

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4464**

BY DELEGATES BUTLER AND PORTERFIELD

(BY REQUEST OF THE DIVISION OF MOTOR VEHICLES)

[Passed March 3, 2020; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended,  
2 relating to graduated driver's licenses; prohibiting holders of level three licenses from  
3 using a wireless communication device while operating a motor vehicle and specifying  
4 exception; making a violation of level three license terms and conditions subject to criminal  
5 penalty provision; and extending validity of level one instruction driver's permits for active  
6 members of the military.

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

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

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

1 (a) A person under the age of 18 may not operate a motor vehicle unless he or she has  
2 obtained a graduated driver's license in accordance with the three-level graduated driver's license  
3 system described in the following provisions.

4 (b) Any person under the age of 21, regardless of class or level of licensure, who operates  
5 a motor vehicle with any measurable alcohol in his or her system is subject to §17C-5-2 and §17C-  
6 5A-2 of this code. Any person under the age of 18, regardless of class or licensure level, is subject  
7 to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11  
8 of this code.

9 (c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other  
10 requirements prescribed in this code may be issued a level one instruction permit.

11 (1) *Eligibility.* — The division may not issue a level one instruction permit unless the  
12 applicant:

13 (A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is  
14 accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated  
15 driver's license, and executed by a parent or guardian entitled to custody of the applicant;

16 (B) Presents a certified copy of a birth certificate issued by a state or other governmental  
17 entity responsible for vital records unexpired, or a valid passport issued by the United States

18 government evidencing that the applicant meets the minimum age requirement and is of verifiable  
19 identity;

20 (C) Passes the vision and written knowledge examination and completes the driving under  
21 the influence awareness program, as prescribed in §17B-2-7 of this code;

22 (D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11  
23 of this code; and

24 (E) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge  
25 test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based  
26 on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index:  
27 *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a  
28 single year.

29 (2) *Terms and conditions of instruction permit.* — A level one instruction permit issued  
30 under this section is valid until 30 days after the date the applicant attains the age of 18 and is  
31 not renewable: *Provided*, That for an applicant who is an active member of any branch of the  
32 United States military, a level one instruction permit issued under the provisions of this section is  
33 valid until 180 days after the date the applicant attains the age of 18. However, any permit holder  
34 who allows his or her permit to expire prior to successfully passing the road skills portion of the  
35 driver examination, and who has not committed any offense which requires the suspension,  
36 revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under  
37 §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second  
38 conviction for a moving violation of traffic regulations and laws of the road or violation of the terms  
39 and conditions of a level one instruction permit, which convictions have become final unless a  
40 greater penalty is required by this section or any other provision of this code. Any person whose  
41 instruction permit has been revoked is disqualified from retesting for a period of 90 days. However,  
42 after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one  
43 instruction permit who is under the age of 18 years may not use a wireless communication device

44 while operating a motor vehicle, unless the use of the wireless communication device is for  
45 contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's  
46 license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction  
47 permit may only operate a motor vehicle under the following conditions:

48 (A) The permit holder is under the direct supervision of a licensed driver, 21 years of age  
49 or older, or a driver's education or driving school instructor who is acting in an official capacity as  
50 an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The  
51 vehicle may be operated with no more than two additional passengers, unless the passengers  
52 are family members;

53 (B) The permit holder is operating the vehicle between the hours of 5:00 a.m. and 10:00  
54 p.m.;

55 (C) All occupants use safety belts in accordance with §17C-15-49 of this code;

56 (D) The permit holder is operating the vehicle without any measurable blood alcohol  
57 content, in accordance with §17C-5-2(h) of this code; and

58 (E) The permit holder maintains current school enrollment and is making satisfactory  
59 academic progress or otherwise shows compliance with §18-8-11 of this code.

60 (d) *Level two intermediate driver's license.* — An applicant 16 years of age or older,  
61 meeting all other requirements of this code, may be issued a level two intermediate driver's  
62 license.

63 (1) *Eligibility.* — The division may not issue a level two intermediate driver's license unless  
64 the applicant:

65 (A) Presents a completed application as prescribed in §17B-2-6 of this code;

66 (B) Has held the level one instruction permit conviction-free for the 180 days immediately  
67 preceding the date of application for a level two intermediate license;

68 (C) Has completed either a driver's education course approved by the State Department  
69 of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours

70 of night time driving, certified by a parent or legal guardian or other responsible adult over the age  
71 of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph  
72 may be construed to require any school or any county board of education to provide any particular  
73 number of driver's education courses or to provide driver's education training to any student;

74 (D) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11  
75 of this code;

76 (E) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

77 (F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this  
78 fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor  
79 Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not  
80 exceed 10 percent of the total fee amount in a single year.

81 (2) *Terms and conditions of a level two intermediate driver's license.* — A level two  
82 intermediate driver's license issued under the provisions of this section expires 30 days after the  
83 applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license,  
84 whichever comes first. A holder of a level two intermediate driver's license who is under the age  
85 of 18 years shall not use a wireless communication device while operating a motor vehicle, unless  
86 the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all  
87 other provisions of this code for which a driver's license may be restricted, suspended, revoked,  
88 or canceled, the holder of a level two intermediate driver's license may only operate a motor  
89 vehicle under the following conditions:

90 (A) The licensee operates a vehicle unsupervised between the hours of 5:00 a.m. and  
91 10:00 p.m.;

92 (B) The licensee operates a vehicle only under the direct supervision of a licensed driver,  
93 age 21 years or older, between the hours of 10:00 p.m. and 5:00 a.m. except when the licensee  
94 is going to or returning from:

95 (i) Lawful employment;

96 (ii) A school-sanctioned activity;

97 (iii) A religious event; or

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

100 (C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this  
101 code;

102 (D) For the first six months after issuance of a level two intermediate driver's license, the  
103 licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless  
104 these passengers are family members of the licensee; for the second six months after issuance  
105 of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying  
106 more than one passenger less than 20 years old, unless these passengers are family members  
107 of the licensee;

108 (E) The licensee operates a vehicle without any measurable blood alcohol content in  
109 accordance with §17C-5-2(h) of this code;

110 (F) The licensee maintains current school enrollment and is making satisfactory academic  
111 progress or otherwise shows compliance with §18-8-11 of this code;

112 (G) Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2)  
113 of this code of the terms and conditions of a level two intermediate driver's license, the licensee  
114 shall enroll in an approved driver improvement program unless a greater penalty is required by  
115 this section or by any other provision of this code; and

116 At the discretion of the commissioner, completion of an approved driver improvement  
117 program may be used to negate the effect of a minor traffic violation as defined by the  
118 commissioner against the one year conviction-free driving criteria for early eligibility for a level  
119 three driver's license and may also negate the effect of one minor traffic violation for purposes of  
120 avoiding a second conviction under §17B-2-3a(d)(2)(H) of this code; and

121 (H) Upon the second conviction for a moving traffic violation or a violation of the terms and  
122 conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke  
123 or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period  
124 or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by  
125 this section or any other provision of this code. Any person whose driver's license has been  
126 revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise  
127 eligible, may reapply for an instruction permit, then a driver's license in accordance with §17B-2-  
128 5, §17B-2-6 and §17B-2-7 of this code.

129 (e) *Level three, full Class E license.* — The level three license is valid until 30 days after  
130 the date the licensee attains his or her 21st birthday. A holder of a level three driver's license who  
131 is under the age of 18 years shall not use a wireless communication device while operating a  
132 motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1  
133 system. Unless otherwise provided in this section or any other section of this code, the holder of  
134 a level three full Class E license is subject to the same terms and conditions as the holder of a  
135 regular Class E driver's license.

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

140 (1) Has reached the age of 17 years; and

141 (A) Presents a completed application as prescribed by §17B-2-6 of this code;

142 (B) Has held the level two intermediate license conviction free for the 12-month period  
143 immediately preceding the date of the application;

144 (C) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G)  
145 of this code; and

146 (D) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents  
147 shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund  
148 established in §3-2-12 of this code;

149 (E) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11  
150 of this code; or

151 (2) Reaches the age of 18 years; and

152 (A) Presents a completed application as prescribed by §17B-2-6 of this code; and

153 (B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may  
154 adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau  
155 of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may  
156 not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall  
157 be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund  
158 established in §3-2-12 of this code.

159 (f) A person violating the provisions of the terms and conditions of a level one instruction  
160 permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor  
161 and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined  
162 \$50; and for a third or subsequent offense be fined \$75.



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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2020.

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*Governor*