

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 796

By Senators Bartlett, Azinger, Charnock, Roberts, and

Rucker

[Introduced March 18, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-34 and §17B-2-1 of the Code of West Virginia, 1931, as
2 amended, relating to the identification of voters and noncitizen residents; and modifying
3 the types of valid identifying documents for voting purposes by requiring a photograph on
4 each form of voter identification, notwithstanding existing exemptions.

Be it enacted by the Legislature of West Virginia:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-34. Voting procedures generally; identification; assistance to voters; voting records; penalties.

1 (a) A person desiring to vote in an election shall, upon entering the election room, clearly
2 state his or her name and residence to one of the poll clerks who shall thereupon announce the
3 same in a clear and distinct tone of voice. For elections occurring on or after January 1, 2018, the
4 person desiring to vote shall present to one of the poll clerks a valid identifying document meeting
5 the requirements of subdivisions (1) or (2) of this subsection, and the poll clerk shall inspect and
6 confirm that the name on the valid identifying document conforms to the name in the individual's
7 voter registration record and that, if the valid identifying document contains a photograph, the
8 image displayed is truly an image of the person presenting the document. If that person is found to
9 be duly registered as a voter at that precinct, he or she shall sign his or her name in the designated
10 location provided at the precinct. If that person is physically or otherwise unable to sign his or her
11 name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the
12 name of the poll clerk affixing the voter's mark shall be indicated immediately under the affixation.
13 No ballot may be given to the person until he or she signs his or her name on the designated
14 location or his or her signature is affixed thereon.

15 (1) A document shall be ~~deemed~~ considered to be a valid identifying document if it:

16 (A) Has been issued either by the State of West Virginia, or one of its subsidiaries, or by the

United States Government; and

(B) Contains the name of the person desiring to vote; and

(C) Contains a photograph of the person desiring to vote.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the following documents, if they contain the voter's name, ~~shall be considered~~ are valid identifying documents, and a person desiring to vote may produce any of the following:

(A) A valid West Virginia driver's license or valid West Virginia identification card issued by the West Virginia Division of Motor Vehicles including those issued in accordance with §17B-2-1(f)(4) of this code: *Provided*, That those issued to non-citizens which indicate at the bottom of the photograph the word "NV" (for "non-voter") may not be acceptable proof of identification except as provided in subparagraph (H) of this section;

(B) A valid driver's license issued by a state other than the State of West Virginia, accompanied by an acceptable proof of West Virginia residence as provided in §3-2-10 of this code;

(C) A valid United States passport or passport card;

(D) A valid employee identification card with a photograph of the eligible voter issued by any branch, department, agency, or entity of the United States Government or of the State of West Virginia, or by any county, municipality, board, authority, or other political subdivision of West Virginia;

(E) A valid student identification card with a photograph of the eligible voter issued by an institution of higher education in West Virginia, or a valid high school identification card issued by a West Virginia high school;

(F) A valid military identification card issued by the United States with a photograph of the person desiring to vote accompanied by a military record of service, such as a DD-214, which shows place of birth, or United States naturalization document, or the number of the certificate of naturalization: *Provided*, That if only the number of the certificate of naturalization is provided, the

43 person shall vote a challenged ballot which may not be counted unless the number of the
44 certificate of naturalization is verified with the United States Immigration and Naturalization
45 Service by the county clerk or municipal recorder or clerk prior to the close of canvass;

46 (G) A valid concealed carry (pistol/revolver) permit issued by the sheriff of the county with a
47 photograph of the person desiring to vote;

48 (H) A valid Medicare card or Social Security card. For a person who possesses a valid
49 driver's license or state identification card indicating "NV " as provided in §17B-2-1(b)(2) of this
50 code, who later becomes a naturalized United States Citizen, the person's driver's license
51 indicating "NV" accompanied by the person's United States naturalization document, or the
52 number of the certificate of naturalization: *Provided*, That if only the number of the certificate of
53 naturalization is provided, the person shall vote a challenged ballot which may not be counted
54 unless the number of the certificate of naturalization is verified with the United States Immigration
55 and Naturalization Service by the county clerk or municipal recorder or clerk prior to the close of
56 canvass;

57 (I) A valid birth certificate from a United States jurisdiction;

58 (J) A valid voter registration card that includes the voter's photograph issued by a county
59 clerk in the State of West Virginia or the Secretary of State; or

60 (K) A valid hunting or fishing license issued by the State of West Virginia;

61 (L) A valid identification card issued to the voter by the West Virginia Supplemental
62 Nutrition Assistance (SNAP) program;

63 (M) A valid identification card issued to the voter by the West Virginia Temporary
64 Assistance for Needy Families (TANF) program;

65 (N) A valid identification card issued to the voter by West Virginia Medicaid;

66 (O) A valid bank card or valid debit card;

67 (P) A valid utility bill issued within six months of the date of the election;

68 (Q) A valid bank statement issued within six months of the date of the election; or

(R) A valid health insurance card issued to the voter.

(3) In lieu of providing a valid identifying document, as required by this section, a registered voter may be accompanied at the polling place by an adult known to the registered voter for at least six months. That adult may sign an affidavit on a form provided to clerks and poll workers by the Secretary of State, which states under oath or affirmation that the adult has known the registered voter for at least six months, and that in fact the registered voter is the same person who is present for the purpose of voting. For the affidavit to be considered valid, the adult shall present a valid identifying document with his or her name, address, and photograph.

(4) A poll worker may allow a voter, whom the poll worker has known for at least six months, to vote without presenting a valid identifying document.

(5) If the person desiring to vote is unable to furnish a valid identifying document, or if the poll clerk determines that the proof of identification presented by the voter does not qualify as a valid identifying document, the person desiring to vote shall be permitted to cast a provisional ballot after executing an affidavit affirming his or her identity pursuant to paragraph (B) of this subdivision.

(A) The provisional ballot is entitled to be counted once the election authority verifies the identity of the individual by comparing that individual's signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

(B) The affidavit to be used for voting shall be substantially in the following form:

"State of West Virginia

County of.....

I do solemnly swear (or affirm) that my name is; that I reside at.....; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects

me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this..... day of, 20....

.....

Name of Election Official

.....

Signature of Election Official".

(6) A voter who votes in person at a precinct polling place that is located in a building which is part of a state licensed care facility where the voter is a resident is not required to provide proof of identification as a condition before voting in an election.

(7) The person entering voter information into the centralized voter registration database shall cause the records to indicate when a voter has not presented a valid identifying document and has executed a voter identity affidavit.

(8) If a voter participating in the Address Confidentiality Program established by §48-28A-103 of this code, executes a voter identity affidavit, the program participant's residential or mailing address is subject to the confidentiality provisions of §48-28A-108 of this code and shall be used only for those statutory and administrative purposes authorized by this section.

(9) Prior to the primary and general elections to be held in calendar year 2018, the Secretary of State shall educate voters about the requirement to present a valid identifying document and develop a program to help ensure that all eligible voters are able to obtain a valid identifying document.

(b) The clerk of the county commission ~~is authorized~~ may, upon verification that the precinct at which a handicapped person is registered to vote is not handicap accessible, to transfer that person's registration to the nearest polling place in the county which is handicap accessible. A request by a handicapped person for a transfer of registration must be received by the county clerk

no later than 30 days prior to the date of the election. A handicapped person who has not made a request for a transfer of registration at least 30 days prior to the date of the election may vote a provisional ballot at a handicap accessible polling place in the county of his or her registration. If during the canvass the county commission determines that the person had been registered in a precinct that is not handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped person may vote in the precinct to which the registration was transferred only as long as the disability exists or the precinct from which the handicapped person was transferred remains inaccessible to the handicapped. To ensure confidentiality of the transferred ballot, the county clerk processing the ballot shall provide the voter with an unmarked envelope and an outer envelope designated "provisional ballot/handicapped voter". After validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed with other approved provisional ballots prior to removal of the ballot from the unmarked envelope.

(c) When the voter's signature is properly marked and the voter has presented a valid identifying document, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in §3-6-5 of this code.

(d) ~~It is the duty of~~ A poll clerk in the presence of the other poll clerk, to shall indicate by a check mark, or by other means, inserted in the appropriate place on the registration record of each voter the fact that the voter voted in the election. In primary elections the clerk shall also insert on the registration record of each voter a distinguishing initial or initials of the political party for whose

147 candidates the voter voted. If a person is challenged at the polls, the challenge shall be indicated
148 by the poll clerks on the registration record, together with the name of the challenger. The
149 subsequent removal of the challenge shall be recorded on the registration record by the clerk of
150 the county commission.

151 (e) (1) No voter may receive any assistance in voting unless, by reason of blindness,
152 disability, advanced age or inability to read and write, that voter is unable to vote without
153 assistance. Any voter so qualified to receive assistance in voting may:

154 (A) Declare his or her choice of candidates to an Election Commissioner of each political
155 party who, in the presence of the voter and in the presence of each other, shall prepare the ballot
156 for voting in the manner provided in this section and, on request, shall read to the voter the names
157 of the candidates selected on the ballot;

158 (B) Require the Election Commissioners to indicate to him or her the relative position of the
159 names of the candidates on the ballot, the voter shall then retire to one of the booths or
160 compartments to prepare his or her ballot in the manner provided in this section;

161 (C) Be assisted by any person of the voter's choice, other than the voter's present or former
162 employer or agent of that employer, the officer or agent of a labor union of which the voter is a past
163 or present member or a candidate on the ballot or an official write-in candidate; or

164 (D) If he or she is handicapped, vote from an automobile outside the polling place or
165 precinct by the absentee balloting method provided in §3-3-5(e), of this code in the presence of an
166 Election Commissioner of each political party if all of the following conditions are met:

167 (i) The polling place is not handicap accessible; and

168 (ii) No voters are voting or waiting to vote inside the polling place.

169 (2) The voted ballot shall then be returned to the precinct officials and secured in a sealed
170 envelope to be returned to the clerk of the county commission with all other election materials. The
171 ballot shall then be tabulated using the appropriate method provided in §3-1-8 of this code as it
172 relates to the specific voting system in use.

(3) A voter who requests assistance in voting but who is believed not to be qualified for assistance under the provisions of this section shall nevertheless be permitted to vote a provisional ballot with the assistance of any person herein authorized to render assistance.

(4) One or more of the Election Commissioners or poll clerks in the precinct may challenge the ballot on the ground that the voter received assistance in voting it when in his, her or their opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such advanced age as to have been unable to vote without assistance. The Election Commissioner or poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and the reason for ~~such~~ the challenge on the form and in the manner prescribed or authorized by §3-3-1 *et seq.* of this code.

(5) An Election Commissioner or other person who assists a voter in voting:

(A) May not in any manner request or seek to persuade or induce the voter to vote a particular ticket or for a particular candidate or for or against any public question and ~~must~~ may not keep or make any memorandum or entry of anything occurring within the voting booth or compartment and must not, directly or indirectly, reveal to any person the name of a candidate voted for by the voter, which ticket he or she had voted or how he or she had voted on any public question or anything occurring within the voting booth, compartment, or voting machine booth except when required by law to give testimony as to the matter in a judicial proceeding; and

(B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed by the Secretary of State stating that he or she will not override the actual preference of the voter being assisted, attempt to influence the voter's choice or mislead the voter into voting for someone other than the candidate of voter's choice. The person assisting the voter shall also swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation. No person providing assistance to a voter is required to sign an oath or affirmation where the reason for requesting assistance is the voter's inability to vote without assistance because of blindness as defined in §5-15-3 of this code and the inability to vote without assistance because of blindness is

certified in writing by a physician of the voter's choice and is on file in the office of the clerk of the county commission.

(6) In accordance with instructions issued by the Secretary of State, the clerk of the county commission shall provide a form entitled "list of assisted voters", on a form as prescribed by the Secretary of State. The commissioners shall enter the name of each voter receiving assistance in voting the ballot, together with the poll slip number of that voter and the signature of the person or the commissioner from each party who assisted the voter. If no voter has been assisted in voting, the commissioners shall make and subscribe to an oath of that fact on the list.

(f) After preparing the ballot, the voter shall fold the ballot so that the face is not exposed and the names of the poll clerks on it are seen. The voter shall announce his or her name and present his or her ballot to one of the commissioners who shall hand the same to another commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the official one and properly signed. The commissioner of election may inspect every ballot before it is deposited in the ballot box to ascertain whether it is single; but without unfolding or unrolling it so as to disclose its content. When the voter has voted, he or she shall retire immediately from the election room and beyond the 60-foot limit and not return except by permission of the commissioners.

(g) Following the election, the oaths or affirmations required by this section from those assisting voters, together with the "list of assisted voters", shall be returned by the Election Commissioners to the clerk of the county commission along with the election supplies, records and returns. The clerk of the county commission shall make the oaths, affirmations and list available for public inspection and preserve them for a period of 22 months or until disposition is authorized or directed by the Secretary of State or court of record. The clerk may use these records to update the voter registration records in accordance with §3-2-18(d) of this code.

(h) Any person making an oath or affirmation required under the provisions of this section who knowingly swears falsely or any person who counsels, advises, aids or abets another in the

225 commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction
226 thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one
227 year, or both fined and confined.

228 (i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged
229 assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to
230 require assistance in voting, is guilty of a felony and, upon conviction thereof, shall be fined not
231 more than \$5,000 or imprisoned in a state correctional facility for a period of not less than one year
232 nor more than five years, or both fined and imprisoned.

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 by
7 law, is not required to obtain any other license to exercise the privilege by a county, municipality, or
8 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.

12 (1) Licenses shall be issued in different colors for those drivers under age 18, those drivers
13 age 18 to 21, and adult drivers. The commissioner is authorized to may select and assign colors to

the licenses of the various age groups.

(2) Licenses, instruction permits, or identification cards issued to noncitizen legal residents who have successfully satisfied all state and federal requirements for being lawfully present in the state of West Virginia and United States shall be made distinguishable from those forms issued to citizens by adding thereto the word "NV " to the holder's photograph.

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

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

(2) A Class D license shall be issued to those persons 18 years and older with one year of driving experience who operate motor vehicles other than those types of vehicles which require the operator to be licensed under the provisions of Chapter 17E of this code and federal law and rule and whose primary function or employment is the transportation of persons or property for compensation or wages and have paid the required fee. For the purpose of regulating the operation of motor vehicles, wherever the term "chauffeur's license" is used in this code, it means the Class A, B, C, or D license described in this section or Chapter 17E of this code or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions of Chapter 17E of this code and federal law or rule and who operates a motor vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined in §17A-10-1 of this code, with a gross vehicle weight rating of less than 8,001 pounds, is not required to obtain a Class D license.

(3) A Class E license shall be issued to persons who have qualified for a driver's license under the provisions of this chapter and who are not required to obtain a Class A, B, C, or D license and who have paid the required fee. The Class E license may be endorsed under §17B-2-7b of this code for motorcycle operation. The Class E or G license for a person under the age of 18 may also be endorsed with the appropriate graduated driver license level in accordance with §17B-2-

3a of this code.

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

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

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

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

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

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

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

(C) Has paid the required fee of \$5 per year. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such this fee may not exceed 10 percent of the total fee amount in a single year: *Provided, however*, That no fees or

charges, including renewal fees, are required if the applicant:

(i) Is 65 years or older;

(ii) Is legally blind; or

(iii) Will be at least 18 years of age at the next general, municipal, or special election and intends to use this identification card as a form of identification for voting; and

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

(2) The identification card shall contain the same information as a driver's license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of 16. The division may issue an identification card without a photograph pursuant to subdivision (4) of this subsection. An identification card may be renewed annually on application and payment of the fee required by this section.

(A) Every identification card issued to a person who has attained his or her 21st birthday expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued for less than three years or for more than seven years and expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five.

(B) Every identification card issued to a person who has not attained his or her 21st birthday expires 30 days after the licensee's 21st birthday.

(C) Every identification card issued to persons under the age of 16 shall be issued for a period of two years and expire on the last day of the month in which the applicant's birthday occurs.

(3) The division may issue an identification card to an applicant whose privilege to operate a motor vehicle has been refused, canceled, suspended, or revoked under the provisions of this code.

(4) Notwithstanding the provisions of this article to the contrary, the division may issue an identification card without a photograph to an applicant who under oath or affirmation affirms, subject to the laws of perjury and on a form supplied by the division, that the applicant is a member of a recognized religious sect that has established tenets and teachings due to which the applicant is conscientiously opposed to posing for a photograph: Provided, That any identification card issued without a photograph may not otherwise be recognized as a valid identifying document for voting purposes as required by §3-1-34 of this code. The form supplied by the division pursuant to this subdivision shall advise the applicant that an identification card without a photograph may not be acceptable for all identification purposes.

(g) For any person over the age of 50 years who wishes to obtain a driver's license or identification card under the provisions of this section:

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

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

(A) Proof of identity;

(B) Proof of residency; and

(C) A valid Social Security number.

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

(A) Change his or her identity;

(B) Assume another person's identity; or

(C) Commit fraud.

(h) A person over the age of 70 years, or who is on Social Security Disability, who wishes to

118 obtain or renew a driver's license or identification card under the provisions of this section, may not
119 be required to supply a copy of a birth certificate if they can provide:

120 (1) Proof of identity;

121 (2) Proof of residency;

122 (3) A valid Social Security number; and

123 (4) One of the following identifying items:

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

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

126 (C) School records, including a yearbook;

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

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

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

NOTE: The purpose of this bill is to require a photograph on all valid identifying documents used for voter identification purposes and to ensure that driver's licenses, permits, and identification cards issued to lawful noncitizen residents are easily distinguishable from drivers' licenses, permits, and identification cards issued to citizens to ensure no noncitizen is capable of utilizing a noncitizen driver's license, permit, or identification card to register to vote.

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