

1 **H. B. 4373**

2
3 (By Delegate M. Poling, Barrett, Lawrence, Perry, Walker,
4 Fragale, Campbell and Tomblin)

5 [Introduced January 29, 2014; referred to the
6 Committee on Education then Finance.]

**FISCAL
NOTE**

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10 A BILL to repeal §18-6-9 and §18-6-10 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §18-6-1, §18-6-2,
12 §18-6-4, §18-6-5 and §18-6-8 of said code, all relating to
13 driver education programs; repealing requirements on the State
14 Department of Education and county superintendents related to
15 instruction and licensing of commercial driver education
16 schools; removing requirements for course availability to out-
17 of-school youth and adults; allowing summer school offerings
18 in driver education; prohibiting charges to students;
19 authorizing permitted instructors under certain circumstances;
20 allowing successful completion of course in commercial driving
21 school or class accepted by the state board to meet purposes
22 of article; and making technical changes.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §18-6-9 and §18-6-10 of the Code of West Virginia, 1931,

1 as amended, be repealed; and that §18-6-1, §18-6-2, §18-6-4,
2 §18-6-5 and §18-6-8 of said code be amended and reenacted, all to
3 read as follows:

4 **ARTICLE 6. DRIVER EDUCATION.**

5 **§18-6-1. Purpose and objectives of article.**

6 The purpose of this article is to ensure that every secondary
7 school pupil has the opportunity, at or about the time he or she
8 reaches licensing age, to enroll in a course of driver education
9 designed to train him or her to drive skillfully and safely under
10 all traffic and roadway conditions and circumstances. ~~to make the~~
11 ~~driver education course available to out-of-school youths and to~~
12 ~~adults; and to ensure that commercial driver education schools~~
13 ~~achieve and maintain a level of driver education equal to the~~
14 ~~minimum standards that are prescribed for secondary schools.~~

15 **§18-6-2. Where provided; implementation deadlines; priorities for**
16 **course availability.**

17 ~~No later than the first day of the public school term~~
18 ~~beginning in the year one thousand nine hundred seventy-three,~~

19 (a) There shall be offered in all public secondary schools
20 within the state, without charge to students, an approved,
21 comprehensive course in driver education. The course may be offered
22 in summer school in addition to the regular instructional term.

23 ~~As the first priority, the driver education course shall be~~

1 ~~made available at no cost to all secondary school pupils at or~~
2 ~~about the time they reach licensing age.~~

3 ~~As the second priority, the driver education course shall be~~
4 ~~made available to all persons who do not attend secondary schools~~
5 ~~who have reached their sixteenth birthday and are under eighteen~~
6 ~~years of age. County boards of education may require the persons~~
7 ~~described in this paragraph who enroll in a public secondary school~~
8 ~~driver education course to pay tuition not to exceed \$50.~~

9 ~~As the third priority, the driver education course shall be~~
10 ~~made available to all persons who do not attend secondary school~~
11 ~~who are eighteen years of age or older, but first consideration for~~
12 ~~persons in this age group shall be given to those who are applying~~
13 ~~for their first operator's license. County boards of education may~~
14 ~~require the persons described in this paragraph who enroll in a~~
15 ~~public secondary school driver education course to pay tuition not~~
16 ~~to exceed \$75.~~

17 (b) In those counties where sufficient public secondary school
18 driver education courses are not available to meet all requests for
19 the course, county boards of education shall, as quickly as
20 possible, make sufficient courses available to fill those requests.

21 (c) Under the authority and subject to the conditions provided
22 in section two-a, article three, chapter eighteen-a of this code,
23 the State Superintendent may issue a permit or other certificate to
24 persons who do not qualify for the professional certificate for the

1 purpose of providing instruction in driver education subject to the
2 following:

3 (1) The applicant for the permit or certificate is subject to
4 the criminal history check of applicants for licensure provided in
5 section ten, article three, chapter eighteen-a of this code;

6 (2) The permit or certificate may not be given permanent
7 status, but may be renewed in accordance with rules adopted by the
8 State Department of Education;

9 (3) The duties of a person who has a valid permit or
10 certificate under this subsection may include the supervision of
11 students;

12 (4) The person, when providing instruction in the public
13 schools, may only be employed under a contract with the respective
14 county board of education that specifies the duties to be
15 performed, a rate of pay that is equivalent to the rate of pay for
16 professional educators in the district who accept similar duties as
17 extra duty assignments and provides for liability insurance
18 associated with the activity;

19 (5) The person may not be considered an employee of the board
20 for salary and benefit purposes other than as specified in the
21 contract;

22 (6) The person completes an orientation program designed and
23 approved in accordance with State Department of Education rules;
24 and

1 (7) The position is posted annually and a fully certified
2 professional educator has not applied.

3 **§18-6-4. Rules. and regulations**

4 In accordance with article three-b, chapter twenty-nine-a of
5 this code, the state board shall, with the advice of the state
6 superintendent and the Superintendent of the ~~Department of Public~~
7 ~~Safety~~ State Police, adopt rules ~~and regulations~~ governing the
8 establishment, conduct and scope of driver education for use in the
9 public, private and parochial ~~and denominational~~ secondary schools
10 located within this state, subject to the requirements and
11 exceptions set forth in this article.

12 **§18-6-5. Establishment and maintenance of driver education course;**
13 **who may enroll; exemption from learner's permit**
14 **requirement; nonpermit student drivers.**

15 The state superintendent shall promote and direct the
16 establishment and maintenance of courses of instruction in driver
17 education in secondary schools in accordance with the provisions of
18 this article and the rules that the state board adopts pursuant to
19 section four of this article. Directors, trustees or other persons
20 having control or authority over private or parochial ~~or~~
21 ~~denominational~~ secondary schools, who establish and maintain the
22 courses in the schools under their control or supervision, shall
23 comply with the rules that the state board adopts pursuant to

1 section four of this article.

2 In the case of a pupil who will not reach the age of fifteen
3 years before completion of the driver education course in which
4 enrolled, instruction shall be limited to the classroom. Pupils who
5 are fifteen years of age and older shall receive instruction and
6 practical training in the operation of motor vehicles on the public
7 streets and highways.

8 Notwithstanding section three-a, article two, chapter
9 seventeen-b of this code, any student who is at least fifteen years
10 of age and is enrolled in a driver education course in accordance
11 with the provisions of this article and the rules that the state
12 board adopts pursuant to section four of this article, may operate
13 a motor vehicle on the roadways of West Virginia while accompanied
14 by a certified driver education teacher or instructor permitted by
15 the state superintendent to provide driver education instruction.

16 **§18-6-8. Driver education course to be made available to all**
17 **secondary school pupils prior to their graduation;**
18 **exemption; application by pupil for unrestricted**
19 **operator's license.**

20 Before any pupil ~~is graduated~~ graduates from a secondary
21 school ~~after September 1, 1975,~~ he or she shall first be provided
22 an opportunity and encouraged to successfully complete a driver
23 education course approved by the state board in a public, private

1 ~~or~~ parochial ~~or denominational~~ secondary school within the state.
2 If a pupil has successfully completed a similar course in a
3 secondary school of another state or in a commercial driving school
4 or class and the course is accepted by the state board as
5 adequately meeting and complying with the course standards
6 established by the state board, then the aforementioned requirement
7 shall be deemed fulfilled regarding that pupil.

8 ~~On or before December 31, 2000, any secondary school pupil~~
9 ~~sixteen years of age or older, but under eighteen years of age, who~~
10 ~~has successfully completed a driver education course approved by~~
11 ~~the state board in a public, private, parochial or denominational~~
12 ~~secondary school within the state or a similar course in a~~
13 ~~secondary school of another state and accepted by the state board~~
14 ~~as adequately meeting and complying with the course standards~~
15 ~~established by the state board, shall, upon proper application and~~
16 ~~successful completion of all examination and driving tests required~~
17 ~~by law for issuance of an operator's license to a person eighteen~~
18 ~~years of age or older, be issued an operator's license without any~~
19 ~~restriction rather than the junior or probationary operator's~~
20 ~~license provided for in section three, article two, chapter~~
21 ~~seventeen-b of this code. On or after January 1, 2001, Any~~
22 secondary school pupil sixteen years of age or older, but under
23 eighteen years of age, who has successfully completed a driver
24 education course approved by the state board in a public, private,

1 parochial or denominational secondary school within the state or a
2 similar course in a secondary school of another state or in a
3 commercial driving school or class and accepted by the state board
4 as adequately meeting and complying with the course standards
5 established by the state board, shall be exempted from submitting
6 a sworn affidavit certified by the parent, legal guardian, or other
7 responsible adult over the age of twenty-one that the applicant has
8 successfully completed the minimum number of hours of
9 behind-the-wheel training as provided in section three-a, article
10 two, chapter seventeen-b of the code.

NOTE: The purpose of this bill is to help improve the offering of driver education courses to secondary school students by providing options for permitted instructors, allowing courses outside of the regular school schedule. The bill also removes the requirement for the State Superintendent of Schools to prescribe the course of instruction, license and periodically inspect commercial driver education schools and removes from the purposes of the program that the secondary school courses also be offered to out-of-school youth and adults.

Strike-throughs indicate existing language that would be removed, and underscoring indicates new language that would be added.