

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 431**

BY SENATORS WELD AND WOELFEL

[Passed March 26, 2021; in effect 90 days from  
passage (June 24, 2021)]



1 AN ACT 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.

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 90 days 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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The within ..... this the.....  
Day of ....., 2021.

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*Governor*