

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Enrolled

Senate Bill 364

BY SENATORS MANN, KARNES, RUCKER, GAUNCH,

AZINGER, SWOPE, TAKUBO, AND CLINE

[Passed March 2, 2018; in effect 90 from passage]

1 AN ACT to amend and reenact §18-8-11 of the Code of West Virginia, 1931, as amended, relating
2 to allowing a parent or legal guardian of a homeschooled child to provide a signed
3 statement in lieu of a driver eligibility certificate by the attendance director or chief
4 administrator affirming that the child is being educated in accordance with law, is making
5 satisfactory academic progress, and meets certain conditions to be eligible to obtain a
6 permit or license for operation of a motor vehicle.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

**§18-8-11. School attendance and satisfactory academic progress as conditions of
licensing for privilege of operation of motor vehicle.**

1 (a) In accordance with the provisions of §17B-2-3a and §17B-2-5 of this code, the Division
2 of Motor Vehicles shall deny a license or instruction permit for the operation of a motor vehicle to
3 any person under the age of 18 who does not at the time of application present a diploma or other
4 certificate of graduation issued to the person from a secondary high school of this state or any
5 other state or documentation that the person: (1) Is enrolled and making satisfactory progress in
6 a course leading to a general education development certificate (GED) from a state-approved
7 institution or organization or has obtained the certificate; (2) is enrolled and is making satisfactory
8 academic progress in a secondary school of this state or any other state; (3) is excused from the
9 requirement due to circumstances beyond his or her control; or (4) is enrolled in an institution of
10 higher education as a full-time student in this state or any other state.

11 (b) The attendance director or chief administrator shall, upon request, provide a driver's
12 eligibility certificate on a form approved by the Department of Education to any student at least
13 15 but less than 18 years of age who is properly enrolled and is making satisfactory academic
14 progress in a school under the jurisdiction of the official for presentation to the Division of Motor
15 Vehicles on application for or reinstatement of an instruction permit or license to operate a motor
16 vehicle: *Provided*, That a parent or legal guardian of a child who is being educated pursuant to

17 §18-8-1(c) of this code may provide a signed statement in lieu of a driver eligibility certificate
18 issued by the attendance director or chief administrator affirming that the child is being educated
19 in accordance with law, is making satisfactory academic progress, and meets the conditions to
20 be eligible to obtain any permit or license under this section.

21 (c) Whenever a student at least 15 but less than 18 years of age, except as provided in
22 §18-8-11(g) of this code, withdraws from school, the attendance director or chief administrator
23 shall notify the Division of Motor Vehicles of the student's withdrawal no later than five days from
24 the date of the withdrawal. Within five days of receipt of the notice, the Division of Motor Vehicles
25 shall send notice to the student that the student's instruction permit or license to operate a motor
26 vehicle will be suspended under the provisions of §17B-3-6 of this code on the thirtieth day
27 following the date the notice was sent unless documentation of compliance with the provisions of
28 this section is received by the Division of Motor Vehicles before that time. The notice shall also
29 advise the student that he or she is entitled to a hearing before the county superintendent of
30 schools or his or her designee or before the appropriate private school official concerning whether
31 the student's withdrawal from school was due to a circumstance or circumstances beyond the
32 control of the student. If suspended, the division may not reinstate an instruction permit or license
33 until the student returns to school and shows satisfactory academic progress or until the student
34 attains 18 years of age.

35 (d) Whenever a student at least 15 but less than 18 years of age is enrolled in a secondary
36 school and fails to maintain satisfactory academic progress, the attendance director or chief
37 administrator shall follow the procedures set out in §18-8-11(c) of this code to notify the Division
38 of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles shall
39 send notice to the student that the student's instruction permit or license will be suspended under
40 the provisions of §17B-3-6 of this code on the thirtieth day following the date the notice was sent
41 unless documentation of compliance with the provisions of this section is received by the Division
42 of Motor Vehicles before that time. The notice shall also advise the student that he or she is

43 entitled to a hearing before the county superintendent of schools or his or her designee or before
44 the appropriate private school official concerning whether the student's failure to make
45 satisfactory academic progress was due to a circumstance or circumstances beyond the control
46 of the student. Once suspension is ordered, the division may not reinstate an instruction permit
47 or license until the student shows satisfactory academic progress or until the student attains 18
48 years of age.

49 (e) Upon written request of a student, within 10 days of receipt of a notice of suspension
50 as provided by this section, the Division of Motor Vehicles shall afford the student the opportunity
51 for an administrative hearing. The scope of the hearing shall be limited to determining if there is
52 a question of improper identity, incorrect age, or some other clerical error.

53 (f) For the purposes of this section:

54 (1) Withdrawal is defined as more than 10 consecutive or 15 total days unexcused
55 absences during a school year, or suspension pursuant to §18A-5-1a(a) and §18A-5-1a(b) of this
56 code.

57 (2) "Satisfactory academic progress" means the attaining and maintaining of grades
58 sufficient to allow for graduation and course-work in an amount sufficient to allow graduation in
59 five years or by age 19, whichever is earlier.

60 (3) "Circumstances outside the control of the student" shall include, but not be limited to,
61 medical reasons, familial responsibilities and the necessity of supporting oneself or another.

62 (4) Suspension or expulsion from school or imprisonment in a jail or a West Virginia
63 correctional facility is not a circumstance beyond the control of the student.

64 (g) Whenever the withdrawal from school of the student, the student's failure to enroll in a
65 course leading to or to obtain a GED or high school diploma, or the student's failure to make
66 satisfactory academic progress is due to a circumstance or circumstances beyond the control of
67 the student, or the withdrawal from school is for the purpose of transfer to another school as
68 confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of

69 Motor Vehicles to suspend the student's motor vehicle operator's license and if the student is
70 applying for a license, the attendance director or chief administrator shall provide the student with
71 documentation to present to the Division of Motor Vehicles to excuse the student from the
72 provisions of this section. The school district superintendent (or the appropriate school official of
73 any private secondary school) with the assistance of the county attendance director and any other
74 staff or school personnel shall be the sole judge of whether any of the grounds for denial or
75 suspension of a license as provided by this section are due to a circumstance or circumstances
76 beyond the control of the student.

77 (h) The state board shall promulgate rules necessary for uniform implementation of this
78 section among the counties and as may otherwise be necessary for the implementation of this
79 section. The rule may not include attainment by a student of any certain grade point average as
80 a measure of satisfactory progress toward graduation.

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

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2018.

.....
Governor