

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 5238

BY DELEGATE LINVILLE

(BY REQUEST OF THE DIVISION OF MOTOR VEHICLES)

[Passed March 8, 2024; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended,
2 relating to mandating that all courts provide adjudication records for traffic violations and
3 certain other offenses of juvenile offenders to the Division of Motor Vehicles.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-3a. Graduated driver's license.

1 (a) A person under the age of 18 may not operate a motor vehicle unless he or she has
2 obtained a graduated driver's license in accordance with the three-level graduated driver's license
3 system described in the following provisions.

4 (b) Any person under the age of 21, regardless of class or level of licensure, who operates
5 a motor vehicle with any measurable alcohol in his or her system is subject to §17C-5-2 and §17C-
6 5A-2 of this code. Any person under the age of 17, regardless of class or licensure level, is subject
7 to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11
8 of this code: *Provided*, That a person may otherwise be eligible for a restricted license or
9 instruction permit pursuant to §18-8-11.

10 (c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other
11 requirements prescribed in this code may be issued a level one instruction permit.

12 (1) *Eligibility.* — The division may not issue a level one instruction permit unless the
13 applicant:

14 (A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is
15 accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated
16 driver's license, and executed by a parent or guardian entitled to custody of the applicant;

17 (B) Presents a certified copy of a birth certificate issued by a state or other governmental
18 entity responsible for vital records unexpired, or a valid passport issued by the United States
19 government evidencing that the applicant meets the minimum age requirement and is of verifiable
20 identity;

21 (C) Passes the vision and written knowledge examination and completes the driving under
22 the influence awareness program, as prescribed in §17B-2-7 of this code; and

23 (D) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge
24 test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based
25 on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index:
26 *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a
27 single year.

28 (2) *Terms and conditions of instruction permit.* — A level one instruction permit issued
29 under this section is valid until 30 days after the date the applicant attains the age of 18 and is
30 not renewable: *Provided*, That for an applicant who is an active member of any branch of the
31 United States military, a level one instruction permit issued under the provisions of this section is
32 valid until 180 days after the date the applicant attains the age of 18. However, any permit holder
33 who allows his or her permit to expire prior to successfully passing the road skills portion of the
34 driver examination, and who has not committed any offense which requires the suspension,
35 revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under
36 §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second
37 conviction for a moving violation of traffic regulations and laws of the road or violation of the terms
38 and conditions of a level one instruction permit, which convictions have become final unless a
39 greater penalty is required by this section or any other provision of this code. Any person whose
40 instruction permit has been revoked is disqualified from retesting for a period of 90 days. However,
41 after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one
42 instruction permit who is under the age of 18 years may not use a wireless communication device
43 while operating a motor vehicle unless the use of the wireless communication device is for
44 contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's
45 license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction
46 permit may only operate a motor vehicle under the following conditions:

47 (A) The permit holder is under the direct supervision of a licensed driver, 21 years of age
48 or older, or a driver's education or driving school instructor who is acting in an official capacity as
49 an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The
50 vehicle may be operated with no more than two additional passengers, unless the passengers
51 are family members;

52 (B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

53 (C) All occupants use safety belts in accordance with §17C-15-49 of this code;

54 (D) The permit holder is operating the vehicle without any measurable blood alcohol
55 content, in accordance with §17C-5-2(h) of this code; and

56 (E) The permit holder maintains current school enrollment and is making satisfactory
57 academic progress or otherwise shows compliance with §18-8-11 of this code: *Provided*, That a
58 person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-
59 11.

60 (d) *Level two intermediate driver's license.* — An applicant 16 years of age or older,
61 meeting all other requirements of this code, may be issued a level two intermediate driver's
62 license.

63 (1) *Eligibility.* — The division may not issue a level two intermediate driver's license unless
64 the applicant:

65 (A) Presents a completed application as prescribed in §17B-2-6 of this code;

66 (B) Has held the level one instruction permit conviction-free for the 180 days immediately
67 preceding the date of application for a level two intermediate license;

68 (C) Has completed either a driver's education course approved by the State Department
69 of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours
70 of night time driving, certified by a parent or legal guardian or other responsible adult over the age
71 of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph

72 may be construed to require any school or any county board of education to provide any particular
73 number of driver's education courses or to provide driver's education training to any student;

74 (D) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

75 (F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this
76 fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor
77 Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not
78 exceed 10 percent of the total fee amount in a single year.

79 (2) *Terms and conditions of a level two intermediate driver's license.* — A level two
80 intermediate driver's license issued under the provisions of this section expires 30 days after the
81 applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license,
82 whichever comes first. A holder of a level two intermediate driver's license who is under the age
83 of 18 years shall not use a wireless communication device while operating a motor vehicle unless
84 the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all
85 other provisions of this code for which a driver's license may be restricted, suspended, revoked,
86 or canceled, the holder of a level two intermediate driver's license may only operate a motor
87 vehicle under the following conditions:

88 (A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10
89 p.m.;

90 (B) The licensee operates a vehicle only under the direct supervision of a licensed driver,
91 age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going
92 to or returning from:

93 (i) Lawful employment;

94 (ii) A school-sanctioned activity;

95 (iii) A religious event; or

96 (iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent
97 bodily injury or death of another;

98 (C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this
99 code;

100 (D) For the first six months after issuance of a level two intermediate driver's license, the
101 licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless
102 these passengers are family members of the licensee; for the second six months after issuance
103 of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying
104 more than one passenger less than 20 years old, unless these passengers are family members
105 of the licensee;

106 (E) The licensee operates a vehicle without any measurable blood alcohol content in
107 accordance with §17C-5-2(h) of this code;

108 (F) The licensee maintains current school enrollment and is making satisfactory academic
109 progress or otherwise shows compliance with §18-8-11 of this code: *Provided*, That a person may
110 otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

111 (G) Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2)
112 of this code of the terms and conditions of a level two intermediate driver's license, the licensee
113 shall enroll in an approved driver improvement program unless a greater penalty is required by
114 this section or by any other provision of this code; and

115 At the discretion of the commissioner, completion of an approved driver improvement
116 program may be used to negate the effect of a minor traffic violation as defined by the
117 commissioner against the one year conviction-free driving criteria for early eligibility for a level
118 three driver's license and may also negate the effect of one minor traffic violation for purposes of
119 avoiding a second conviction under §17B-2-3a(d)(2)(G) of this code; and

120 (H) Upon the second conviction for a moving traffic violation or a violation of the terms and
121 conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke
122 or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period
123 or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by

124 this section or any other provision of this code. Any person whose driver's license has been
125 revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise
126 eligible, may reapply for an instruction permit, then a driver's license in accordance with §17B-2-
127 5, §17B-2-6 and §17B-2-7 of this code.

128 (e) *Level three, full Class E license.* — The level three license is valid until 30 days after
129 the date the licensee attains his or her 21st birthday. A holder of a level three driver's license who
130 is under the age of 18 years shall not use a wireless communication device while operating a
131 motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1
132 system. Unless otherwise provided in this section or any other section of this code, the holder of
133 a level three full Class E license is subject to the same terms and conditions as the holder of a
134 regular Class E driver's license.

135 A level two intermediate licensee whose privilege to operate a motor vehicle has not been
136 suspended, revoked, or otherwise canceled and who meets all other requirements of the code
137 may be issued a level three full Class E license without further examination or road skills testing
138 if the licensee:

139 (1) Has reached the age of 17 years;

140 (2) Presents a completed application as prescribed by §17B-2-6 of this code;

141 (3) Has held the level two intermediate license conviction free for the 12-month period
142 immediately preceding the date of the application;

143 (4) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G) of
144 this code; and

145 (5) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents
146 shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
147 established in §3-2-12 of this code.

148 (f) A person violating the provisions of the terms and conditions of a level one instruction
149 permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor

150 and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense, be fined
151 \$50; and for a third or subsequent offense be fined \$75.

152 (g) All adjudications of delinquency or convictions of any type in a juvenile proceeding
153 which involve a traffic offense, a violation of any provision of this section, or an order in furtherance
154 of §49-4-713 or §49-4-715 of this code shall be forwarded to the Commissioner of the Division of
155 Motor Vehicles notwithstanding §49-5-101 of this code.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2024.

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Governor