

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 491

SENATORS TRUMP AND PALUMBO, *original sponsors*

[Passed March 6, 2019; in effect from passage]

1 AN ACT to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating
2 generally to automatic voting registration through the Division of Motor Vehicles; adding
3 United States citizenship status to information that applicants must provide; requiring the
4 Division of Motor Vehicles to develop a regular process by January 1, 2020, that allows
5 the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this code to confirm
6 that persons who are noncitizens of the United States have not and cannot register to vote
7 via the Online Voter Registration portal; delaying the effective date for automatic voter
8 registration in conjunction with certain Division of Motor Vehicle transactions until July 1,
9 2021; and requiring the Division of Motor Vehicles, the Department of Transportation, and
10 the Secretary of State to file certain reports with, and appear before, the Joint Committee
11 on Government and Finance and the Joint Standing Committee on the Judiciary during
12 the first interim meetings occurring after September 1, 2019.

Be it enacted by the Legislature of West Virginia:

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
5 §17B-2-1 *et seq.* of this code, when the division's regional offices are open for regular business,
6 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;

17 (10) United States citizenship status;

18 (11) Whether the applicant affirmatively declined to become registered to vote during the
19 transaction with the Division of Motor Vehicles;

20 (12) Date of application; and

21 (13) Any other information specified in rules adopted to implement this section.

22 (b) Unless the applicant affirmatively declines to become registered to vote or update their
23 voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor
24 Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to
25 the Secretary of State, who shall forward the information to the county clerk for the relevant county
26 to process the newly registered voter or updated information for the already-registered voter
27 pursuant to law. The Division of Motor Vehicles shall notify the applicant that by submitting his or
28 her signature, the applicant grants written consent for the submission of the information obtained
29 and required to be submitted to the Secretary of State pursuant to this section.

30 (c) By no later than January 1, 2020, the Division of Motor Vehicles shall create a regular
31 process that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this
32 code to confirm that persons who are noncitizens of the United States have not and cannot
33 register to vote via the Online Voter Registration portal.

34 (d) Information regarding a person's failure to sign the voter registration application is
35 confidential and may not be used for any purpose other than to determine voter registration.

36 (e) A qualified voter who submits the required information or update to his or her voter
37 registration, pursuant to the provisions of subsection (a) of this section, in person at a driver

38 licensing facility at the time of applying for, obtaining, renewing, or transferring his or her driver's
39 license or official identification card and who presents identification and proof of age at that time
40 is not required to make his or her first vote in person or to again present identification in order to
41 make that registration valid.

42 (f) A qualified voter, who submits by mail or by delivery by a third party an application for
43 registration on the form used in conjunction with driver licensing, is required to make his or her
44 first vote in person and present identification as required for other mail registration in accordance
45 with the provisions of §3-2-10(g) of this code. If the applicant has been previously registered in
46 the jurisdiction and the application is for a change of address, change of name, change of political
47 party affiliation, or other correction, the presentation of identification and first vote in person is not
48 required.

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

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

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

62 (j) Voter registration application forms containing voter information which are returned to
63 a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted

64 to the Secretary of State, and maintained by the Secretary of State's office according to the
65 retention policy adopted by the Secretary of State.

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

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

71 (m) This section does not require the Division of Motor Vehicles to determine eligibility for
72 voter registration and voting.

73 (n) Except for the changes made to subsection (b) of this section during the 2017 regular
74 legislative session, the changes made to this section during the 2016 regular legislative session
75 become effective on July 1, 2021, and any costs associated therewith shall be paid by the Division
76 of Motor Vehicles. The Commissioner of the Division of Motor Vehicles, the Secretary of the
77 Department of Transportation, and the Secretary of State shall each appear before the Joint
78 Committee on Government and Finance and the Joint Standing Committee on the Judiciary,
79 during the first interim meetings of such committees occurring after September 1, 2019, to present
80 written reports containing a full and complete list of any infrastructure each agency requires to
81 achieve the purposes of this section. Along with the report required by this subsection, the Division
82 of Motor Vehicles shall submit a written schedule to both committees outlining how the division
83 will implement the requirements of this section by July 1, 2021.

84 (o) The Secretary of State shall propose rules for legislative approval in accordance with
85 the provisions of §29A-3-1 *et seq.* of this code to implement the requirements of this section.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor