or agent of said commissioner, and all of the pertinent provisions of section 29A-5-1 et seq. of the Code of West Virginia shall apply to and govern the hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of section 29A-5-1 et seq. of the Code of West Virginia were set forth in extenso in this section, except that in the case of a resident of this state the hearing shall be held in the county wherein the person resides unless the commissioner or his authorized deputy or agent and such person agree that the hearing may be held in some other county. Any such hearing shall be held within twenty days after the date upon which the commissioner received the timely written request therefor, unless there is a postponement or continuance. The commissioner may postpone or continue any hearing on his own motion, or upon application of such person for good cause shown. For the purpose of conducting such hearing, the commissioner shall have the power and authority to issue subpoenas and subpoenas duces tecum in accordance with the provisions of section 29A-5-1 of the Code of West Virginia. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in section 29A-5-1 of the Code of West Virginia, and all of such sections, provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder.

The scope of such hearing shall be (1) whether the arresting law-enforcement officer had reasonable grounds to believe such person had been driving a motor vehicle upon the public streets or highways of this state while under the influence of intoxicating liquor, (2) whether such person was lawfully placed under arrest for the offense of driving a motor vehicle upon the public streets or highways of this state while under the influence of intoxicating liquor, (3) whether such person refused to submit to the test finally designated in the manner provided in section 11-37, and (4) whether such person had been told that his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive would be suspended for a period of six months if he refused to submit to the test finally designated in the manner provided in section 11-37.

After such hearing and consideration of all of the testimony, evidence and record in the case, the commissioner shall make and enter an order affirming or rescinding his earlier order of suspension. The commissioner shall affirm his earlier order of suspension if he finds that (1) the arresting law-enforcement officer had reasonable grounds to believe such person had been driving a motor vehicle upon the public streets or highways of this city while under the influence of intoxicating liquor, (2) such person was lawfully placed under arrest for the offense of driving a motor vehicle upon the public streets or highways of this city while under the influence of intoxicating liquor, (3) such person refused to submit to the test finally designated in the manner provided in section 11-37, and (4) such person had been told that his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive would be suspended for a period of six months if he refused to submit to the test finally designated in the manner provided in section 11-37. If the commissioner finds to the contrary with respect to any one of the above issues, he shall rescind his earlier order of suspension.

A copy of the commissioner's order made and entered following the hearing shall be served upon such person by registered or certified mail, return receipt requested. During the pendency of any such hearing, the suspension of the operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive of such person shall be stayed, and if the commissioner has possession of such person's operator's or chauffeur's license, or junior or probationary operator's license, the same shall be forthwith returned to him pending the outcome of such hearing or any judicial review thereafter, as hereinafter provided.

If the commissioner shall after hearing make and enter an order affirming his earlier order of suspension, such person shall be entitled to judicial review thereof. All of the pertinent provisions of section 29A-5-4 of the Code of West Virginia shall apply to and govern such review with like effect as if the provisions of such section were set forth in extenso in this section. The judgment of the circuit court shall be final unless reversed on appeal to the supreme court of appeals, in accordance with the provisions of section 29A-6-1 of the Code of West Virginia, except, that notwithstanding the provisions of such section, the petition seeking such review must be filed with said supreme court of appeals within thirty days from the date of entry of the judgment of the circuit court. Notwithstanding any provisions in said chapter 29A of the Code of West Virginia to the contrary, during the pendency of any appeal to the circuit court or supreme court of appeals, the suspension of the operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive of such person shall be stayed, pending the outcome of such judicial review.

For similar state law, see W. Va. Code, § 17C-5A-4.

Sec. 11-41. Interpretation and use of chemical test.

Upon trial for the offense of driving a motor vehicle on the public streets or highways of this city while under the influence of intoxicating liquor, or upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving a motor vehicle while under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the arrest or of the acts alleged, as shown by a chemical analysis of his blood, breath or urine, is admissible, if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged, and shall give rise to the following presumptions or have the following effect:

(a) Evidence that there was, at that time, five hundredths of one percent or less, by weight, of alcohol in his blood, shall be prima facie evidence that the person was not under the influence of intoxicating liquor;

(b) Evidence that there was, at that time, more than five hundredths of one percent and less than ten hundredths of one percent, by weight, of alcohol in the person's blood shall be relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor;

(c) Evidence that there was, at that time, ten hundredths of one percent or more, by weight, of alcohol in his blood, shall be admitted as prima facie evidence that the person was under the influence of intoxicating liquor.

Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred cubic centimeters of blood.

A chemical analysis of a person's blood, breath or urine, in order to give rise to the presumptions or to have the effect provided for in subdivisions (a), (b) and (c) of this section, must be performed in accordance with methods and standards approved by the state department of health. A chemical analysis of blood or urine to determine the alcoholic content of blood shall be conducted by a qualified laboratory or by the state police scientific laboratory, of the criminal identification bureau of the department of public safety.

The provisions of this article shall not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

For similar state law, see W. Va. Code, § 17C-5A-5.

Sec. 11-42. Right to demand test.

Any person lawfully arrested for driving a motor vehicle on the public streets or highways of this city while under the influence of intoxicating liquor and who is not tested at the direction of the arresting law-enforcement officer under the provisions of this division, or who is lawfully arrested as aforesaid by any other police officer, shall have the right to demand that a sample or specimen of his blood, breath or urine be taken within two hours from and after the time of arrest, and that a chemical test thereof be made. The analysis disclosed by such chemical test shall be made available to such arrested person forthwith upon demand.

For similar state law, see W. Va. Code, § 17C-5A-6.

Sec. 11-43. Fee for withdrawing blood sample and making urine test; payment of fees.

A fee not exceeding five dollars shall be allowed to the person withdrawing a blood sample or administering a urine test at the request and direction of a law-enforcement officer in accordance with the provisions of this division. The city shall pay said fee, and if said person is subsequently convicted of such charge, such fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid into the general fund of the city.

For similar state law, see W. Va. Code, § 17C-5A-7.

Division 6. Speed Restrictions.Sec. 11-44. Speed limitations generally.

(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards, then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful.

(1) Fifteen miles per hour when passing a school building or school grounds abutting on a road, street or highway during school recess or while children are going to or leaving school during opening or closing hours. Such speed restriction shall not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the state road commissioner;

(2) Twenty-five miles per hour in any business or residence district;

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

The speed set forth in this section may be altered as authorized in sections 17C-6-2 and 17C-6-3 of the Code of West Virginia.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled-access highways and interstate highways, where no special hazard exists that requires a lower speed, shall in no event be lower than fifty-five miles per hour and the speed limit specified in subsection (b) hereof shall not apply. (12-2-54.)

*For similar state law, see W. Va. Code, § 17C-6-1.
As to authority of city to alter speed regulations,
see, W. Va. Code, § 17C-6-3.*

Sec. 11-45. Minimum speed regulations.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the commissioner or local authorities within their respective jurisdiction determine on the basis of an engineering and traffic investigation that slow speeds on any part of the highway consistently impede the normal and reasonable movement of traffic, the commissioner or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

For similar state law, see W. Va. Code, § 17C-6-3a.

Sec. 11-46. Special speed limitations--Vehicles not designed for carrying passengers and equipped with pneumatic tires.

Subject to all other speed restrictions of this article no person shall drive a vehicle not designed for carrying passengers and equipped with pneumatic tires at a speed in excess of:

- (a) Twenty miles per hour in any business district;
- (b) Twenty-five miles per hour in any residence district;

(c) Forty miles per hour on open country highway;

(d) Trucks licensed at eight thousand pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.

For similar state law, see W. Va. Code, § 17C-6-4.

Sec. 11-47. Same--All other vehicles.

(a) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of ten miles per hour.

(b) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.

(c) The state road commission upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this chapter, the commission shall determine and declare the maximum speed of vehicles which such structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of one hundred feet before each end of such structure.

(d) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said commission and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.

For similar state law, see W. Va. Code, § 17C-6-5.

Sec. 11-48. Charging violations; rule in civil actions.

(a) In every charge of violation of any speed regulations in this article the complaint, and also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed applicable within the district or at the location and in the event charge shall also be made of violation of any other provisions of this article, the complaint and the summons or notice to appear shall also specify such other offense alleged to have been committed.

(b) The provision of this article declaring speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

*For similar state law, see W. Va. Code, § 17C-6-6.
As to general penalty for violations of Code, see
§ 1-7 of this Code.*

Sec. 11-49. Prima facie evidence of speed by devices employing microwaves; placing of signs relative to radar.

The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves, when such evidence is obtained by members of the department of public safety, by police officers of incorporated municipalities in classes one, two and three, as defined in section 8-1-3 of the Code of West Virginia, and by the sheriff and his deputies of the several counties of the state. The evidence so obtained shall be accepted as prima facie evidence of the speed of such vehicle.

In order to inform and educate the public generally that speed of motor vehicles operating within the state is being tested by radar mechanisms, the state road commission shall locate and place suitable and informative stationary and movable signs at strategic points on and along highways in each county of the state giving notice to the public that such radar mechanisms are in use.

For similar state law, see W. Va. Code, § 17C-6-7.

Sec. 11-50. Racing on streets and highways.

It shall be unlawful for any person to engage in, or aid or abet by serving as lookout or timer or in any other capacity whatever, any speed race, as defined herein, on any public street or highway in this state. For the purposes of this subdivision, "speed race" means:

(a) The operation of a motor vehicle in speed acceleration competition with another motor vehicle or motor vehicles; or

(b) The operation of a motor vehicle in speed acceleration competition against time; or

(c) The operation of a motor vehicle in speed competition with another motor vehicle or motor vehicles where the speed exceeds the lawful speed limit.

For similar state law, see W. Va. Code, § 17C-6-8.

Division 7. Driving on Right Side of Roadway,
Passing, etc.

Sec. 11-51. Driving on right side of roadway; exceptions.

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When the right half of a roadway is closed to traffic while under construction or repair;

(3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or

(4) Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

For similar state law, see W. Va. Code, § 17C-7-1.

Sec. 11-52. Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one half of the main-traveled portion of the roadway as nearly as possible.

For similar state law, see W. Va. Code, § 17C-7-2.

Sec. 11-53. Overtaking and passing vehicle proceeding in same directions--Passing on the left generally.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to these limitations, exceptions and special rules hereinafter stated.

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall give an audible signal and pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

For similar state law, see W. Va. Code, § 17C-7-3.

Sec. 11-54. Same--When overtaking on the right is permitted.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;

(3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

For similar state law, see W. Va. Code, § 17C-7-4.

Sec. 11-55. Same--Limitations on overtaking on the left.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction.

For similar state law, see W. Va. Code, § 17C-7-5.

Sec. 11-56. Same--Further limitations on driving to left of center of roadway.

(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;

(3) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway.

For similar state law, see W. Va. Code, § 17C-7-6.

Sec. 11-57. Same--No-passing zones.

The state road commission is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

For similar state law, see W. Va. Code, § 17C-7-7.

Sec. 11-58. One-way roadways and rotary traffic islands.

(a) The state road commission may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

(b) Upon a roadway designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

For similar state law, see W. Va. Code, § 17C-7-8.

Sec. 11-59. Driving on roadways laned for traffic.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

For similar state law, see W. Va. Code, § 17C-7-9.

Sec. 11-60. Following too closely.

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) It shall be unlawful for the operator of any motor truck, registered for a gross weight of more than eight thousand pounds, bus, special mobile equipment or any motor vehicle drawing another vehicle operating upon any roadway outside of a business or residence district, to follow within two hundred feet of another motor truck, bus, special mobile equipment or any motor vehicle drawing another vehicle; provided, that this provision shall not be construed to (1) prevent overtaking and passing, (2) apply upon any lane specially designated for the use of motor trucks or combinations of vehicles, or within any section of a roadway posted or marked as a "no-passing zone," (3) apply to any convoy of vehicles of the military service of the United States or of this state and (4) apply to funeral processions.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to

enter and occupy such space without danger. This provision shall not apply to (1) funeral processions; or (2) any convoy of vehicles of the military service of the United States or of this state.

For similar state law, see W. Va. Code, § 17C-7-10.

Sec. 11-61. Driving on divided highways.

Whenever any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection established by public authority.

For similar state law, see W. Va. Code, § 17C-7-11.

Sec. 11-62. Controlled-access roadway.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

For similar state law, see W. Va. Code, § 17C-7-12.

Division 8. Turning and Starting.

Sec. 11-63. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as provided in this division.

For similar state law, see W. Va. Code, § 17C-8-1.

Sec. 11-64. Right turns.

Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

For similar state law, see W. Va. Code, § 17C-8-2.

Sec. 11-65. Left turns on two-way roadways.

At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the

intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

For similar state law, see W. Va. Code, § 17C-8-3.

Sec. 11-66. Left turns on other than two-way roadways.

At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

For similar state law, see W. Va. Code, § 17C-8-4.

Sec. 11-67. Turning on curve or crest of grade prohibited.

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

For similar state law, see W. Va. Code, § 17C-8-6.

Sec. 11-68. Starting parked, etc., vehicle.

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

For similar state law, see W. Va. Code, § 17C-8-7.

Sec. 11-69. Turning movements and required signals.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in sections 19-98 to 19-100, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

For similar state law, see W. Va. Code, § 17C-8-8.

Sec. 11-70. Signals to be given by hand and arm or signal device.

Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device, but when a vehicle is so constructed or loaded that hand-and-arm signal would not be visible both to the front and rear of such vehicle then said signals must be given by such a lamp or lamps or signal device.

For similar state law, see W. Va. Code, § 17C-8-9.

Sec. 11-71. Method of giving hand-and-arm signals.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (a) Left turns. Hand and arm extended horizontally.
- (b) Right turn. Hand and arm extended upward.
- (c) Stop or decrease speed. Hand and arm extended downward.

For similar state law, see W. Va. Code, § 17C-8-10.

Division 9. Right-of-Way.

Sec. 11-72. Vehicle approaching or entering intersection.

(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When two vehicles enter an intersection from a different highway at approximately the same time the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(c) The right-of-way rules declared in subsections (a) and (b) are modified at through highways and otherwise as hereinafter stated in this article.

For similar state law, see W. Va. Code, § 17C-9-1.

Sec. 11-73. Vehicle turning left at intersection.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this article, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicles making the left turn.

For similar state law, see W. Va. Code, § 17C-9-2.

Sec. 11-74. Vehicle entering through highway or stop intersections.

(a) The driver of a vehicle shall stop as required by section 17C-12-5 of the Code of West Virginia, at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from said through highways or which are approaching so closely on said through highway as to constitute an immediate hazard, but said driver having so yielded may proceed.

(b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

For similar state law, see W. Va. Code, § 17C-9-3.

Sec. 11-75. Vehicle entering highway from private road or driveway.

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway.

For similar state law, see W. Va. Code, § 17C-9-4.

Sec. 11-76. Operation of vehicles and streetcars on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by section 17C-15-26 of the Code of West Virginia, which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell:

(1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possi-

ble to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

For similar state law, see W. Va. Code, § 17C-9-5.

Division 10. Pedestrians' Rights and Duties.

Sec. 11-77. Pedestrians subject to traffic regulations; powers of local authorities.

(a) Pedestrians shall be subject to traffic-control signals at intersections as provided in section 11-30, unless required by local ordinance to comply strictly with such signals, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

(b) Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

For similar state law, see W. Va. Code, § 17C-10-1.

Sec. 11-78. Pedestrians' right-of-way in crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in section 11-79(b).

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

For similar state law, see W. Va. Code, § 17C-10-2.

Sec. 11-79. Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

For similar state law, see W. Va. Code, § 17C-10-3.

Sec. 11-80. Drivers to exercise due care.

Notwithstanding the foregoing provisions of this article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

For similar state law, see W. Va. Code, § 17C-10-4.

Sec. 11-81. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

For similar state law, see W. Va. Code, § 17C-10-5.

Sec. 11-82. Pedestrians on roadways.

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(c) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle.

For similar state law, see W. Va. Code, § 17C-10-6.

Sec. 11-83. Persons working on streets and highways.

The driver of a vehicle shall yield the right-of-way to persons engaged in maintenance or construction work on a street or highway whenever he is notified of their presence by an official traffic-control device or flagmen.

For similar state law, see W. Va. Code, § 17C-10-8.

Division 11. Operation of Bicycles and Play Vehicles.

Sec. 11-84. Obedience to provisions; duty of parents and guardians.

(a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this division.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

For similar state law, see W. Va. Code, § 17C-11-1.

Sec. 11-85. Traffic laws applicable to persons riding bicycles.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

For similar state law, see W. Va. Code, § 17C-11-2.

Sec. 11-86. Riding on bicycle seats; carrying more than one person on bicycle.

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

For similar state law, see W. Va. Code, § 17C-11-3.

Sec. 11-87. Clinging to vehicles.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any streetcar or vehicle upon a roadway.

For similar state law, see W. Va. Code, § 17C-11-4.

Sec. 11-88. Riding on roadways and bicycle paths.

(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

For similar state law, see W. Va. Code, § 17C-11-5.

Sec. 11-89. Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

For similar state law, see W. Va. Code, § 17C-11-6.

Sec. 11-90. Lamps and other equipment on bicycles.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the department which shall be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

For similar state law, see W. Va. Code, § 17C-11-7.

Division 12. Special Stops Required.

Sec. 11-91. Obedience to signal indicating approach of train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

(3) A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

(4) Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

For similar state law, see W. Va. Code, § 17C-12-1.

Sec. 11-92. All vehicles must stop at certain railroad grade crossings.

The city, with the approval of the state road commission, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

For similar state law, see W. Va. Code, § 17C-12-2.

Sec. 11-93. Certain vehicles must stop at all railroad grade crossings.

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, or of any vehicle owned by an employer which, in carrying on such employer's business or in carrying employees to and from work, is carrying more than six employees of such employer, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(c) This section shall not apply at street railway grade crossings within a business or residence district.

For similar state law, see W. Va. Code, § 17C-12-3.

Sec. 11-94. Moving heavy equipment at railroad grade crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

For similar state law, see W. Va. Code, § 17C-12-4.

Sec. 11-95. Vehicles must stop at through highways; erection of signs.

(a) The city may designate through highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.

(b) Every said sign shall bear the word "Stop" in letters not less than six inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.

(c) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the roadway.

(d) Every driver of a vehicle and every motorman of a streetcar approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

For similar state law, see W. Va. Code, § 17C-12-5.

Sec. 11-96. Stopping before emerging from alley or private driveway.

The driver of a vehicle within a business or residence district emerging from any alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

For similar state law, see W. Va. Code, § 17C-12-6.

Sec. 11-97. Overtaking and passing school bus; highways with separate roadways.

(a) The driver of a vehicle on any street or highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop

the vehicle before reaching such school bus when there is in operation on said school bus flashing warning signal lights, as referred to in section 17C-12-8 of the Code of West Virginia, and said driver shall not proceed until such school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated.

(b) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

For similar state law, see W. Va. Code, § 17C-12-7.

Division 13. Stopping, Standing and Parking.

Sec. 11-98. Outside of business or residence districts.

(a) Upon any highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

For similar state law, see W. Va. Code, § 17C-13-1.

Sec. 11-99. Officers authorized to remove illegally stopped vehicles.

(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

For similar state law, see W. Va. Code, § 17C-13-2.

Sec. 11-100. Prohibited in specified places.

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within thirty feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (9) Within fifty feet of the nearest rail of a railroad crossing;
- (10) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance (when properly signposted);
- (11) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (14) At any place where official signs prohibit stopping;
- (15) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if such parking interferes with or causes delay in the carrier's schedule;
- (16) Upon any controlled-access highway;

(17) At any place on any highway where the safety and convenience of the traveling public is thereby endangered.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

For similar state law, see W. Va. Code, § 17C-13-3.

Sec. 11-101. Right and left parallel parking; angle parking; highway signs restricting parking, etc.

(a) Except as otherwise provided in this section every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb.

(b) Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within eighteen inches of the left-hand curb of a one-way roadway.

(c) Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the state road commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(d) The state road commission with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where in its opinion, as evidenced by resolution or order entered in its minutes, such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

For similar state law, see W. Va. Code, § 17C-13-4.

Sec. 11-102. Privileges for disabled; qualification; application; violation; revocation.

(a) Free stopping, standing or parking places marked "reserved for disabled persons" shall be designated in close proximity to all state, county and municipal buildings and other public facilities. Such places shall be reversed solely for physically disabled and handicapped persons during the hours that such buildings are open for business.

(b) Any person whose vehicle properly displays a valid special registration plate or decal may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted; provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard.

(c) The privileges provided for in this subsection shall apply only during those times when the vehicle is being used for the transportation of a physically handicapped or disabled person. Any person who knowingly exercises, or attempts to exercise, such privileges at a time when the vehicle is not being used for the transportation of a physically handicapped or disabled person is guilty of a misdemeanor, and, upon conviction thereof, in addition to any other penalty he may otherwise incur, shall be fined not less than ten nor more than fifty dollars, or imprisoned in the county jail for not more than thirty days, or both fined and imprisoned.

For similar state law, see W. Va. Code, § 17C-13-6.

Sec. 11-103. Signs on workers' and church buses; when lawful for such buses to stop on highways and streets.

Any bus used primarily for the transportation of workers only and any bus operated by a church may bear upon the front and rear thereof a plainly visible sign, either painted or affixed on the body of the bus proper, or attached securely to the bus, containing the words, "workers' bus" or "church bus," respectively, in letters not less than eight inches in height. Any bus used primarily for the transportation of workers only and any bus operated by a church and bearing signs in that manner may lawfully stop upon the paved portion of any highway or street where there is no loading zone or pull-off adjacent to the highway or street to load or discharge persons; provided, that such bus shall be equipped with warning lamps permitted under subsection (d) of section 17C-15-19 of the Code of West Virginia and shall use such warning lamps when stopped on the highway or decreasing speed in order to stop, in order to warn the operators of other vehicles of a possible traffic hazard.

For similar state law, see W. Va. Code, § 17C-13-7.

Division 14. Miscellaneous Rules.

Sec. 11-104. Unattended motor vehicle.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the

key and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

For similar state law, see W. Va. Code, § 17C-14-1.

Sec. 11-105. Limitations on backing.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. No person shall drive a vehicle backward into the crossing of Main Street and Oakford. (8-4-21, § 8.)

For similar state law, see W. Va. Code, § 17C-14-2.

Sec. 11-106. Obstruction to driver's view or driving mechanism.

(a) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle or streetcar shall ride in such position as to interfere with the driver's or motorman's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle or streetcar.

For similar state law, see W. Va. Code, § 17C-14-4.

Sec. 11-107. Passengers in seat with operator.

No more than three persons including the operator shall ride or be permitted by such operator to ride in the seat with the operator of any motor vehicle while said motor vehicle is being operated on the streets or highways of this state; provided, however, that the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the occupancy of four persons including the operator, and so designated on the registration card by the department of motor vehicles.

For similar state law, see W. Va. Code, § 17C-14-5.

Sec. 11-108. Passengers on running board.

No passenger shall ride nor shall the operator permit any passenger to ride on the running boards of any motor vehicle while such vehicle is being operated on the streets or highways of this state.

For similar state law, see W. Va. Code, § 17C-14-6.