

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 491

SENATORS TRUMP AND PALUMBO, *original sponsors*

[Originating in the Committee on the Judiciary;

Reported on February 7, 2019]

1 A BILL to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating
2 generally to automatic voting registration through the Division of Motor Vehicles; adding
3 United States citizenship status to information that applicants must provide; requiring the
4 Division of Motor Vehicles to confirm and maintain a record of an applicant's citizenship
5 status; requiring the Division of Motor Vehicles to provide notice to the Secretary of State
6 and the appropriate county clerk if voting registration information related to a noncitizen is
7 released to the Secretary of State in error; requiring the Division of Motor Vehicles and the
8 Secretary of State to cooperate to develop a process by January 1, 2020, to compare all
9 information regarding a person's citizenship status available to the Division of Motor
10 Vehicles with voter information released to the Secretary of State in order to detect and
11 cancel voting registration by noncitizens; delaying the effective date for automatic voter
12 registration in conjunction with certain Division of Motor Vehicle transactions until July 1,
13 2021; and requiring the Division of Motor Vehicles, the Department of Transportation, and
14 the Secretary of State to file certain reports with and appear before the Joint Committee
15 on Government and Finance and the Joint Standing Committee on the Judiciary during
16 the first interim meetings occurring after September 1, 2019.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

1 (a) The Division of Motor Vehicles or other division or department that may be established
2 by law to perform motor vehicle driver licensing services shall obtain as an integral and
3 simultaneous part of every process of application for the issuance, renewal, or change of address
4 of a motor vehicle driver's license, or official identification card pursuant to the provisions of
5 §17B-2-1 *et seq.* of this code, when the division's regional offices are open for regular business,
6 the following information from each qualified registrant:

7 (1) Full name, including first, middle, last, and any premarital names;

- 8 (2) Date of birth;
- 9 (3) Residence address and mailing address, if different;
- 10 (4) The applicant's electronic signature;
- 11 (5) Telephone number, if available;
- 12 (6) Email address, if available;
- 13 (7) Political party membership, if any;
- 14 (8) Driver's license number and last four digits of Social Security number;
- 15 (9) A notation that the applicant has attested that he or she meets all voter eligibility
- 16 requirements; ~~including United States citizenship;~~

17 (10) United States citizenship status;

18 ~~(40)~~ (11) Whether the applicant affirmatively declined to become registered to vote during

19 the transaction with the Division of Motor Vehicles;

20 ~~(44)~~ (12) Date of application; and

21 ~~(42)~~ (13) Any other information specified in rules adopted to implement this section.

22 (b) Unless the applicant affirmatively declines to become registered to vote or update their

23 voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor

24 Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to

25 the Secretary of State, who shall forward the information to the county clerk for the relevant county

26 to process the newly registered voter or updated information for the already-registered voter

27 pursuant to law. The Division of Motor Vehicles shall notify ~~that~~ the applicant that by submitting

28 his or her signature, the applicant grants written consent for the submission of the information

29 obtained and required to be submitted to the Secretary of State pursuant to this section.

30 (c) Confirmation of citizenship status; cancellation of noncitizen registration. —

31 (1) Prior to releasing the information obtained pursuant to subsection (a) of this section to

32 the Secretary of State, the Division of Motor Vehicles shall confirm that an applicant is a citizen

33 of the United States and keep a record of the applicant's citizenship status.

34 (2) Within 24 hours of discovering that a noncitizen's information was released to the
35 Secretary of State for voter registration purposes, the Division of Motor Vehicles shall provide
36 written notice of the error via certified mail, or other method approved by the Secretary of State,
37 to the Secretary of State and the county clerk of the relevant county. Such notice shall include all
38 information obtained pursuant to subsection (a) of this section, as well as the date on which the
39 information was erroneously released to the Secretary of State.

40 (3) No later than January 1, 2020, the Division of Motor Vehicles and the Secretary of
41 State shall cooperate to develop and implement a process to systematically compare all
42 information regarding a person's citizenship status available to the Division of Motor Vehicles with
43 voter information released to the Secretary of State. Upon the discovery that a voter registration
44 application was submitted to the Secretary of State by a noncitizen, the Secretary of State shall
45 provide notice to the county clerk of the relevant county within 24 hours and take any other
46 necessary steps to cancel the noncitizen's voter registration.

47 ~~(e)~~ (d) Information regarding a person's failure to sign the voter registration application is
48 confidential and may not be used for any purpose other than to determine voter registration.

49 ~~(d)~~ (e) A qualified voter who submits the required information or update to his or her voter
50 registration, pursuant to the provisions of subsection (a) of this section, in person at a driver
51 licensing facility at the time of applying for, obtaining, renewing, or transferring his or her driver's
52 license or official identification card and who presents identification and proof of age at that time
53 is not required to make his or her first vote in person or to again present identification in order to
54 make that registration valid.

55 ~~(e)~~ (f) A qualified voter, who submits by mail or by delivery by a third party an application
56 for registration on the form used in conjunction with driver licensing, is required to make his or her
57 first vote in person and present identification as required for other mail registration in accordance
58 with the provisions of §3-2-10(g) of this code. If the applicant has been previously registered in
59 the jurisdiction and the application is for a change of address, change of name, change of political

60 party affiliation, or other correction, the presentation of identification and first vote in person is not
61 required.

62 ~~(f)~~ (g) An application for voter registration submitted pursuant to the provisions of this
63 section updates a previous voter registration by the applicant and authorizes the cancellation of
64 registration in any other county or state in which the applicant was previously registered.

65 ~~(g)~~ (h) A change of address from one residence to another within the same county which
66 is submitted for driver licensing or nonoperator's identification purposes in accordance with
67 applicable law serves as a notice of change of address for voter registration purposes if requested
68 by the applicant after notice and written consent of the applicant.

69 ~~(h)~~ (i) Completed applications for voter registration or change of address for voting
70 purposes received by an office providing driver licensing services shall be forwarded to the
71 Secretary of State within five days of receipt unless other means are available for a more
72 expedited transmission. The Secretary of State shall remove and file any forms which have not
73 been signed by the applicant and shall forward completed, signed applications to the clerk of the
74 appropriate county commission within five days of receipt.

75 ~~(i)~~ (j) Voter registration application forms containing voter information which are returned
76 to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted
77 to the Secretary of State, and maintained by the Secretary of State's office according to the
78 retention policy adopted by the Secretary of State.

79 ~~(j)~~ (k) The Secretary of State shall establish procedures to protect the confidentiality of the
80 information obtained from the Division of Motor Vehicles, including any information otherwise
81 required to be confidential by other provisions of this code.

82 ~~(k)~~ (l) A person registered to vote pursuant to this section may cancel his or her voter
83 registration at any time by any method available to any other registered voter.

84 ~~(l)~~ (m) This section ~~shall not be construed as requiring~~ does not require the Division of
85 Motor Vehicles to determine eligibility for voter registration and voting.

86 ~~(m) (n)~~ The changes made to this section during the 2016 Regular Legislative Session
87 shall become effective on July 1, 2019, and any costs associated therewith shall be paid by the
88 Division of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of
89 this section by February 1, 2019, it shall make a presentation to the Joint Committee on
90 Government and Finance explaining any resources necessary to meet the requirements or any
91 changes to the code that it recommends immediately prior to the 2019 Regular Legislative
92 Session: *Provided*, That the Division of Motor Vehicles shall report to the Joint Committee on
93 Government and Finance by January 1, 2018 with a full and complete list of all infrastructure they
94 require to achieve the purposes of this section.

95 Except for the changes made to subsection (b) of this section during the 2017 regular
96 legislative session, the changes made to this section during the 2016 regular legislative session
97 become effective on July 1, 2021, and any costs associated therewith shall be paid by the Division
98 of Motor Vehicles. The Commissioner of the Division of Motor Vehicles, the Secretary of the
99 Department of Transportation, and the Secretary of State shall each appear before the Joint
100 Committee on Government and Finance and the Joint Standing Committee on the Judiciary,
101 during the first interim meetings of such committees occurring after September 1, 2019, to present
102 written reports containing a full and complete list of any infrastructure each agency requires to
103 achieve the purposes of this section. Along with the report required by this subsection, the Division
104 of Motor Vehicles shall submit a written schedule to both committees outlining how the Division
105 will implement the requirements of this section by July 1, 2021.

106 ~~(n) (o)~~ The Secretary of State shall propose rules for legislative approval in accordance
107 with the provisions of §29A-3-1 *et seq.* of this code in order to implement the requirements of this
108 section.

NOTE: The purpose of this bill is to extend the effective date for voter registration in conjunction with driver licensing until July 1, 2021 and to require the DMV to confirm citizenship of all applicants.

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