

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5238

By Delegate Linville

(By Request of the Division of Motor Vehicles)

[Originating in the Committee on the Judiciary;

Reported on February 16, 2024]

1 A BILL to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating
2 to mandating that all courts provide adjudication records for traffic violations and certain
3 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 of
8 this code: *Provided*, That a person may otherwise be eligible for a restricted license or instruction
9 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 single
27 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 not
30 renewable: *Provided*, That for an applicant who is an active member of any branch of the United
31 States military, a level one instruction permit issued under the provisions of this section is valid
32 until 180 days after the date the applicant attains the age of 18. However, any permit holder who
33 allows his or her permit to expire prior to successfully passing the road skills portion of the driver
34 examination, and who has not committed any offense which requires the suspension, revocation,
35 or cancellation of the instruction permit, may reapply for a new instruction permit under §17B-2-6
36 of this code. The division shall immediately revoke the permit upon receipt of a second conviction
37 for a moving violation of traffic regulations and laws of the road or violation of the terms and
38 conditions of a level one instruction permit, which convictions have become final unless a greater
39 penalty is required by this section or any other provision of this code. Any person whose instruction
40 permit has been revoked is disqualified from retesting for a period of 90 days. However, after the
41 expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction
42 permit who is under the age of 18 years may not use a wireless communication device while
43 operating a motor vehicle unless the use of the wireless communication device is for contacting a
44 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be
45 restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only
46 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 or
48 older, or a driver's education or driving school instructor who is acting in an official capacity as an
49 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 are
51 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 §18-8-11.

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

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

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

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

67 (C) Has completed either a driver's education course approved by the State Department of
68 Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of
69 night time driving, certified by a parent or legal guardian or other responsible adult over the age of
70 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph
71 may be construed to require any school or any county board of education to provide any particular
72 number of driver's education courses or to provide driver's education training to any student;

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

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

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

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

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

92 (i) Lawful employment;

93 (ii) A school-sanctioned activity;

94 (iii) A religious event; or

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

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

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

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

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

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

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

119 (H) Upon the second conviction for a moving traffic violation or a violation of the terms and
120 conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke
121 or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or
122 until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this
123 section or any other provision of this code. Any person whose driver's license has been revoked as
124 a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may

125 reapply for an instruction permit, then a driver's license in accordance with §17B-2-5, §17B-2-6
126 and §17B-2-7 of this code.

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

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

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

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

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

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

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

147 (f) A person violating the provisions of the terms and conditions of a level one instruction
148 permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor
149 and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense, be fined
150 \$50; and for a third or subsequent offense be fined \$75.

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

NOTE: The purpose of this bill is to mandate that all courts provide adjudication records for traffic violations of juvenile offenders to the Division of Motor Vehicles.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.