

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4013**

(BY DELEGATES LANE, ANDERSON, BLAIR, HAMRICK,  
AMBLER, D. EVANS, BORDER, MCCUSKEY,  
HOUSEHOLDER, IRELAND AND ZATEZALO)

[Passed March 12, 2016; in effect ninety days from passage.]



1 AN ACT to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as  
2 amended; to amend said code by adding thereto a new section, designated §3-1-51; to  
3 amend and reenact §3-2-11 and §3-2-12 of said code; and to amend and reenact §17B-  
4 2-1 of said code, all relating to voting procedures; requiring a person desiring to vote on  
5 or after January 1, 2018 to present valid document identifying the voter to one of the poll  
6 clerks; requiring poll clerk to inspect valid identifying document and confirm information  
7 with individual's voter registration record; requiring poll clerk to confirm, if document  
8 contains a photograph, that displayed image is truly an image of the person presenting  
9 the document; setting forth requirements for valid identifying document; identifying  
10 documents considered to be valid identifying document; permitting registered voter to be  
11 accompanied to polling place by adult known to registered voter for at least six months;  
12 permitting voter to vote if accompanying adult signs affidavit and presents valid identifying  
13 document; authorizing poll worker to allow voter known to the poll worker for at least six  
14 months to vote without presenting valid identifying document; permitting person desiring  
15 to vote to cast provisional ballot after executing affidavit; setting conditions for counting of  
16 provisional ballot; setting content of affidavit to be used for casting provisional ballot;  
17 permitting voter who votes in person at precinct polling place located in building which is  
18 part of state licensed care facility where voter is resident without presenting valid  
19 identifying document; requiring person entering voter information into centralized voter  
20 registration database to notate when a voter has not presented valid identifying  
21 documentation and executed a voter identity affidavit; making confidential voter's  
22 residential or mailing address if voter is participant in Address Confidentiality Program  
23 except for certain statutory and administrative purposes; directing Secretary of State to  
24 educate voters about requirement to present valid identifying document; requiring  
25 Secretary of State to develop a program to help ensure that all eligible voters obtain  
26 identification; directing members of receiving board to challenge the right of person

27 requesting ballot to vote in election if person fails to present valid identifying  
28 documentation; modifying provisional ballot procedures; requiring clerk of county  
29 commission to send letter to voters who execute voter identity affidavit; setting deadline  
30 for letters to be mailed; specifying contents of letter; directing clerk of county commission  
31 to cause letters returned as undeliverable to be referred to Secretary of State; directing  
32 clerk of county commission to forward to Secretary of State a list of persons who were  
33 mailed letters and notified clerk that they did not vote; requiring Secretary of State to  
34 investigate to determine whether fraudulent voting occurred; requiring Secretary of State  
35 to submit report to Joint Committee on the Judiciary and Joint Committee on Government  
36 and Finance detailing results of all investigations of voter identity affidavits; requiring  
37 Division of Motor Vehicles to collect certain information from individuals applying for  
38 issuance, renewal or change of address of driver's license or official identification card;  
39 requiring Division of Motor Vehicles to release all information obtained to Secretary of  
40 State unless applicant affirmatively declines to become registered to vote or update voter  
41 registration; requiring Secretary of State to forward information to county clerk for relevant  
42 county to process newly registered voter or updated information for already-registered  
43 voter; requiring Division of Motor Vehicles to release certain information to Secretary of  
44 State if applicant affirmatively declines to become registered to vote; requiring Division of  
45 Motor Vehicles to notify applicant that signature submission grants written consent for  
46 submission of that information; clarifying that qualified voter who is automatically  
47 registered to vote need not present identification in order to make registration valid;  
48 directing Secretary of State to establish procedures to protect confidentiality of information  
49 obtained from Division of Motor Vehicles; permitting person registered to vote to cancel  
50 voter registration at any time; clarifying that Division of Motor Vehicles not required to  
51 determine eligibility for voter registration and voting; making changes regarding automatic  
52 voter registration effective July 1, 2017; requiring Division of Motor Vehicles report to Joint

53 Committee on Government and Finance if unable to meet requirements by February 1,  
54 2017; directing Secretary of State to promulgate legislative rules; permitting certain uses  
55 of moneys in Combined Voter Registration and Driver Licensing Fund; requiring balance  
56 in Fund in excess of \$100,000 be transferred to General Revenue annually; prohibiting  
57 Division of Motor Vehicles from charging fees for issuance of identification card if applicant  
58 intends to use identification card as form of identification for voting; providing certain  
59 provisions for issuance of driver's license or identification card to persons over the age of  
60 fifty years; and providing certain provisions for issuance of driver's license or identification  
61 card to persons over the age of seventy years.

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

1 That §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended, be amended  
2 and reenacted; that said code be amended by adding thereto a new section, designated §3-1-51;  
3 that §3-2-11 and §3-2-12 of said code be amended and reenacted; and that §17B-2-1 of said  
4 code be amended and reenacted, all to read as follows:

### **CHAPTER 3. ELECTIONS.**

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

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

1 (a) A person desiring to vote in an election shall, upon entering the election room, clearly  
2 state his or her name and residence to one of the poll clerks who shall thereupon announce the  
3 same in a clear and distinct tone of voice. For elections occurring on or after January 1, 2018, the  
4 person desiring to vote shall present to one of the poll clerks a valid identifying document meeting  
5 the requirements of subdivisions (1) or (2) of this subsection, and the poll clerk shall inspect and  
6 confirm that the name on the valid identifying document conforms to the name in the individual's  
7 voter registration record and that, if the valid identifying document contains a photograph, the

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

15 (1) A document shall be deemed to be a valid identifying document if it:

16 (A) Has been issued either by the State of West Virginia, or one of its subsidiaries, or by  
17 the United States Government; and

18 (B) Contains the name of the person desiring to vote.

19 (2) Notwithstanding the provisions of subdivision (1) of this subsection, the following  
20 documents, if they contain the voter's name, shall be considered valid identifying documents, and  
21 a person desiring to vote may produce any of the following:

22 (A) A valid West Virginia driver's license or valid West Virginia identification card issued  
23 by the West Virginia Division of Motor Vehicles;

24 (B) A valid driver's license issued by a state other than the State of West Virginia;

25 (C) A valid United States passport or passport card;

26 (D) A valid employee identification card with a photograph of the eligible voter issued by  
27 any branch, department, agency, or entity of the United States Government or of the State of  
28 West Virginia, or by any county, municipality, board, authority, or other political subdivision of  
29 West Virginia;

30 (E) A valid student identification card with a photograph of the eligible voter issued by an  
31 institution of higher education in West Virginia, or a valid high school identification card issued by  
32 a West Virginia high school;

33 (F) A valid military identification card issued by the United States with a photograph of the  
34 person desiring to vote;

35 (G) A valid concealed carry (pistol/revolver) permit issued by the sheriff of the county with  
36 a photograph of the person desiring to vote;

37 (H) A valid Medicare card or Social Security card;

38 (I) A valid birth certificate;

39 (J) A valid voter registration card issued by a county clerk in the State of West Virginia;

40 (K) A valid hunting or fishing license issued by the State of West Virginia;

41 (L) A valid identification card issued to the voter by the West Virginia Supplemental  
42 Nutrition Assistance (SNAP) program;

43 (M) A valid identification card issued to the voter by the West Virginia Temporary  
44 Assistance for Needy Families (TANF) program;

45 (N) A valid identification card issued to the voter by West Virginia Medicaid;

46 (O) A valid bank card or valid debit card;

47 (P) A valid utility bill issued within six months of the date of the election;

48 (Q) A valid bank statement issued within six months of the date of the election; or

49 (R) A valid health insurance card issued to the voter.

50 (3) In lieu of providing a valid identifying document, as required by this section, a registered  
51 voter may be accompanied at the polling place by an adult known to the registered voter for at  
52 least six months. That adult may sign an affidavit on a form provided to clerks and poll workers  
53 by the Secretary of State, which states under oath or affirmation that the adult has known the  
54 registered voter for at least six months, and that in fact the registered voter is the same person  
55 who is present for the purpose of voting. For the affidavit to be considered valid, the adult shall  
56 present a valid identifying document with his or her name, address, and photograph.

57 (4) A poll worker may allow a voter, whom the poll worker has known for at least six  
58 months, to vote without presenting a valid identifying document.

59 (5) If the person desiring to vote is unable to furnish a valid identifying document, or if the  
60 poll clerk determines that the proof of identification presented by the voter does not qualify as a  
61 valid identifying document, the person desiring to vote shall be permitted to cast a provisional  
62 ballot after executing an affidavit affirming his or her identity pursuant to paragraph (B) of this  
63 subdivision.

64 (A) The provisional ballot is entitled to be counted once the election authority verifies the  
65 identity of the individual by comparing that individual's signature to the current signature on file  
66 with the election authority and determines that the individual was otherwise eligible to cast a ballot  
67 at the polling place where the ballot was cast.

68 (B) The affidavit to be used for voting shall be substantially in the following form:

69 "State of West Virginia  
70 County of.....

71 I do solemnly swear (or affirm) that my name is .....; that I  
72 reside at.....; and that I am the person listed in the precinct register under this name  
73 and at this address.

74 I understand that knowingly providing false information is a violation of law and subjects  
75 me to possible criminal prosecution.

76 .....

77 Signature of voter

78 Subscribed and affirmed before me this..... day of ....., 20....

79 .....

80 Name of Election Official

81 .....

82 Signature of Election Official".

83           (6) A voter who votes in person at a precinct polling place that is located in a building  
84 which is part of a state licensed care facility where the voter is a resident is not required to provide  
85 proof of identification as a condition before voting in an election.

86           (7) The person entering voter information into the centralized voter registration database  
87 shall cause the records to indicate when a voter has not presented a valid identifying document  
88 and has executed a voter identity affidavit.

89           (8) If a voter participating in the Address Confidentiality Program established by section  
90 one hundred three, article twenty-eight-a, chapter forty-eight of this code, executes a voter identity  
91 affidavit, the program participant's residential or mailing address is subject to the confidentiality  
92 provisions of section one hundred eight, article twenty-eight-a, chapter forty-eight of this code and  
93 shall be used only for those statutory and administrative purposes authorized by this section.

94           (9) Prior to the primary and general elections to be held in calendar year 2018, the  
95 Secretary of State shall educate voters about the requirement to present a valid identifying  
96 document and develop a program to help ensure that all eligible voters are able to obtain a valid  
97 identifying document.

98           (b) The clerk of the county commission is authorized, upon verification that the precinct at  
99 which a handicapped person is registered to vote is not handicap accessible, to transfer that  
100 person's registration to the nearest polling place in the county which is handicap accessible. A  
101 request by a handicapped person for a transfer of registration must be received by the county  
102 clerk no later than thirty days prior to the date of the election. A handicapped person who has not  
103 made a request for a transfer of registration at least thirty days prior to the date of the election  
104 may vote a provisional ballot at a handicap accessible polling place in the county of his or her  
105 registration. If during the canvass the county commission determines that the person had been  
106 registered in a precinct that is not handicap accessible, the voted ballot, if otherwise valid, shall  
107 be counted. The handicapped person may vote in the precinct to which the registration was  
108 transferred only as long as the disability exists or the precinct from which the handicapped person

109 was transferred remains inaccessible to the handicapped. To ensure confidentiality of the  
110 transferred ballot, the county clerk processing the ballot shall provide the voter with an unmarked  
111 envelope and an outer envelope designated "provisional ballot/handicapped voter". After  
112 validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped  
113 voter's ballot shall be placed with other approved provisional ballots prior to removal of the ballot  
114 from the unmarked envelope.

115 (c) When the voter's signature is properly marked and the voter has presented a valid  
116 identifying document, the two poll clerks shall sign their names in the places indicated on the back  
117 of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the  
118 election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the  
119 ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with  
120 other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another  
121 official ballot, signed by the clerks on the reverse side. The voter shall thereupon retire alone to  
122 the booth or compartment prepared within the election room for voting purposes and there  
123 prepare his or her ballot. In voting for candidates in general and special elections, the voter shall  
124 comply with the rules and procedures prescribed in section five, article six of this chapter.

125 (d) It is the duty of a poll clerk, in the presence of the other poll clerk, to indicate by a check  
126 mark, or by other means, inserted in the appropriate place on the registration record of each voter  
127 the fact that the voter voted in the election. In primary elections the clerk shall also insert on the  
128 registration record of each voter a distinguishing initial or initials of the political party for whose  
129 candidates the voter voted. If a person is challenged at the polls, the challenge shall be indicated  
130 by the poll clerks on the registration record, together with the name of the challenger. The  
131 subsequent removal of the challenge shall be recorded on the registration record by the clerk of  
132 the county commission.

133 (e) (1) No voter may receive any assistance in voting unless, by reason of blindness,  
134 disability, advanced age or inability to read and write, that voter is unable to vote without  
135 assistance. Any voter so qualified to receive assistance in voting may:

136 (A) Declare his or her choice of candidates to an Election Commissioner of each political  
137 party who, in the presence of the voter and in the presence of each other, shall prepare the ballot  
138 for voting in the manner provided in this section and, on request, shall read to the voter the names  
139 of the candidates selected on the ballot;

140 (B) Require the Election Commissioners to indicate to him or her the relative position of  
141 the names of the candidates on the ballot, the voter shall then retire to one of the booths or  
142 compartments to prepare his or her ballot in the manner provided in this section;

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

146 (D) If he or she is handicapped, vote from an automobile outside the polling place or  
147 precinct by the absentee balloting method provided in subsection (e), section five, article three of  
148 this chapter in the presence of an Election Commissioner of each political party if all of the  
149 following conditions are met:

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

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

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

156 (3) A voter who requests assistance in voting but who is believed not to be qualified for  
157 assistance under the provisions of this section shall nevertheless be permitted to vote a  
158 provisional ballot with the assistance of any person herein authorized to render assistance.

159           (4) One or more of the Election Commissioners or poll clerks in the precinct may challenge  
160 the ballot on the ground that the voter received assistance in voting it when in his, her or their  
161 opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such  
162 advanced age as to have been unable to vote without assistance. The Election Commissioner or  
163 poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and the  
164 reason for such challenge on the form and in the manner prescribed or authorized by article three  
165 of this chapter.

166           (5) An Election Commissioner or other person who assists a voter in voting:

167           (A) May not in any manner request or seek to persuade or induce the voter to vote a  
168 particular ticket or for a particular candidate or for or against any public question and must not  
169 keep or make any memorandum or entry of anything occurring within the voting booth or  
170 compartment and must not, directly or indirectly, reveal to any person the name of a candidate  
171 voted for by the voter, which ticket he or she had voted or how he or she had voted on any public  
172 question or anything occurring within the voting booth, compartment, or voting machine booth  
173 except when required by law to give testimony as to the matter in a judicial proceeding; and

174           (B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed  
175 by the Secretary of State stating that he or she will not override the actual preference of the voter  
176 being assisted, attempt to influence the voter's choice or mislead the voter into voting for someone  
177 other than the candidate of voter's choice. The person assisting the voter shall also swear or  
178 affirm that he or she believes that the voter is voting free of intimidation or manipulation. No  
179 person providing assistance to a voter is required to sign an oath or affirmation where the reason  
180 for requesting assistance is the voter's inability to vote without assistance because of blindness  
181 as defined in section three, article fifteen, chapter five of this code and the inability to vote without  
182 assistance because of blindness is certified in writing by a physician of the voter's choice and is  
183 on file in the office of the clerk of the county commission.

184           (6) In accordance with instructions issued by the Secretary of State, the clerk of the county  
185 commission shall provide a form entitled “list of assisted voters”, on a form as prescribed by the  
186 Secretary of State. The commissioners shall enter the name of each voter receiving assistance  
187 in voting the ballot, together with the poll slip number of that voter and the signature of the person  
188 or the commissioner from each party who assisted the voter. If no voter has been assisted in  
189 voting, the commissioners shall make and subscribe to an oath of that fact on the list.

190           (f) After preparing the ballot, the voter shall fold the ballot so that the face is not exposed  
191 and the names of the poll clerks on it are seen. The voter shall announce his or her name and  
192 present his or her ballot to one of the commissioners who shall hand the same to another  
193 commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the  
194 official one and properly signed. The commissioner of election may inspect every ballot before it  
195 is deposited in the ballot box to ascertain whether it is single; but without unfolding or unrolling it  
196 so as to disclose its content. When the voter has voted, he or she shall retire immediately from  
197 the election room and beyond the sixty-foot limit and not return except by permission of the  
198 commissioners.

199           (g) Following the election, the oaths or affirmations required by this section from those  
200 assisting voters, together with the “list of assisted voters”, shall be returned by the Election  
201 Commissioners to the clerk of the county commission along with the election supplies, records  
202 and returns. The clerk of the county commission shall make the oaths, affirmations and list  
203 available for public inspection and preserve them for a period of twenty-two months or until  
204 disposition is authorized or directed by the Secretary of State or court of record. The clerk may  
205 use these records to update the voter registration records in accordance with subsection (d),  
206 section eighteen, article two of this chapter.

207           (h) Any person making an oath or affirmation required under the provisions of this section  
208 who knowingly swears falsely or any person who counsels, advises, aids or abets another in the  
209 commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction

210 thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one  
211 year, or both fined and confined.

212 (i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged  
213 assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to  
214 require assistance in voting, is guilty of a felony and, upon conviction thereof, shall be fined not  
215 more than \$5,000 or imprisoned in a state correctional facility for a period of not less than one  
216 year nor more than five years, or both fined and imprisoned.

**§3-1-41. Challenged and provisional voter procedures; counting of provisional voters’  
ballots; ballots of election officials.**

1 (a) It is the duty of the members of the receiving board, jointly or severally, to challenge  
2 the right of any person requesting a ballot to vote in any election:

3 (1) If the person’s registration record is not available at the time of the election;

4 (2) If the signature written by the person in the poll book does not correspond with the  
5 signature purported to be his or hers on the registration record;

6 (3) If the registration record of the person indicates any other legal disqualification;

7 (4) If the person fails to present a valid identifying document pursuant to section thirty-four  
8 of this article; or

9 (5) If any other valid challenge exists against the voter pursuant to section ten, article three  
10 of this chapter.

11 (b) Any person challenged shall nevertheless be permitted to vote in the election. He or  
12 she shall be furnished an official ballot not endorsed by the poll clerks. In lieu of the  
13 endorsements, the poll clerks shall complete and sign an appropriate form indicating the  
14 challenge, the reason thereof and the name or names of the challengers. The form shall be  
15 securely attached to the voter’s ballot and deposited together with the ballot in a separate box or  
16 envelope marked “provisional ballots”.

17 (c) At the time that an individual casts a provisional ballot, the poll clerk shall give the  
18 individual written information stating that an individual who casts a provisional ballot will be able  
19 to ascertain under the free access system established in this section whether the vote was  
20 counted and, if the vote was not counted, the reason that the vote was not counted.

21 (d) Before an individual casts a provisional ballot, the poll clerk shall provide the individual  
22 written instructions, supplied by the board of ballot commissioners, stating that if the voter is  
23 casting a ballot in the incorrect precinct, the ballot cast may not be counted for that election:  
24 *Provided*, That if the voter is found to be in the incorrect precinct, then the poll worker shall attempt  
25 to ascertain the appropriate precinct for the voter to cast a ballot and immediately give the voter  
26 the information if ascertainable.

27 (e) Provisional ballots may not be counted by the election officials. The county  
28 commission shall, on its own motion, at the time of canvassing of the election returns, sit in  
29 session to determine the validity of any challenges according to the provisions of this chapter. If  
30 the county commission determines that the challenges are unfounded, each provisional ballot of  
31 each challenged voter, if otherwise valid, shall be counted and tallied together with the regular  
32 ballots cast in the election. The county commission, as the board of canvassers, shall protect the  
33 privacy of each provisional ballot cast. The county commission shall disregard technical errors,  
34 omissions or oversights if it can reasonably be ascertained that the challenged voter was entitled  
35 to vote.

36 (f) Any person duly appointed as an Election Commissioner or clerk under the provisions  
37 of section twenty-eight of this article who serves in that capacity in a precinct other than the  
38 precinct in which the person is legally entitled to vote may cast a provisional ballot in the precinct  
39 in which the person is serving as a commissioner or clerk. The ballot is not invalid for the sole  
40 reason of having been cast in a precinct other than the precinct in which the person is legally  
41 entitled to vote. The county commission shall record the provisional ballot on the voter's

42 permanent registration record: *Provided*, That the county commission may count only the votes  
43 for the offices that the voter was legally authorized to vote for in his or her own precinct.

44 (g) The Secretary of State shall establish a free access system, which may include a toll-  
45 free telephone number or an Internet website, that may be accessed by any individual who casts  
46 a provisional ballot to discover whether his or her vote was counted and, if not, the reason that  
47 the vote was not counted.

**§3-1-51. Identity verification of voters executing voter identity affidavit.**

1 (a) The clerk of the county commission shall cause a letter to be mailed by first class mail  
2 to each voter who executed a voter identity affidavit pursuant to section thirty-four of this article.  
3 The letter shall be mailed within sixty days after the election. The clerk shall mark the envelope  
4 with instructions to the United States Post Office not to forward the letter and to provide address  
5 correction information. The letter shall notify the addressee that a person who did not present a  
6 valid identifying document voted using his or her name and address and instruct the addressee  
7 to contact the clerk immediately if he or she did not vote. The letter shall also inform the addressee  
8 of the procedure for obtaining an identification card from the Division of Motor Vehicles for voting  
9 purposes.

10 (b) The clerk of the county commission shall cause letters mailed pursuant to subsection  
11 (a) of this section that are returned as undeliverable by the United States Post Office to be referred  
12 to the Secretary of State. The clerk shall also prepare and forward to the Secretary of State a list  
13 of all persons who were mailed letters under subsection (a) of this section and who notified the  
14 clerk that they did not vote. Upon receipt of notice from a person who receives a letter mailed  
15 pursuant to subsection (a) of this section that the person did not vote, or upon receipt of a referral  
16 from the clerk, the Secretary of State shall cause an investigation to be made to determine  
17 whether fraudulent voting occurred. Beginning July 1, 2019 and each year thereafter, the  
18 Secretary of State shall submit a report to the Joint Committee on the Judiciary and the Joint  
19 Committee on Government and Finance detailing the results of all investigations of voter identity

20 affidavits, including, but not limited to, the number of investigations, the number of ballots cast,  
21 and the number and results of any determinations made regarding fraudulent voting.

## **ARTICLE 2. REGISTRATION OF VOTERS**

### **§3-2-11. Registration in conjunction with driver licensing.**

1 (a) The Division of Motor Vehicles or other division or department that may be established  
2 by law to perform motor vehicle driver licensing services shall obtain, as an integral and  
3 simultaneous part of every process of application for the issuance, renewal or change of address  
4 of a motor vehicle driver's license or official identification card pursuant to the provisions of article  
5 two, chapter seventeen-b of this code, when the division's regional offices are open for regular  
6 business, the following information from each qualified registrant:

- 7 (1) Full name, including first, middle, last and any premarital names;
- 8 (2) Date of birth;
- 9 (3) Residence address and mailing address, if different;
- 10 (4) The applicant's electronic signature;
- 11 (5) Telephone number, if available;
- 12 (6) Email address, if available;
- 13 (7) Political party membership, if any;
- 14 (8) Driver's license number and last four digits of social security number;
- 15 (9) A notation that the applicant has attested that he or she meets all voter eligibility  
16 requirements, including United States citizenship;
- 17 (10) Whether the applicant affirmatively declined to become registered to vote during the  
18 transaction with the Division of Motor Vehicles;
- 19 (11) Date of application; and
- 20 (12) Any other information specified in rules adopted to implement this section.

21 (b) Unless the applicant affirmatively declines to become registered to vote or update their  
22 voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor

23 Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to  
24 the Secretary of State, who shall forward the information to the county clerk for the relevant county  
25 to process the newly registered voter or updated information for the already-registered voter  
26 pursuant to law. Notwithstanding any other provision of this code to the contrary, if the applicant  
27 affirmatively declines to become registered to vote, the Division of Motor Vehicles is required to  
28 release the first name, middle name, last name, premarital name, if applicable, complete  
29 residence address, complete date of birth of an applicant and the applicant's electronic signature,  
30 entered in the division's records for driver license or nonoperator identification purposes to the  
31 Secretary of State in order to facilitate any future attempt of the applicant to register to vote online,  
32 along with the notation that the applicant affirmatively declined to become registered at that time.  
33 The Division of Motor Vehicles shall notify that applicant that by submitting his or her signature,  
34 the applicant grants written consent for the submission of the information obtained and required  
35 to be submitted to the Secretary of State pursuant to this section. (c) Information regarding a  
36 person's failure to sign the voter registration application is confidential and may not be used for  
37 any purpose other than to determine voter registration.

38 (d) A qualified voter who submits the required information or update to his or her voter  
39 registration, pursuant to the provisions of subsection (a) of this section, in person at a driver  
40 licensing facility at the time of applying for, obtaining, renewing or transferring his or her driver's  
41 license or official identification card and who presents identification and proof of age at that time  
42 is not required to make his or her first vote in person or to again present identification in order to  
43 make that registration valid.

44 (e) A qualified voter who submits by mail or by delivery by a third party an application for  
45 registration on the form used in conjunction with driver licensing is required to make his or her  
46 first vote in person and present identification as required for other mail registration in accordance  
47 with the provisions of subsection (g), section ten of this article. If the applicant has been previously  
48 registered in the jurisdiction and the application is for a change of address, change of name,

49 change of political party affiliation or other correction, the presentation of identification and first  
50 vote in person is not required.

51 (f) An application for voter registration submitted pursuant to the provisions of this section  
52 updates a previous voter registration by the applicant and authorizes the cancellation of  
53 registration in any other county or state in which the applicant was previously registered.

54 (g) A change of address from one residence to another within the same county which is  
55 submitted for driver licensing or nonoperator's identification purposes in accordance with  
56 applicable law serves as a notice of change of address for voter registration purposes if requested  
57 by the applicant after notice and written consent of the applicant.

58 (h) Completed applications for voter registration or change of address for voting purposes  
59 received by an office providing driver licensing services shall be forwarded to the Secretary of  
60 State within five days of receipt unless other means are available for a more expedited  
61 transmission. The Secretary of State shall remove and file any forms which have not been signed  
62 by the applicant and shall forward completed, signed applications to the clerk of the appropriate  
63 county commission within five days of receipt.

64 (i) Voter registration application forms containing voter information which are returned to  
65 a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted  
66 to the Secretary of State and maintained by the Secretary of State's office according to the  
67 retention policy adopted by the Secretary of State.

68 (j) The Secretary of State shall establish procedures to protect the confidentiality of the  
69 information obtained from the Division of Motor Vehicles, including any information otherwise  
70 required to be confidential by other provisions of this code.

71 (k) A person registered to vote pursuant to this section may cancel his or her voter  
72 registration at any time by any method available to any other registered voter.

73 (l) This section shall not be construed as requiring the Division of Motor Vehicles to  
74 determine eligibility for voter registration and voting.

75 (m) The changes made to this section during the 2016 Regular Legislative Session shall  
76 become effective on July 1, 2017, and any costs associate therewith shall be paid by the Division  
77 of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of this  
78 section by February 1, 2017, it shall make a presentation to the Joint Committee on Government  
79 and Finance explaining any resources necessary to meet the requirements or any changes to the  
80 code that it recommends immediately prior to the 2017 Regular Legislative Session.

81 (n) The Secretary of State shall propose rules for legislative approval in accordance with  
82 the provisions of article three, chapter twenty-nine-a of this code in order to implement the  
83 requirements of this section.

**§3-2-12. Combined voter registration and driver licensing fund; transfer of funds.**

1 (a) Fifty cents of each license fee collected pursuant to the provisions of section one,  
2 article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of  
3 a special revenue fund to be known as the "Combined Voter Registration and Driver Licensing  
4 Fund." The moneys so credited to such fund may be used by the Secretary of State for the  
5 following purposes:

6 (1) Printing and distribution of combined driver licensing or other agency applications and  
7 voter registration forms, or for the printing of voter registration forms to be used in conjunction  
8 with driver licensing or other agency applications, or for implementing the automatic voter  
9 registration program authorized in section eleven of this article;

10 (2) Printing and distribution of mail voter registration forms for purposes of this article;

11 (3) Supplies, postage and mailing costs for correspondence relating to voter registration  
12 for agency registration sites and for the return of completed voter registration forms to the  
13 appropriate state or county election official;

14 (4) Reimbursement of postage and mailing costs incurred by clerks of the county  
15 commissions for sending a verification mailing, confirmation of registration or other mailings

16 directly resulting from an application to register, change or update a voter's registration through a  
17 driver licensing or other agency;

18 (5) Reimbursement to state funded agencies, with the exception of the Division of Motor  
19 Vehicles, designated to provide voter registration services under this chapter for personnel costs  
20 associated with the time apportioned to voter registration services and assistance;

21 (6) The purchase, printing and distribution of public information and other necessary  
22 materials or equipment to be used in conjunction with voter registration services provided by state  
23 funded agencies designated pursuant to the provisions of this article;

24 (7) The development and continued maintenance of a statewide program of uniform voter  
25 registration computerization for use by each county registration office and the Secretary of State,  
26 purchase of uniform voter registration software, payment of software installation costs and  
27 reimbursement to the county commissions of not more than fifty percent of the cost per voter for  
28 data entry or data conversion from a previous voter registration software program;

29 (8) Efforts to maintain correct voter information and conduct general list maintenance to  
30 remove ineligible voters and ensure new residents receive voter registration information, including  
31 collaborating with other states and non-profit corporations dedicated to improving the election  
32 system;

33 (9) Payment of any dues or fees associated with a program to match and transfer data to  
34 and from other states;

35 (10) Resources related to voter registration and list maintenance; and

36 (11) Payment or reimbursement of other costs associated with implementation of the  
37 requirements of the National Voter Registration Act of 1993 (42 U. S. C. 1973gg): *Provided*, That  
38 revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in  
39 subdivisions (1) through (10), inclusive, of this subsection.

40 (b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter  
41 twenty-nine-a of this code to provide for the administration of the fund established in subsection  
42 (a) of this section.

43 (c) Any balance in the fund created by subsection (a) of this section which exceeds  
44 \$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the  
45 General Revenue Fund.

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

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

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

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

5 (2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the  
6 privilege thereby granted in the manner provided in this code and, except as otherwise provided  
7 by law, is not required to obtain any other license to exercise the privilege by a county, municipality  
8 or local board or body having authority to adopt local police regulations.

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

14 (c) The following drivers licenses classifications are hereby established:

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

19           (2) A Class D license shall be issued to those persons eighteen years and older with one  
20 year of driving experience who operate motor vehicles other than those types of vehicles which  
21 require the operator to be licensed under the provisions of chapter seventeen-e of this code and  
22 federal law and rule and whose primary function or employment is the transportation of persons  
23 or property for compensation or wages and have paid the required fee. For the purpose of  
24 regulating the operation of motor vehicles, wherever the term "chauffeur's license" is used in this  
25 code, it means the Class A, B, C or D license described in this section or chapter seventeen-e of  
26 this code or federal law or rule: *Provided*, That anyone not required to be licensed under the  
27 provisions of chapter seventeen-e of this code and federal law or rule and who operates a motor  
28 vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined  
29 in section one, article ten, chapter seventeen-a of this code, with a gross vehicle weight rating of  
30 less than eight thousand one pounds, is not required to obtain a Class D license.

31           (3) A Class E license shall be issued to persons who have qualified for a driver's license  
32 under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license  
33 and who have paid the required fee. The Class E license may be endorsed under the provisions  
34 of section seven-b of this article for motorcycle operation. The Class E or G license for a person  
35 under the age of eighteen may also be endorsed with the appropriate graduated driver license  
36 level in accordance with the provisions of section three-a of this article.

37           (4) A Class F license shall be issued to those persons who successfully complete the  
38 motorcycle examination procedure provided by this chapter and have paid the required fee but  
39 who do not possess a Class A, B, C, D or E driver's license.

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

43 (d) All licenses issued under this section may contain information designating the licensee  
44 as a diabetic, organ donor, as deaf or hard-of-hearing, as having any other handicap or disability  
45 or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the  
46 United States, according to criteria established by the division, if the licensee requests this  
47 information on the license. An honorably discharged veteran may be issued a replacement license  
48 without charge if the request is made before the expiration date of the current license and the only  
49 purpose for receiving the replacement license is to get the veterans designation placed on the  
50 license.

51 (e) No person, except those hereinafter expressly exempted, may drive a motorcycle on  
52 a street or highway in this state or on a subdivision street used by the public generally unless the  
53 person has a valid motorcycle license, a valid license which has been endorsed under section  
54 seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

55 (f) (1) An identification card may be issued to a person who:

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

58 (B) Has reached the age of two years or, for good cause shown, under the age of two.

59 (C) Has paid the required fee of \$2.50 per year: *Provided*, That no fees or charges,  
60 including renewal fees, are required if the applicant:

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

62 (ii) Is legally blind; or

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

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

67           (2) The identification card shall contain the same information as a driver's license except  
68 that the identification card shall be clearly marked as an identification card. The division may  
69 issue an identification card with less information to persons under the age of sixteen. An  
70 identification card may be renewed annually on application and payment of the fee required by  
71 this section.

72           (A) Every identification card issued to a person who has attained his or her twenty-first  
73 birthday expires on the licensee's birthday in those years in which the licensee's age is evenly  
74 divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card  
75 may be issued for less than three years or for more than seven years and expires on the licensee's  
76 birthday in those years in which the licensee's age is evenly divisible by five.

77           (B) Every identification card issued to a person who has not attained his or her twenty-first  
78 birthday expires thirty days after the licensee's twenty-first birthday.

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

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

85           (g) For any person over the age of fifty years who wishes to obtain a driver's license or  
86 identification card under the provisions of this section:

87           (1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is  
88 not required if the issuing jurisdiction does not require one; and

89           (2) If documents are lacking to prove all changes of name in the history of any such  
90 applicant, applicants renewing a driver's license or identification card under the provisions of this  
91 section may complete a Name Variance Approval Document as instituted by the division, so long  
92 as they can provide:

93 (A) Proof of identity;

94 (B) Proof of residency; and

95 (C) A valid Social Security number.

96 (3) The division may waive any documents necessary to prove a match between names,

97 so long as the division determines the person is not attempting to:

98 (A) Change his or her identity;

99 (B) Assume another person's identity; or

100 (C) Commit a fraud.

101 (h) A person over the age of seventy years, or who is on Social Security disability, who

102 wishes to obtain or renew a driver's license or identification card under the provisions of this

103 section, may not be required to furnish a copy of a birth certificate if they can provide:

104 (1) Proof of identity;

105 (2) Proof of residency;

106 (3) A valid Social Security number; and

107 (4) One of the following identifying items:

108 (A) A form of military identification, including a DD214 or equivalent;

109 (B) An US passport, whether valid or expired;

110 (C) School records, including a yearbook;

111 (D) A religious document, that in the judgment of the Division is sufficient and authentic to

112 reflect that the person was born in the United States; or

113 (E) An expired driver's license, employment identification card, or other reliable

114 identification card with a recognizable photograph of the person.

115 (i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon

116 conviction, shall be fined not more than \$500 and, upon a second or subsequent conviction, shall

117 be fined not more than \$500 or confined in jail not more than six months, or both fined and

118 confined.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2016.

.....  
*Governor*