

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2910**

BY DELEGATES KESSINGER AND HARDY

[ Introduced February 7, 2019; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend §3-2-11 and §3-2-12 of the Code of West Virginia, 1931, as amended, all relating  
 2 to eliminating the automatic voter registration program and requiring Division of Motor  
 3 Vehicles confirm the citizenship of applicant prior to sending information to Secretary of  
 4 State.

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

**§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~~ provide each qualified  
 3 registrant the opportunity to apply for voter registration using an approved electronic voter  
 4 registration system as an integral and simultaneous part of every process of application for the  
 5 issuance, renewal or change of address of a motor vehicle driver's license or official identification  
 6 card pursuant to the provisions of §17B-2-1 *et seq.* of this code, when the division's regional  
 7 offices are open for regular business. ~~the~~ The following information shall be obtained from each  
 8 participating qualified registrant:

- 9 (1) Full name, including first, middle, last and any premarital names;  
 10 (2) Date of birth;  
 11 (3) Residence address, including county, and mailing address, if different;  
 12 (4) The applicant's electronic signature;  
 13 (5) Telephone number, if available;  
 14 (6) Email address, if available;  
 15 (7) Political party membership, if any;  
 16 (8) Driver's license number and last four digits of social security number;  
 17 (9) A notation that the applicant has attested that he or she meets all voter eligibility  
 18 requirements; ~~including United States citizenship~~  
 19 (10) United States citizenship status;

20 ~~(10) Whether the applicant affirmatively declined to become registered to vote during the~~  
21 ~~transaction with the Division of Motor Vehicles~~

22 (11) Date of application; and

23 (12) Any other information specified in rules adopted to implement this section.

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

33 (c) Prior to releasing all information obtained pursuant to subsection (a) of this section to  
34 the Secretary of State, the Division of Motor Vehicles shall confirm that each registrant is a United  
35 States citizen. Upon a finding that a non-United States citizen was permitted to register to vote,  
36 the Division of Motor Vehicles shall prevent such registration from being provided to the Secretary  
37 of State. In the event that a non-United States citizen's information obtained pursuant to  
38 subsection (a) of this section is released to the Secretary of State, the Division of Motor vehicles  
39 shall notify the Secretary of State and the improper registrant's County Clerk of the error in writing  
40 via certified mail within 24 hours of the discovery, which writing shall include all information  
41 obtained pursuant to subsection (a) of this section, as well as the date of issuance and physical  
42 address where the registration was processed.

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

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

51           ~~(e)~~ (f) A qualified voter who submits by mail or by delivery by a third party an application  
52 for registration on the form used in conjunction with driver licensing is required to make his or her  
53 first vote in person and present identification as required for other mail registration in accordance  
54 with the provisions of subsection (g), section 10 of this article. If the applicant has been previously  
55 registered in the jurisdiction and the application is for a change of address, change of name,  
56 change of political party affiliation or other correction, the presentation of identification and first  
57 vote in person is not required.

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

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

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

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

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

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

80           ~~(k)~~ (m) This section shall not be construed as requiring the Division of Motor Vehicles to  
81 determine eligibility for voter registration and voting, but shall be construed to require the Division  
82 of Motor Vehicles to systematically protect against the accidental or intentional registration of non-  
83 United States citizens by preventing such applicants from registering to vote at the Division of  
84 Motor Vehicles. By no later than January 1, 2020, the Division of Motor Vehicles shall create a  
85 regular process that allows the Secretary of State to fulfill his or her duties provided by §3-2-3 of  
86 this code to confirm that non-United States citizens have not and cannot utilize a non-citizen  
87 license number to vote via the Online Voter Registration portal.

88           ~~(m)~~ ~~The changes made to this section during the 2016 Regular Legislative Session shall~~  
89 ~~become effective on July 1, 2019, and any costs associated therewith shall be paid by the Division~~  
90 ~~of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of this~~  
91 ~~section by February 1, 2019, it shall make a presentation to the Joint Committee on Government~~  
92 ~~and Finance explaining any resources necessary to meet the requirements or any changes to the~~  
93 ~~code that it recommends immediately prior to the 2019 Regular Legislative Session: *Provided,*~~  
94 ~~That the Division of Motor Vehicles shall report to the Joint Committee on Government and~~  
95 ~~Finance by January 1, 2018 with a full and complete list of all infrastructure they require to achieve~~  
96 ~~the purposes of this section~~

97 (n) The Secretary of State shall propose rules for legislative approval in accordance with  
98 the provisions of article three, chapter twenty-nine-a of this code in order to implement the  
99 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 §17-3-1 of this  
2 code shall be paid into the State Treasury to the credit of a special revenue fund to be known as  
3 the "Combined Voter Registration and Driver Licensing Fund." The moneys so credited to such  
4 fund may be used by the Secretary of State for the following purposes:

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

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

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

13 (4) Reimbursement of postage and mailing costs incurred by clerks of the county  
14 commissions for sending a verification mailing, confirmation of registration or other mailings  
15 directly resulting from an application to register, change or update a voter's registration through a  
16 driver licensing or other agency;

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

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

23 (7) The development and continued maintenance of a statewide program of uniform voter  
24 registration computerization for use by each county registration office and the Secretary of State,  
25 purchase of uniform voter registration software, payment of software installation costs and  
26 reimbursement to the county commissions of not more than 50 percent of the cost per voter for  
27 data entry or data conversion from a previous voter registration software program;

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

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

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

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

39 (b) The Secretary of State shall promulgate rules pursuant to the provisions of §29A-1-1  
40 *et seq.* of this code to provide for the administration of the fund established in subsection (a) of  
41 this section.

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

NOTE: The purpose of this bill is to repealing the automatic voter registration program and  
requiring Division of Motor Vehicles confirm the citizenship of applicant prior to sending  
information to Secretary of State.

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