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H. B. 2887

(By Delegates Ellington, Gearheart, Border, Ambler, Cooper, Shott,
Overington, Householder, Butler, R. Phillips and E. Nelson)

[Introduced February 23, 2015; referred to the
Committee on Health and Human Resources then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended; and to
amend said code by adding thereto a new section, designated §33-6-38, all relating to
Division of Motor Vehicles instructional permits requirements; drug testing for a level two
intermediate driver's license; possible insurance premium reduction.

Be it enacted by the Legislature of West Virginia:

That §17B-2-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted;
and that said code be amended by adding thereto a new section, designated §33-6-38, all to read as
follows:

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

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

(a) Any person under the age of eighteen may not operate a motor vehicle unless he or she
has obtained a graduated driver’s license in accordance with the three-level graduated driver’s
license system described in the following provisions.

1 (b) Any person under the age of twenty-one, regardless of class or level of licensure, who
2 operates a motor vehicle with any measurable alcohol in his or her system is subject to the provisions
3 of section two, article five, chapter seventeen-c of this code and section two, article five-a of said
4 chapter. Any person under the age of eighteen, regardless of class or licensure level, is subject to
5 the mandatory school attendance and satisfactory academic progress provisions of section eleven,
6 article eight, chapter eighteen of this code.

7 (c) *Level one instruction permit.* -- An applicant who is fifteen years or older meeting all
8 other requirements prescribed in this code may be issued a level one instruction permit.

9 (1) *Eligibility.* -- The division shall not issue a level one instruction permit unless the
10 applicant:

11 (A) Presents a completed application, as prescribed by ~~the provisions of~~ section six of this
12 article, and which is accompanied by a writing, duly acknowledged, consenting to the issuance of
13 the graduated driver's license and executed by a parent or guardian entitled to custody of the
14 applicant;

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

19 (C) Passes the vision and written knowledge examination and completes the driving under
20 the influence awareness program, as prescribed in section seven of this article;

21 (D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the~~
22 ~~provisions of~~ section eleven, article eight, chapter eighteen of this code; and

1 (E) Pays a fee of \$5, which shall permit the applicant two attempts at the written knowledge
2 test.

3 (2) *Terms and conditions of instruction permit.* -- A level one instruction permit issued under
4 ~~the provisions of this section~~ is valid until thirty days after the date the applicant attains the age of
5 eighteen and is not renewable. However, any permit holder who allows his or her permit to expire
6 prior to successfully passing the road skills portion of the driver examination, and who has not
7 committed any offense which requires the suspension, revocation or cancellation of the instruction
8 permit, may reapply for a new instruction permit under ~~the provisions of section six of this article~~.
9 The division shall immediately revoke the permit upon receipt of a second conviction for a moving
10 violation of traffic regulations and laws of the road or violation of the terms and conditions of a level
11 one instruction permit, which convictions have become final unless a greater penalty is required by
12 this section or any other provision of this code. Any person whose instruction permit has been
13 revoked is disqualified from retesting for a period of ninety days. However, after the expiration of
14 ninety days, the person may retest if otherwise eligible. In addition to all other provisions of this
15 code for which a driver's license may be restricted, suspended, revoked or canceled, the holder of a
16 level one instruction permit may only operate a motor vehicle under the following conditions:

17 (A) Under the direct supervision of a licensed driver, twenty-one years of age or older, or a
18 driver's education or driving school instructor who is acting in an official capacity as an instructor,
19 who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be
20 operated with no more than two additional passengers, unless the passengers are family members;

21 (B) Between the hours of five a.m. and ten p.m.;

22 (C) All occupants must use safety belts in accordance with ~~the provisions of section forty-~~

1 nine, article fifteen, chapter seventeen-c of this code;

2 (D) Without any measurable blood alcohol content, in accordance with ~~the provisions of~~
3 subsection (h), section two, article five, chapter seventeen-c of this code; and

4 (E) Maintains current school enrollment and is making satisfactory academic progress or
5 otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of
6 this code.

7 (F) A holder of a level one instruction permit who is under the age of eighteen years shall be
8 prohibited from using a wireless communication device while operating a motor vehicle, unless the
9 use of the wireless communication device is for contacting a 9-1-1 system. A person violating ~~the~~
10 ~~provisions of~~ this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the
11 first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense
12 be fined \$75.

13 (d) *Level two intermediate driver's license.* -- An applicant sixteen years of age or older,
14 meeting all other requirements of the code, may be issued a level two intermediate driver's license.

15 (1) *Eligibility.* -- The division shall not issue a level two intermediate driver's license unless
16 the applicant:

17 (A) Presents a completed application as prescribed in section six of this article;

18 (B) Has held the level one instruction permit conviction-free for the one hundred eighty days
19 immediately preceding the date of application for a level two intermediate license;

20 (C) Has completed either a driver's education course approved by the state Department of
21 Education or fifty hours of behind-the-wheel driving experience, including a minimum of ten hours
22 of nighttime driving, certified by a parent or legal guardian or other responsible adult over the age

1 of twenty-one as indicated on the form prescribed by the division: *Provided*, That nothing in this
2 paragraph shall be construed to require any school or any county board of education to provide any
3 particular number of driver's education courses or to provide driver's education training to any
4 student;

5 (D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the~~
6 ~~provisions of~~ section eleven, article eight, chapter eighteen of this code;

7 (E) Passes the road skills examination as prescribed by section seven of this article; ~~and~~

8 (F) Pays a fee of \$5 and an additional \$10 fee for the cost of a urine drug test; and,

9 (G) Passes a urine drug test designed to detect illegal consumption of controlled substances.

10 If an applicant tests positive for a controlled substance for which he or she has a prescription, the
11 applicant is not considered to have failed the drug test.

12 (2) *Terms and conditions of a level two intermediate driver's license.* -- A level two
13 intermediate driver's license issued under the provisions of this section shall expire thirty days after
14 the applicant attains the age of eighteen, or until the licensee qualifies for a level three full Class E
15 license, whichever comes first. In addition to all other provisions of this code for which a driver's
16 license may be restricted, suspended, revoked or canceled, the holder of a level two intermediate
17 driver's license may only operate a motor vehicle under the following conditions:

18 (A) Unsupervised between the hours of five a.m. and ten p.m.;

19 (B) Only under the direct supervision of a licensed driver, age twenty-one years or older,
20 between the hours of ten p.m. and five a.m. except when the licensee is going to or returning from:

21 (i) Lawful employment;

22 (ii) A school-sanctioned activity;

1 (iii) A religious event; or

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

4 (C) All occupants shall use safety belts in accordance with the provisions of section forty-
5 nine, article fifteen, chapter seventeen-c of this code;

6 (D) For the first six months after issuance of a level two intermediate driver's license, the
7 licensee may not operate a motor vehicle carrying any passengers less than twenty years old, unless
8 these passengers are family members of the licensee; for the second six months after issuance of a
9 level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more
10 than one passenger less than twenty years old, unless these passengers are family members of the
11 licensee;

12 (E) Without any measurable blood alcohol content in accordance with ~~the provisions of~~
13 subsection (h), section two, article five, chapter seventeen-c of this code;

14 (F) Maintains current school enrollment and is making satisfactory academic progress or
15 otherwise shows compliance with ~~the provisions of~~ section eleven, article eight, chapter eighteen of
16 this code;

17 (G) A holder of a level two intermediate driver's license who is under the age of eighteen
18 years shall be prohibited from using a wireless communication device while operating a motor
19 vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A
20 person violating ~~the provisions of~~ this paragraph is guilty of a misdemeanor and, upon conviction
21 thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or
22 subsequent offense be fined \$75.

1 (H) Upon the first conviction for a moving traffic violation or a violation of paragraph (A),
2 (B), (C), (D) or (G), subdivision (1), subsection (d) of this section of the terms and conditions of a
3 level two intermediate driver's license, the licensee shall enroll in an approved driver improvement
4 program unless a greater penalty is required by this section or by any other provision of this code;
5 and

6 At the discretion of the commissioner, completion of an approved driver improvement
7 program may be used to negate the effect of a minor traffic violation as defined by the commissioner
8 against the one year conviction-free driving criteria for early eligibility for a level three driver's
9 license and may also negate the effect of one minor traffic violation for purposes of avoiding a
10 second conviction under paragraph (I) of this subdivision; and

11 (I) Upon the second conviction for a moving traffic violation or a violation of the terms and
12 conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor
13 vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's
14 eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any
15 other provision of this code. Any person whose driver's license has been revoked as a level two
16 intermediate driver, upon reaching the age of eighteen years and if otherwise eligible may reapply
17 for an instruction permit, then a driver's license in accordance with ~~the provisions of~~ sections five,
18 six and seven of this article.

19 (e) *Level three, full Class E license.* -- The level three license is valid until thirty days after
20 the date the licensee attains his or her twenty-first birthday. Unless otherwise provided in this
21 section or any other section of this code, the holder of a level three full Class E license is subject to
22 the same terms and conditions as the holder of a regular Class E driver's license.

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

5 (1) Has reached the age of seventeen years; and

6 (A) Presents a completed application as prescribed by ~~the provisions of~~ section six of this
7 article;

8 (B) Has held the level two intermediate license conviction free for the twelve-month period
9 immediately preceding the date of the application;

10 (C) Has completed any driver improvement program required under paragraph (G),
11 subdivision (2), subsection (d) of this section; and

12 (D) Pays a fee of \$2.50 for each year the license is valid. An additional fee of \$.50 shall be
13 collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
14 established in section twelve, article two, chapter three of this code;

15 (E) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the~~
16 ~~provisions of~~ section eleven, article eight, chapter eighteen of this code; or

17 (2) Reaches the age of eighteen years; and

18 (A) Presents a completed application as prescribed by ~~the provisions of~~ section six of this
19 article; and

20 (B) Pays a fee of \$2.50 for each year the license is valid. An additional fee of \$.50 shall be
21 collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund
22 established in section twelve, article two, chapter three of this code.

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

5 **CHAPTER 33. INSURANCE.**

6 **ARTICLE 6. THE INSURANCE POLICY.**

7 **§33-6-38. Motor vehicle policy.**

8 The insurance company shall consider implementing a program to reduce premiums of
9 teenage drivers who successfully pass the drug screening required by section three-a, article two,
10 chapter seventeen-b of this code.

NOTE: The purpose of this bill is to prohibit the Division of Motor Vehicles from issuing instruction permits to applicants who have not successfully passed drug tests.

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

§33-6-38 is new; therefore, it is entirely underscored.