

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4373**

4 (By Delegates M. Poling, Barrett, Lawrence, Perry,  
5 Fragale, Campbell and Tomblin)

6 (Originating in the House Committee on Finance)

7  
8 [February 18, 2014]

9  
10 A BILL to repeal §18-6-9 and §18-6-10 of the Code of West Virginia,  
11 1931, as amended, to amend and reenact §18-6-1, §18-6-2, §18-  
12 6-4, §18-6-5 and §18-6-8 of said code, all relating to driver  
13 education programs; repealing requirements on the State  
14 Department of Education and county superintendents related to  
15 instruction and licensing of commercial driver education  
16 schools; removing the requirement that schools provide course  
17 availability to out-of-school youths and adults; allowing  
18 summer school offerings in driver education; prohibiting  
19 charges to students for the course; authorizing permitted  
20 instructors under certain circumstances; and allowing  
21 successful completion of the course in commercial driving  
22 school or class accepted by the state board to meet purposes  
23 of article.

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

1           That §18-6-9 and §18-6-10 of the Code of West Virginia, 1931,  
2 as amended, be repealed; and that §18-6-1, §18-6-2, §18-6-4, §18-6-  
3 5 and §18-6-8 of said code be amended and reenacted, all to read as  
4 follows:

5 **ARTICLE 6. DRIVER EDUCATION.**

6 **§18-6-1. Purpose and objectives of article.**

7           The purpose of this article is to ensure that every secondary  
8 school pupil has the opportunity, at or about the time he or she  
9 reaches licensing age, to enroll in a course of driver education  
10 designed to train him or her to drive skillfully and safely under  
11 all traffic and roadway conditions and circumstances. ~~to make the~~  
12 ~~driver education course available to out-of-school youths and to~~  
13 ~~adults; and to ensure that commercial driver education schools~~  
14 ~~achieve and maintain a level of driver education equal to the~~  
15 ~~minimum standards that are prescribed for secondary schools.~~

16 **§18-6-2. ~~Where provided; implementation deadlines; priorities for~~**  
17 **course availability permit or certificate for persons**  
18 **who are not professional educators to teach course.**

19           ~~No later than the first day of the public school term~~  
20 ~~beginning in the year one thousand nine hundred seventy three,~~

21           (a) There shall be offered in all public secondary schools  
22 within the state, without charge to students, an approved,  
23 comprehensive course in driver education. The course may be offered

1 in summer school in addition to the regular instructional term.

2 ~~As the first priority, the driver education course shall be~~  
3 ~~made available at no cost to all secondary school pupils at or~~  
4 ~~about the time they reach licensing age.~~

5 ~~As the second priority, the driver education course shall be~~  
6 ~~made available to all persons who do not attend secondary schools~~  
7 ~~who have reached their sixteenth birthday and are under eighteen~~  
8 ~~years of age. County boards of education may require the persons~~  
9 ~~described in this paragraph who enroll in a public secondary school~~  
10 ~~driver education course to pay tuition not to exceed \$50.~~

11 ~~As the third priority, the driver education course shall be~~  
12 ~~made available to all persons who do not attend secondary school~~  
13 ~~who are eighteen years of age or older, but first consideration for~~  
14 ~~persons in this age group shall be given to those who are applying~~  
15 ~~for their first operator's license. County boards of education may~~  
16 ~~require the persons described in this paragraph who enroll in a~~  
17 ~~public secondary school driver education course to pay tuition not~~  
18 ~~to exceed \$75.~~

19 (b) In those counties where sufficient public secondary school  
20 driver education courses are not available to meet all requests for  
21 the course, county boards of education shall, as quickly as  
22 possible, make sufficient courses available to fill those requests.

23 (c) Under the authority and subject to the conditions provided  
24 in section two-a, article three, chapter eighteen-a of this code,

1 the State Superintendent may issue a permit or other certificate to  
2 persons who do not qualify for the professional certificate for the  
3 purpose of providing instruction in driver education subject to the  
4 following:

5 (1) The applicant for the permit or certificate is subject to  
6 the criminal history check of applicants for licensure provided in  
7 section ten, article three, chapter eighteen-a of this code;

8 (2) The permit or certificate may not be given permanent  
9 status, but may be renewed in accordance with rules adopted by the  
10 State Department of Education;

11 (3) The duties of a person who has a valid permit or  
12 certificate under this subsection may include the supervision of  
13 students;

14 (4) The person, when providing instruction in the public  
15 schools, may only be employed under a contract with the respective  
16 county board of education that specifies the duties to be  
17 performed, a rate of pay that is equivalent to the rate of pay for  
18 professional educators in the district who accept similar duties as  
19 extra duty assignments and provides for liability insurance  
20 associated with the activity;

21 (5) The person may not be considered an employee of the board  
22 for salary and benefit purposes other than as specified in the  
23 contract;

24 (6) The person completes an orientation program designed and

1 approved in accordance with State Department of Education rules;  
2 and

3 (7) The position is posted annually and a professional  
4 educator fully certified for the position has not applied.

5 **§18-6-4. Rules. ~~and regulations~~**

6 In accordance with article three-b, chapter twenty-nine-a of  
7 this code, the state board shall, with the advice of the State  
8 Superintendent and the Superintendent of the ~~Department of Public~~  
9 ~~Safety~~ State Police, adopt rules ~~and regulations~~ governing the  
10 establishment, conduct and scope of driver education for use in the  
11 public, private and parochial ~~and denominational~~ secondary schools  
12 located within this state, subject to the requirements and  
13 exceptions set forth in this article.

14 **§18-6-5. Establishment and maintenance of driver education course;**  
15 **who may enroll; exemption from learner's permit**  
16 **requirement; nonpermit student drivers.**

17 The State Superintendent shall promote and direct the  
18 establishment and maintenance of courses of instruction in driver  
19 education in secondary schools in accordance with the provisions of  
20 this article and the rules that the state board adopts pursuant to  
21 section four of this article. Directors, trustees or other persons  
22 having control or authority over private or parochial ~~or~~  
23 ~~denominational~~ secondary schools, who establish and maintain the  
24 courses in the schools under their control or supervision, shall

1 comply with the rules that the state board adopts pursuant to  
2 section four of this article.

3 In the case of a pupil who will not reach the age of fifteen  
4 years before completion of the driver education course in which  
5 enrolled, instruction shall be limited to the classroom. Pupils who  
6 are fifteen years of age and older shall receive instruction and  
7 practical training in the operation of motor vehicles on the public  
8 streets and highways.

9 Notwithstanding section three-a, article two, chapter  
10 seventeen-b of this code, any student who is at least fifteen years  
11 of age and is enrolled in a driver education course in accordance  
12 with the provisions of this article and the rules that the state  
13 board adopts pursuant to section four of this article, may operate  
14 a motor vehicle on the roadways of West Virginia while accompanied  
15 by a certified driver education teacher or instructor permitted by  
16 the state superintendent to provide driver education instruction.

17 **§18-6-8. Driver education course to be made available to all**  
18 **secondary school pupils prior to their graduation;**  
19 **exemption; application by pupil for unrestricted**  
20 **operator's license.**

21 Before any pupil ~~is graduated~~ graduates from a secondary  
22 school ~~after September 1, 1975,~~ he or she shall first be provided  
23 an opportunity and encouraged to successfully complete a driver  
24 education course approved by the state board in a public, private

1 ~~or~~ parochial ~~or denominational~~ secondary school within the state.  
2 If a pupil has successfully completed a similar course in a  
3 secondary school of another state or in a commercial driving school  
4 or class and the course is accepted by the state board as  
5 adequately meeting and complying with the course standards  
6 established by the state board, then the aforementioned requirement  
7 shall be deemed fulfilled regarding that pupil.

8 ~~On or before December 31, 2000, any secondary school pupil~~  
9 ~~sixteen years of age or older, but under eighteen years of age, who~~  
10 ~~has successfully completed a driver education course approved by~~  
11 ~~the state board in a public, private, parochial or denominational~~  
12 ~~secondary school within the state or a similar course in a~~  
13 ~~secondary school of another state and accepted by the state board~~  
14 ~~as adequately meeting and complying with the course standards~~  
15 ~~established by the state board, shall, upon proper application and~~  
16 ~~successful completion of all examination and driving tests required~~  
17 ~~by law for issuance of an operator's license to a person eighteen~~  
18 ~~years of age or older, be issued an operator's license without any~~  
19 ~~restriction rather than the junior or probationary operator's~~  
20 ~~license provided for in section three, article two, chapter~~  
21 ~~seventeen-b of this code. On or after January 1, 2001, Any~~  
22 secondary school pupil sixteen years of age or older, but under  
23 eighteen years of age, who has successfully completed a driver  
24 education course approved by the state board in a public, private,

1    parochial ~~or denominational~~ secondary school within the state or a  
2    similar course in a secondary school of another state or in a  
3    commercial driving school or class and accepted by the state board  
4    as adequately meeting and complying with the course standards  
5    established by the state board, shall be exempted from submitting  
6    a sworn affidavit certified by the parent, legal guardian, or other  
7    responsible adult over the age of twenty-one that the applicant has  
8    successfully completed the minimum number of hours of  
9    behind-the-wheel training as provided in section three-a, article  
10   two, chapter seventeen-b of the code.