

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4535

BY DELEGATE SUMMERS, FOSTER, PAYNTER,

THOMPSON, HONAKER AND CROUSE

[Introduced February 03, 2022; referred to the

Committee on Government Organization]

1 A BILL to repeal §18-8-11 of the Code of West Virginia, 1931, as amended; and to amend and
2 reenact §17B-2-3a of said code, all relating to motor vehicle licensing; removing school
3 attendance and satisfactory progress as a condition of motor vehicle licensing; and
4 modifying the compliance requirements for a graduated driver's license.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSE.

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; and

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

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

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

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

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

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

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

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

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

67 (C) Has completed either a driver's education course approved by the State Department
68 of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours
69 of night time driving, certified by a parent or legal guardian or other responsible adult over the age

70 of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph
71 may be construed to require any school or any county board of education to provide any particular
72 number of driver's education courses or to provide driver's education training to any student;

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

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

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

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

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

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

94 (i) Lawful employment;

95 (ii) A school-sanctioned activity;

96 (iii) A religious event; or

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

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

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

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

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

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

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

120 ~~(H)~~ (G) Upon the second conviction for a moving traffic violation or a violation of the terms
121 and conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall

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

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

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

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

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

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

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

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

- 148 ~~(E) Presents a driver's eligibility certificate or otherwise shows compliance with §18-8-11~~
149 ~~of this code; or~~
- 150 ~~(2) Reaches the age of 18 years; and~~
- 151 ~~(A) Presents a completed application as prescribed by §17B-2-6 of this code; and~~
- 152 ~~(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may~~
153 ~~adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau~~
154 ~~of Labor Statistics most current Consumer Price Index. *Provided*, That an increase in the fee may~~
155 ~~not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall~~
156 ~~be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund~~
157 ~~established in §3-2-12 of this code~~
- 158 (f) A person violating the provisions of the terms and conditions of a level one instruction
159 permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor
160 and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined
161 \$50; and for a third or subsequent offense be fined \$75.

CHAPTER 18. EDUCATION.

ARTICLE 18. COMPULSORY SCHOOL ATTENDANCE.

§18-8-11. School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

1 [Repealed.]

NOTE: The purpose of this bill is to remove school attendance and satisfactory progress as a condition of motor vehicle licensing; and to modify the compliance requirements for a graduated driver's license.

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