

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 431

BY SENATORS WELD AND WOELFEL

[Originating in the Committee on Education; reported
on March 12, 2021]

1 A BILL to amend and reenact §18-8-11 of the Code of West Virginia, 1931, as amended, relating
2 to authorizing a county board of education to provide electronic notice of school
3 attendance and satisfactory progress to the Division of Motor Vehicles in lieu of requiring
4 each student to provide a paper notice.

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's 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. The Division of Motor Vehicles may
21 accept from a county board of education electronic notice of a student's compliance with the
22 provisions of this section in lieu of any written form or written statement otherwise required from
23 an applicant for an instruction permit or driver's license.

24 (c) Whenever a student at least 15 but less than 18 years of age, except as provided in
25 subsection(g) of this section, withdraws from school, the attendance director or chief administrator
26 shall notify the Division of Motor Vehicles of the student's withdrawal no later than five days from
27 the date of the withdrawal. Within five days of receipt of the notice, the Division of Motor Vehicles
28 shall send notice to the student that the student's instruction permit or license to operate a motor
29 vehicle will be suspended under the provisions of §17B-3-6 of this code on the 30th day following
30 the date the notice was sent unless documentation of compliance with the provisions of this
31 section is received by the Division of Motor Vehicles before that time. The notice shall also advise
32 the student that he or she is entitled to a hearing before the county superintendent of schools or
33 his or her designee or before the appropriate private school official concerning whether the
34 student's withdrawal from school was due to a circumstance or circumstances beyond the control
35 of the student. If suspended, the division may not reinstate an instruction permit or license until
36 the student returns to school and shows satisfactory academic progress or until the student attains
37 18 years of age.

38 (d) Whenever a student at least 15 but less than 18 years of age is enrolled in a secondary
39 school and fails to maintain satisfactory academic progress, the attendance director or chief
40 administrator shall follow the procedures set out in subsection (c) of this section to notify the
41 Division of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles
42 shall send notice to the student that the student's instruction permit or license will be suspended
43 under the provisions of §17B-3-6 of this code on the 30th day following the date the notice was
44 sent unless documentation of compliance with the provisions of this section is received by the

45 Division of Motor Vehicles before that time. The notice shall also advise the student that he or she
46 is entitled to a hearing before the county superintendent of schools or his or her designee or
47 before the appropriate private school official concerning whether the student's failure to make
48 satisfactory academic progress was due to a circumstance or circumstances beyond the control
49 of the student. Once suspension is ordered, the division may not reinstate an instruction permit
50 or license until the student shows satisfactory academic progress or until the student attains 18
51 years of age.

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

56 (f) For the purposes of this section:

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

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

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

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

67 (g) Whenever the withdrawal from school of the student, the student's failure to enroll in a
68 course leading to or to obtain a GED or high school diploma, or the student's failure to make
69 satisfactory academic progress is due to a circumstance or circumstances beyond the control of
70 the student, or the withdrawal from school is for the purpose of transfer to another school as

71 confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of
72 Motor Vehicles to suspend the student's motor vehicle operator's license and if the student is
73 applying for a license, the attendance director or chief administrator shall provide the student with
74 documentation to present to the Division of Motor Vehicles to excuse the student from the
75 provisions of this section. The school district superintendent (or the appropriate school official of
76 any private secondary school) with the assistance of the county attendance director and any other
77 staff or school personnel shall be the sole judge of whether any of the grounds for denial or
78 suspension of a license as provided by this section are due to a circumstance or circumstances
79 beyond the control of the student.

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