

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 140

BY SENATORS SYPOLT AND CLINE

[Introduced January 10, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-2-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §17B-2-1 of said code, all relating to requiring photo identification on
 3 voter registration identification cards; and providing that voter registration information may
 4 also be required on drivers' licenses or state-issued identification cards if so determined
 5 by the Secretary of State in cooperation with the Commissioner of Motor Vehicles.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-3. State authority relating to voter registration; chief election official.

1 (a) The Secretary of State, as chief election official of the state as provided in §3-1A-6 of
 2 this code, ~~shall have~~ has general supervision of the voter registration procedures and practices
 3 and the maintenance of voter registration records in the state and ~~shall have authority to~~ may
 4 require reports and investigate violations to ensure the proper conduct of voter registration
 5 throughout the state and all of its subdivisions. Upon written notice to the clerk of the county
 6 commission of a county of the need for voter registration record maintenance and the failure of
 7 that clerk to complete such maintenance within ninety days of the notice, the Secretary of State
 8 may make changes in the voter registration data necessary to comply with list maintenance
 9 requirements of §3-2-4a, §3-2-23, §3-2-25, §3-2-26 and §3-2-27 of this code: *Provided*, That the
 10 secretary shall send the notice by certified mail, return receipt requested.

11 (b) The Secretary of State, as chief election official of the state, is responsible for
 12 implementing, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized,
 13 interactive computerized statewide voter registration list defined, maintained and administered at
 14 the state level that contains the name and registration information of every legally registered voter
 15 in the state and assigns a unique identifier to each legally registered voter in the state.

16 (c) The Secretary of State is hereby designated as the chief election official responsible

17 for the coordination of this state's responsibilities under 42 U.S.C. §1973gg, *et seq.*, the “National
 18 Voter Registration Act of 1993”. The Secretary of State ~~shall have~~ has general supervision of
 19 voter registration procedures and practices at agencies and locations providing services as
 20 required by the provisions of this article and ~~shall have the authority to~~ may propose procedural,
 21 interpretive and legislative rules for ~~promulgation~~ legislative approval in accordance with ~~the~~
 22 ~~provisions of~~ §29A-3-1 *et seq.* of this code for application for registration, transmission of
 23 applications, reporting and maintenance of records required by the provisions of this article and
 24 for the development, implementation and application of other provisions of this article: *Provided,*
 25 That these rules shall include the requirement that all voter registration identification cards contain
 26 a photograph of the voter or that voter registration information such as county and precinct may
 27 also be printed on driver’s licenses or state issued identification cards issued under §17B-2-1 of
 28 this code and that this requirement is effective beginning January 1, 2019.

29 (d) The Secretary of State in cooperation with the Commissioner of Motor Vehicles may
 30 devise a plan for meeting the requirement that voter registration information such as county and
 31 precinct may be printed on driver’s licenses or state issued identification cards issued under
 32 §17B-2-1 of this code.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

1 (a) (1) No person, except those hereinafter expressly exempted, may drive a motor vehicle
 2 upon a street or highway in this state or upon a subdivision street used by the public generally
 3 unless the person has a valid driver’s license issued pursuant to this code for the type or class of
 4 vehicle being driven.

5 (2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the

6 privilege thereby granted in the manner provided in this code and, except as otherwise provided
7 by law, is not required to obtain any other license to exercise the privilege by a county, municipality
8 or local board or body having authority to adopt local police regulations.

9 (b) The division, upon issuing a driver's license, shall indicate on the license the type or
10 general class or classes of vehicles the licensee may operate in accordance with this code, federal
11 law or rule. Licenses shall be issued in different colors for those drivers under age eighteen,
12 those drivers age eighteen to twenty-one and adult drivers. The commissioner is authorized to
13 select and assign colors to the licenses of the various age groups.

14 (c) The following drivers' licenses classifications are hereby established:

15 (1) A Class A, B or C license shall be issued to those persons eighteen years of age or
16 older with two years of driving experience who have qualified for the commercial driver's license
17 established by §17E-1-1 *et seq.* of this code and the federal Motor Carrier Safety and
18 Improvement Act of 1999 and subsequent rules and have paid the required fee.

19 (2) A Class D license shall be issued to those persons eighteen years and older with one
20 year of driving experience who operate motor vehicles other than those types of vehicles which
21 require the operator to be licensed under the provisions of §17E-1-1 *et seq.* of this code and
22 federal law and rule and whose primary function or employment is the transportation of persons
23 or property for compensation or wages and have paid the required fee. For the purpose of
24 regulating the operation of motor vehicles, wherever the term "chauffeur's license" is used in this
25 code, it means the Class A, B, C or D license described in this section or §17E-1-1 *et seq.* of this
26 code or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions
27 of §17E-1-1 *et seq.* of this code and federal law or rule and who operates a motor vehicle
28 registered or required to be registered as a Class A motor vehicle, as that term is defined in
29 §17A-10-1 of this code, with a gross vehicle weight rating of less than eight thousand one pounds,
30 is not required to obtain a Class D license.

31 (3) A Class E license shall be issued to persons who have qualified for a driver's license

32 under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license
33 and who have paid the required fee. The Class E license may be endorsed under the provisions
34 of §17B-2-7b of this code for motorcycle operation. The Class E or G license for a person under
35 the age of eighteen may also be endorsed with the appropriate graduated driver license level in
36 accordance with the provisions of §17B-2-3a of this code.

37 (4) A Class F license shall be issued to those persons who successfully complete the
38 motorcycle examination procedure provided by this chapter and have paid the required fee but
39 who do not possess a Class A, B, C, D or E driver's license.

40 (5) A Class G driver's license or instruction permit shall be issued to a person using bioptic
41 telescopic lenses who has successfully completed an approved driver training program and
42 complied with all other requirements of §17B-2B-1 *et seq.* of this code.

43 (d) All licenses issued under this section may contain information designating the licensee
44 as a diabetic, organ donor, as deaf or hard-of-hearing, as having any other handicap or disability
45 or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the
46 United States, according to criteria established by the division, if the licensee requests this
47 information on the license. An honorably discharged veteran may be issued a replacement license
48 without charge if the request is made before the expiration date of the current license and the only
49 purpose for receiving the replacement license is to get the veterans designation placed on the
50 license.

51 (e) No person, except those hereinafter expressly exempted, may drive a motorcycle on
52 a street or highway in this state or on a subdivision street used by the public generally unless the
53 person has a valid motorcycle license, a valid license which has been endorsed under §17B-2-7b
54 of this code for motorcycle operation or a valid motorcycle instruction permit.

55 (f) (1) An identification card may be issued to a person who:

56 (A) Is a resident of this state in accordance with the provisions of §17A-3-1a of this code;

57 (B) Has reached the age of two years or, for good cause shown, under the age of two.

58 (C) Has paid the required fee of \$5 per year. The Division of Motor Vehicles may adjust
59 this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of
60 Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may
61 not exceed ten percent of the total fee amount in a single year: *Provided, however*, That no fees
62 or charges, including renewal fees, are required if the applicant:

63 (i) Is sixty-five years or older;

64 (ii) Is legally blind; or

65 (iii) Will be at least eighteen years of age at the next general, municipal or special election
66 and intends to use this identification card as a form of identification for voting; and

67 (D) Presents a birth certificate or other proof of age and identity acceptable to the division
68 with a completed application on a form furnished by the division.

69 (2) The identification card shall contain the same information as a driver's license except
70 that the identification card shall be clearly marked as an identification card. The division may issue
71 an identification card with less information to persons under the age of sixteen. An identification
72 card may be renewed annually on application and payment of the fee required by this section.

73 (A) Every identification card issued to a person who has attained his or her twenty-first
74 birthday expires on the licensee's birthday in those years in which the licensee's age is evenly
75 divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card
76 may be issued for less than three years or for more than seven years and expires on the licensee's
77 birthday in those years in which the licensee's age is evenly divisible by five.

78 (B) Every identification card issued to a person who has not attained his or her twenty-first
79 birthday expires thirty days after the licensee's twenty-first birthday.

80 (C) Every identification card issued to persons under the age of sixteen shall be issued for
81 a period of two years and expire on the last day of the month in which the applicant's birthday
82 occurs.

83 (3) The division may issue an identification card to an applicant whose privilege to operate

84 a motor vehicle has been refused, canceled, suspended or revoked under the provisions of this
85 code.

86 (g) For any person over the age of fifty years who wishes to obtain a driver's license or
87 identification card under the provisions of this section:

88 (1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is
89 not required if the issuing jurisdiction does not require one; and

90 (2) If documents are lacking to prove all changes of name in the history of any such
91 applicant, applicants renewing a driver's license or identification card under the provisions of this
92 section may complete a Name Variance Approval Document as instituted by the division, so long
93 as they can provide:

94 (A) Proof of identity;

95 (B) Proof of residency; and

96 (C) A valid Social Security number.

97 (3) The division may waive any documents necessary to prove a match between names,
98 so long as the division determines the person is not attempting to:

99 (A) Change his or her identity;

100 (B) Assume another person's identity; or

101 (C) Commit a fraud.

102 (h) A person over the age of seventy years, or who is on Social Security disability, who
103 wishes to obtain or renew a driver's license or identification card under the provisions of this
104 section, may not be required to furnish a copy of a birth certificate if they can provide:

105 (1) Proof of identity;

106 (2) Proof of residency;

107 (3) A valid Social Security number; and

108 (4) One of the following identifying items:

109 (A) A form of military identification, including a DD214 or equivalent;

110 (B) A U. S. passport, whether valid or expired;

111 (C) School records, including a yearbook;

112 (D) A religious document, that in the judgment of the Division is sufficient and authentic to
113 reflect that the person was born in the United States; or

114 (E) An expired driver's license, employment identification card, or other reliable
115 identification card with a recognizable photograph of the person.

116 (i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon
117 conviction, shall be fined not more than \$500 and, upon a second or subsequent conviction, shall
118 be fined not more than \$500 or confined in jail not more than six months, or both fined and
119 confined.

120 (j) The Commissioner of Motor Vehicles in cooperation with the Secretary of State may
121 devise a plan for meeting the requirement that voter registration information such as county and
122 precinct may be printed on driver's licenses or state issued identification cards issued under this
123 section. The commissioner may propose rules for legislative approval in accordance with
124 §29A-3-1 et seq. of this code for the development, implementation and application of this plan as
125 it applies to driver's license and state issued identification cards: *Provided*, That if this plan is
126 approved, this requirement is effective beginning January 1, 2019.

NOTE: The purpose of this bill is to require photo identification on voter registration identification cards. The bill also provides that voter registration information may also be required on drivers' licenses or state issued identification cards if so determined by the Secretary of State in cooperation with the Commissioner of Motor Vehicles.

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