

1 residents; permitting the Division of Motor Vehicles to issue,
2 at no charge, identification cards to persons who will be at
3 least eighteen years of age at the next general, municipal, or
4 special election and intends to use the identification card as
5 a form of identification for voting; and contains criminal
6 penalties.

7 *Be it enacted by the Legislature of West Virginia:*

8 That §3-1-34 of the Code of West Virginia, 1931, as amended,
9 be amended and reenacted; and that §17B-2-1 of said code be amended
10 and reenacted, all to read as follows:

11 **CHAPTER 3. ELECTIONS.**

12 **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

13 **§3-1-34. Voting procedures generally; identification; assistance**
14 **to voters; voting records; penalties.**

15 (a) Any person desiring to vote in an election shall, upon
16 entering the election room, clearly state his or her name and
17 residence to one of the poll clerks who shall thereupon announce
18 the same in a clear and distinct tone of voice. The person
19 desiring to vote shall present to one of the poll clerks an
20 identifying document issued either by the State of West Virginia or
21 by the United States government which contains the name, address,
22 and a photograph of the person desiring to vote, which the poll
23 clerk shall inspect and confirm that the name thereon conforms to

1 the name in the individual's voter registration record and that the
2 image displayed is truly an image of the person presenting the
3 document. If that person is found to be duly registered as a voter
4 at that precinct, he or she shall sign his or her name in the
5 designated location provided at the precinct. If that person is
6 physically or otherwise unable to sign his or her name, his or her
7 mark shall be affixed by one of the poll clerks in the presence of
8 the other and the name of the poll clerk affixing the voter's mark
9 shall be indicated immediately under the affixation. No ballot may
10 be given to the person until he or she signs his or her name on the
11 designated location or his or her signature is affixed thereon.

12 (1) Should the person desiring to vote be unable to furnish
13 an identifying document which contains the name, address, and a
14 photograph of the person desiring to vote, or if the poll clerk
15 determines that the proof of identification presented by the voter
16 does not qualify as proof of identification under the above listed
17 criteria, the person desiring to vote shall be allowed to vote, but
18 must cast a provisional ballot. An individual who appears at a
19 polling place without identification in the form described in
20 subsection (a) of this section, and who is otherwise qualified to
21 vote at that polling place, may cast a provisional ballot after:

22 (A) Executing an affidavit affirming his or her identity;

23 (B) Such provisional ballot shall be entitled to be counted,
24 provided the election authority verifies the identity of the

1 individual by comparing that individual's signature to the current
2 signature on file with the election authority and determines that
3 the individual was otherwise eligible to cast a ballot at the
4 polling place where the ballot was cast.

5 (C) The affidavit to be used for voting shall be substantially
6 in the following form:

7 "State of West Virginia

8 County of

9 I do solemnly swear (or affirm) that my name is

10; that I reside at

11; and that I am the person listed in

12 the precinct register under this name and at this address.

13 I understand that knowingly providing false information is a

14 violation of law and subjects me to possible criminal prosecution.

15

16 Signature of voter

17 Subscribed and affirmed before me this day of

18, 20....

19

20 Signature of Election Official".

21 (2) A voter who votes in person at a precinct polling place

22 that is located at a state licensed care facility where the voter

23 is a resident is not required to provide proof of identification as

24 a condition before voting in an election.

1 (b) The clerk of the county commission is authorized, upon
2 verification that the precinct at which a handicapped person is
3 registered to vote is not handicap accessible, to transfer that
4 person's registration to the nearest polling place in the county
5 which is handicap accessible. A request by a handicapped person
6 for a transfer of registration must be received by the county clerk
7 no later than thirty days prior to the date of the election. Any
8 handicapped person who has not made a request for a transfer of
9 registration at least thirty days prior to the date of the election
10 may vote a provisional ballot at a handicap accessible polling
11 place in the county of his or her registration. If during the
12 canvass the county commission determines that the person had been
13 registered in a precinct that is not handicap accessible, the voted
14 ballot, if otherwise valid, shall be counted. The handicapped
15 person may vote in the precinct to which the registration was
16 transferred only as long as the disability exists or the precinct
17 from which the handicapped person was transferred remains
18 inaccessible to the handicapped. To ensure confidentiality of the
19 transferred ballot, the county clerk processing the ballot shall
20 provide the voter with an unmarked envelope and an outer envelope
21 designated "provisional ballot/handicapped voter". After
22 validation of the ballot at the canvass, the outer envelope shall
23 be destroyed and the handicapped voter's ballot shall be placed
24 with other approved provisional ballots prior to removal of the

1 ballot from the unmarked envelope.

2 (c) When the voter's signature is properly marked, the two
3 poll clerks shall sign their names in the places indicated on the
4 back of the official ballot and deliver the ballot to the voter to
5 be voted by him or her without leaving the election room. If he or
6 she returns the ballot spoiled to the clerks, they shall
7 immediately mark the ballot "spoiled" and it shall be preserved and
8 placed in a spoiled ballot envelope together with other spoiled
9 ballots to be delivered to the board of canvassers and deliver to
10 the voter another official ballot, signed by the clerks on the
11 reverse side. The voter shall thereupon retire alone to the booth
12 or compartment prepared within the election room for voting
13 purposes and there prepare his or her ballot. In voting for
14 candidates in general and special elections, the voter shall comply
15 with the rules and procedures prescribed in section five, article
16 six of this chapter.

17 (d) It is the duty of a poll clerk, in the presence of the
18 other poll clerk, to indicate by a check mark, or by other means,
19 inserted in the appropriate place on the registration record of
20 each voter the fact that the voter voted in the election. In
21 primary elections the clerk shall also insert thereon a
22 distinguishing initial or initials of the political party for whose
23 candidates the voter voted. If a person is challenged at the
24 polls, the challenge shall be indicated by the poll clerks on the

1 registration record, together with the name of the challenger. The
2 subsequent removal of the challenge shall be recorded on the
3 registration record by the clerk of the county commission.

4 (e) (1) No voter may receive any assistance in voting unless,
5 by reason of blindness, disability, advanced age or inability to
6 read and write, that voter is unable to vote without assistance.
7 Any voter qualified to receive assistance in voting under ~~the~~
8 ~~provisions of~~ this section may:

9 (A) Declare his or her choice of candidates to an election
10 commissioner of each political party who, in the presence of the
11 voter and in the presence of each other, shall prepare the ballot
12 for voting in the manner hereinbefore provided and, on request,
13 shall read to the voter the names of the candidates selected on the
14 ballot;

15 (B) Require the election commissioners to indicate to him or
16 her the relative position of the names of the candidates on the
17 ballot, whereupon the voter shall retire to one of the booths or
18 compartments to prepare his or her ballot in the manner
19 hereinbefore provided;

20 (C) Be assisted by any person of the voter's choice, other
21 than the voter's present or former employer or agent of that
22 employer, the officer or agent of a labor union of which the voter
23 is a past or present member or a candidate on the ballot or an
24 official write-in candidate; or

1 (D) If he or she is handicapped, vote from an automobile
2 outside the polling place or precinct by the absentee balloting
3 method provided in subsection (e), section five, article three of
4 this chapter in the presence of an election commissioner of each
5 political party if all of the following conditions are met:

6 (i) The polling place is not handicap accessible; and

7 (ii) No voters are voting or waiting to vote inside the
8 polling place.

9 (2) The voted ballot shall then be returned to the precinct
10 officials and secured in a sealed envelope to be returned to the
11 clerk of the county commission with all other election materials.
12 The ballot shall then be tabulated using the appropriate method
13 provided in section eight of this chapter as it relates to the
14 specific voting system in use.

15 (3) Any voter who requests assistance in voting but who is
16 believed not to be qualified for assistance under ~~the provisions of~~
17 this section shall nevertheless be permitted to vote a provisional
18 ballot with the assistance of any person herein authorized to
19 render assistance.

20 (4) Any one or more of the election commissioners or poll
21 clerks in the precinct may challenge the ballot on the ground that
22 the voter thereof received assistance in voting it when in his, her
23 or their opinion the person who received assistance in voting is
24 not so illiterate, blind, disabled or of such advanced age as to

1 have been unable to vote without assistance. The election
2 commissioner or poll clerk or commissioners or poll clerks making
3 the challenge shall enter the challenge and reason therefor on the
4 form and in the manner prescribed or authorized by article three of
5 this chapter.

6 (5) An election commissioner or other person who assists a
7 voter in voting:

8 (A) May not in any manner request or seek to persuade or
9 induce the voter to vote any particular ticket or for any
10 particular candidate or for or against any public question and must
11 not keep or make any memorandum or entry of anything occurring
12 within the voting booth or compartment and must not, directly or
13 indirectly, reveal to any person the name of any candidate voted
14 for by the voter or which ticket he or she had voted or how he or
15 she had voted on any public question or anything occurring within
16 the voting booth or compartment or voting machine booth except when
17 required pursuant to law to give testimony as to the matter in a
18 judicial proceeding; and

19 (B) Shall sign a written oath or affirmation before assisting
20 the voter on a form prescribed by the Secretary of State stating
21 that he or she will not override the actual preference of the voter
22 being assisted, attempt to influence the voter's choice or mislead
23 the voter into voting for someone other than the candidate of
24 voter's choice. The person assisting the voter shall also swear or

1 affirm that he or she believes that the voter is voting free of
2 intimidation or manipulation: *Provided*, That no person providing
3 assistance to a voter is required to sign an oath or affirmation
4 where the reason for requesting assistance is the voter's inability
5 to vote without assistance because of blindness as defined in
6 section three, article fifteen, chapter five of this code and the
7 inability to vote without assistance because of blindness is
8 certified in writing by a physician of the voter's choice and is on
9 file in the office of the clerk of the county commission.

10 (6) In accordance with instructions issued by the Secretary of
11 State, the clerk of the county commission shall provide a form
12 entitled "list of assisted voters", the form of which list shall
13 likewise be prescribed by the Secretary of State. The
14 commissioners shall enter the name of each voter receiving
15 assistance in voting the ballot, together with the poll slip number
16 of that voter and the signature of the person or the commissioner
17 from each party who assisted the voter. If no voter has been
18 assisted in voting, the commissioners shall likewise make and
19 subscribe to an oath of that fact on the list.

20 (f) After preparing the ballot, the voter shall fold the
21 ballot so that the face is not exposed and so that the names of the
22 poll clerks thereon are seen. The voter shall announce his or her
23 name and present his or her ballot to one of the commissioners who
24 shall hand the same to another commissioner, of a different

1 political party, who shall deposit it in the ballot box if the
2 ballot is the official one and properly signed. The commissioner
3 of election may inspect every ballot before it is deposited in the
4 ballot box to ascertain whether it is single, but without unfolding
5 or unrolling it so as to disclose its content. When the voter has
6 voted, he or she shall retire immediately from the election room
7 and beyond the sixty-foot limit thereof and may not return except
8 by permission of the commissioners.

9 (g) Following the election, the oaths or affirmations required
10 by this section from those assisting voters, together with the
11 "list of assisted voters", shall be returned by the election
12 commissioners to the clerk of the county commission along with the
13 election supplies, records and returns. The clerk of the county
14 commission shall make the oaths, affirmations and list available
15 for public inspection and shall preserve them for a period of
16 twenty-two months or until disposition is authorized or directed by
17 the Secretary of State or court of record: *Provided*, That the
18 clerk may use these records to update the voter registration
19 records in accordance with subsection (d), section eighteen,
20 article two of this chapter.

21 (h) Any person making an oath or affirmation required under
22 ~~the provisions of~~ this section who knowingly swears falsely or any
23 person who counsels, advises, aids or abets another in the
24 commission of false swearing under this section is guilty of a

1 misdemeanor and, upon conviction thereof, shall be fined not more
2 than \$1,000 or confined in jail for a period of not more than one
3 year, or both fined and confined.

4 (i) Any election commissioner or poll clerk who authorizes or
5 provides unchallenged assistance to a voter when the voter is known
6 to the election commissioner or poll clerk not to require
7 assistance in voting is guilty of a felony and, upon conviction
8 thereof, shall be fined not more than \$5,000 or imprisoned in a
9 state correctional facility for a period of not less than one year
10 nor more than five years, or both fined and imprisoned.

11 **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

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

13 **§17B-2-1. Drivers must be licensed; types of licenses; licensees**
14 **need not obtain local government license; motorcycle**
15 **driver license; identification cards.**

16 (a) (1) No person, except those hereinafter expressly
17 exempted, may drive any motor vehicle upon a street or highway in
18 this state or upon any subdivision street used by the public
19 generally unless the person has a valid driver's license issued
20 pursuant to this code for the type or class of vehicle being
21 driven.

22 (2) Any person licensed to operate a motor vehicle pursuant to
23 this code may exercise the privilege thereby granted in the manner

1 provided in this code and, except as otherwise provided by law, is
2 not required to obtain any other license to exercise the privilege
3 by any county, municipality or local board or body having authority
4 to adopt local police regulations.

5 (b) The division, upon issuing a driver's license, shall
6 indicate on the license the type or general class or classes of
7 vehicles the licensee may operate in accordance with this code,
8 federal law or rule. Licenses shall be issued in different colors
9 for those drivers under age eighteen, those drivers age eighteen to
10 twenty-one and adult drivers. The commissioner is authorized to
11 select and assign colors to the licenses of the various age groups.

12 (c) Driver's licenses issued by the division shall be
13 classified in the following manner:

14 (1) A Class A, B or C license shall be issued to those persons
15 eighteen years of age or older with two years of driving experience
16 who have qualified for the commercial driver's license established
17 by chapter seventeen-e of this code and the federal Motor Carrier
18 Safety and Improvement Act of 1999 and subsequent rules, and have
19 paid the required fee.

20 (2) A Class D license shall be issued to those persons
21 eighteen years and older with one year of driving experience who
22 operate motor vehicles other than those types of vehicles which
23 require the operator to be licensed under ~~the provisions of~~ chapter
24 seventeen-e of this code and federal law and rule and whose primary

1 function or employment is the transportation of persons or property
2 for compensation or wages and have paid the required fee. For the
3 purpose of regulating the operation of motor vehicles, wherever the
4 term "chauffeur's license" is used in this code, it shall be
5 construed to mean the Class A, B, C or D license described in this
6 section or chapter seventeen-e of this code or federal law or rule:
7 *Provided*, That anyone not required to be licensed under ~~the~~
8 ~~provisions of~~ chapter seventeen-e of this code and federal law or
9 rule and who operates a motor vehicle registered or required to be
10 registered as a Class A motor vehicle, as that term is defined in
11 section one, article ten, chapter seventeen-a of this code, with a
12 gross vehicle weight rating of less than eight thousand one pounds,
13 is not required to obtain a Class D license.

14 (3) A Class E license shall be issued to those persons who
15 have qualified for a driver's license under ~~the provisions of~~ this
16 chapter and who are not required to obtain a Class A, B, C or D
17 license and who have paid the required fee. The Class E license
18 may be endorsed under ~~the provisions of~~ section seven-b of this
19 article for motorcycle operation. The Class E or G license for any
20 person under the age of eighteen may also be endorsed with the
21 appropriate graduated driver license level in accordance with ~~the~~
22 ~~provisions of~~ section three-a of this article.

23 (4) A Class F license shall be issued to those persons who
24 successfully complete the motorcycle examination procedure provided

1 by this chapter and have paid the required fee, but who do not
2 possess a Class A, B, C, D or E driver's license.

3 (5) A Class G driver's license or instruction permit shall be
4 issued to a person using bioptic telescopic lenses who has
5 successfully completed an approved driver training program and
6 complied with all other requirements of article two-b of this
7 chapter.

8 (d) All licenses issued under this section may contain
9 information designating the licensee as a diabetic, organ donor, as
10 deaf or hard-of-hearing or as having any other handicap or
11 disability, according to criteria established by the division, if
12 the licensee requests this information on the license.

13 (e) No person, except those hereinafter expressly exempted,
14 may drive any motorcycle upon a street or highway in this state or
15 upon any subdivision street used by the public generally unless the
16 person has a valid motorcycle license, a valid license which has
17 been endorsed under section seven-b of this article for motorcycle
18 operation or a valid motorcycle instruction permit.

19 (f) (1) An identification card may be issued to any person
20 who:

21 (A) Is a resident of this state in accordance with ~~the~~
22 ~~provisions of~~ section one-a, article three, chapter seventeen-a of
23 this code;

24 (B) Has reached the age of two years. The division may also

1 issue an identification card to a person under the age of two years
2 for good cause shown;

3 (C) Has paid the required fee of \$2.50 per year: *Provided,*
4 ~~That the fee is not required~~ no fees or charges, including renewal
5 fees, are required if the applicant:

6 (i) Is sixty-five years or older; or

7 (ii) Is legally blind; or

8 (iii) Will be at least eighteen years of age at the next
9 general, municipal, or special election and intends to use this
10 identification card as a form of identification for voting; and

11 (D) Presents a birth certificate or other proof of age and
12 identity acceptable to the division with a completed application on
13 a form furnished by the division.

14 (2) The identification card shall contain the same information
15 as a driver's license except that the identification card shall be
16 clearly marked as an identification card. However, the division
17 may issue an identification card with less information to persons
18 under the age of sixteen. An identification card may be renewed
19 annually on application and payment of the fee required by this
20 section.

21 (A) Every identification card issued to a person who has
22 attained his or her twenty-first birthday shall expire on the
23 licensee's birthday in those years in which the licensee's age is
24 evenly divisible by five. Except as provided in paragraph (B) of

1 this subdivision, no identification card may be issued for less
2 than three years or for more than seven years and expires on the
3 licensee's birthday in those years in which the licensee's age is
4 evenly divisible by five.

5 (B) Every identification card issued to a person who has not
6 attained his or her twenty-first birthday shall expire thirty days
7 after the licensee's twenty-first birthday.

8 (C) Every identification card issued to persons under the age
9 of sixteen shall be issued for a period of two years and shall
10 expire on the last day of the month in which the applicant's
11 birthday occurs.

12 (3) The division may issue an identification card to an
13 applicant whose privilege to operate a motor vehicle has been
14 refused, canceled, suspended or revoked under the provisions of
15 this code.

16 (g) Any person violating ~~the provisions of~~ this section is
17 guilty of a misdemeanor and, upon conviction, shall be fined not
18 more than \$500; and upon a second or subsequent conviction, shall
19 be fined not more than \$500 or confined in jail not more than six
20 months, or both.

NOTE: The purpose of this bill is to require voters to present identifying documents issued either by the State of West Virginia or the United States government that contains the name, address, and a photograph of the person desiring to vote which the poll clerk must inspect and confirm that the name on the document

conforms to the name in the individual's voter registration record and that the image displayed is truly an image of the person presenting the document. The bill exempts voters who vote in person at a precinct polling place that is located at a state licensed care facility where the voters are residents. The bill permits the casting of a provisional ballot by a person without adequate proof of identification provided he or she executes an affidavit. The bill permits the provisional ballot be counted providing certain conditions are met. The bill permits the Division of Motor Vehicles to issue, at no charge, identification cards to persons who will be at least eighteen years of age at the next general, municipal, or special election and intends to use the identification card as a form of identification for voting. The bill also contains criminal penalties.

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