

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2488

BY DELEGATE FOSTER

[Introduced February 15, 2021; referred to the
Committee on Technology and Infrastructure then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §17B-2-10a, relating to an occupational limited license.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-10A. OCCUPATIONAL LIMITED LICENSE.

1 (a) Issuance. —

2 (1) The division shall issue an occupational limited license under the provisions of this
3 section to a driver whose operating privileges have been suspended for a violation of this chapter
4 and who is not prohibited under any other provision in this section. If the underlying reason for
5 the suspension was caused by violations committed while the driver was operating a commercial
6 motor vehicle, the driver may not be issued an occupational limited license for the purpose of
7 operating a commercial motor vehicle. The division shall prohibit the issuance of an occupational
8 limited license when disqualified from doing so under the Commercial Motor Vehicle Safety Act
9 of 1986 (49 U.S.C. §§31100 et seq.) or the Motor Carrier Safety Improvement Act of 1999 (49
10 U.S.C. §§521 et seq.).

11 (2) The division may not issue an occupational limited license to drivers whose operating
12 privileges have been recalled, canceled, or revoked.

13 (b) Petition. —

14 (1) The applicant for an occupational limited license shall file a petition with the division,
15 by certified mail, setting forth in detail the need for operating a motor vehicle. The petition shall
16 be on a form prescribed by the division and shall identify the specific motor vehicle or vehicles
17 the petitioner seeks permission to operate. The petition shall include an explanation as to why the
18 operation of a motor vehicle is essential to the petitioner's occupation, work, trade, treatment, or
19 study or the petitioner's ability to travel to and from petitioner's occupation, work, trade, treatment
20 or study. The petition shall identify the petitioner's employer, educational institution, or treatment
21 facility, as appropriate, and shall include proof of financial responsibility covering all vehicles

22 which the petitioner requests to be allowed to operate. The division shall promulgate rules in
23 accordance with the provisions of §29A-3-1 et seq. of this code to require additional information
24 as well as additional evidence to verify the information contained in the petition.

25 (2) The petitioner shall surrender his driver's license. If the petitioner's driver's license has
26 been lost or stolen, the petitioner shall submit an application for a replacement license, along with
27 the proper fee. If the petitioner is a nonresident licensed driver, the petitioner shall submit an
28 acknowledgment of suspension in lieu of a driver's license. If the petitioner's license has expired,
29 the petitioner shall submit an application for renewal, along with the appropriate fee. All fines,
30 costs and restoration fees must be paid at the time of petition.

31 (3) Consistent with the provisions of this section, the division shall issue an occupational
32 limited license to the applicant within 20 days of receipt of the petition.

33 (4)(i) A person whose operating privilege has been suspended for a conviction of driving
34 while operating a commercial vehicle may not petition for an occupational limited license unless
35 division records show that the suspension for a conviction occurred only as the result of:

36 (A) A suspension for failure to respond to a citation imposed under the suspension of
37 operating privilege for failure to respond to citation to enforcement agreements;

38 (B) A suspension for failure to undergo a special examination imposed relating to school,
39 examination or hearing on accumulation of points or excessive speeding;

40 (C) A suspension for failure to attend a division hearing; or

41 (D) A suspension that occurred as a result of a suspension for nonpayment of judgments,
42 payments sufficient to satisfy judgments or installment payment of judgments.

43 (ii) The petition may not be filed until three months have been served for the suspension
44 under §17B-3-5.

45 (c) Fee. — The fee for applying for an occupational limited license is \$10. This fee is
46 nonrefundable, and no other fee may be required: *Provided*, That any fee or cost required for the

47 installation of an ignition interlock device mandated by §17C-5-3a of this code or any other
48 provisions of this code or any rule of the code of state regulations shall be allowed.

49 (d) *Unauthorized issuance.* — The division shall prohibit issuance of an occupational
50 limited license to:

51 (1) A driver who is not licensed to drive by this or any other state.

52 (2) Any person who is required by this code to take an examination and who has failed to
53 take and pass such an examination.

54 (3) Any person who has an unsatisfied judgment against him or her as the result of a motor
55 vehicle operation under §8-10-2a or §50-3-2a of this code, until such judgment has been satisfied
56 or an installment agreement has been entered into to satisfy the judgment and the financial
57 responsibility of such person has been established.

58 (4) Any person applying for an occupational limited license to operate a commercial motor
59 vehicle whose commercial driver's license privilege is disqualified under the provisions of section
60 §17E-1-13 of this code (relating to disqualification).

61 (5) Any person who, at the time he or she applies for an occupational limited license, has
62 previously been granted such a privilege within the period of five years next preceding such
63 application.

64 (6) Except as set forth in subdivision (3) of subsection (d) of this section, any person whose
65 operating privilege has been suspended for a violation relating to purchase, consumption,
66 possession, or transportation of liquor or malt or brewed beverages unless the suspension
67 imposed has been fully served: *Provided*, That an occupational limited license may be issued to
68 a petitioner applicant whose operating privilege has been suspended so long as the use of an
69 ignition interlock device is as set forth in §17C-5-3a of this code or any other provisions of this
70 code or any rule of the code of state regulations is required as a condition of the occupational
71 limited license and the occupational limited license is specific to the vehicle having the operational
72 ignition interlock device.

73 (7) For a conviction of any offense involving the possession, sale, delivery, offering for
74 sale, holding for sale, or giving away of any controlled substance under the laws of the United
75 States, this state or any other state:

76 (8) Any person whose operating privilege has been suspended or revoked as the result of
77 a conviction of or as a result of a court order in conjunction with an adjudication of delinquency or
78 the granting of a consent decree for any offense under the following provisions, unless the
79 suspension or revocation has been fully served:

80 (i) Meeting or overtaking school bus;

81 (ii) Racing on highways; or

82 (iii) Any violation relating to serious traffic offenses or relating to accidents and accident
83 reports.

84 (9) Any person whose operating privilege is currently suspended for failure to respond to
85 a citation.

86 (10) Any person whose operating privilege is currently suspended pursuant to proof of
87 financial responsibility following an accident or required financial responsibility.

88 (11) Any person whose operating privilege is currently suspended for failure to attend and
89 satisfactorily complete a driver improvement course or failure to attend a hearing.

90 (12) Any person whose operating privilege has been suspended for a conviction unless
91 division records show that the suspension for a conviction occurred only as a result of:

92 (i) A suspension for failure to respond to a citation;

93 (ii) A suspension for failure to undergo a special examination; or

94 (iii) A suspension for failure to attend a hearing.

95 (13) Any person whose operating privilege has been suspended under an
96 interjurisdictional agreement as the result of a conviction or adjudication if the conviction or
97 adjudication for an equivalent offense in this state would have prohibited the issuance of an
98 occupational limited license.

99 (14) Any person whose operating privilege has been suspended as the result of a
100 conviction of a violation relating to removal or falsification of identification number, relating to
101 dealing in vehicles with removed or falsified numbers, relating to dealing in titles and plates for
102 stolen vehicles, relating to false application for certificate of title or registration, or relating to
103 altered, forged, or counterfeit documents and plates unless the suspension has been fully served.

104 (15) Any person whose operating privilege has been suspended for conviction or
105 adjudication of delinquency based on a violation relating to homicide by vehicle or relating to
106 homicide by vehicle while driving under influence.

107 (e) Suspension eligibility related to Title 18 violation. — An individual whose operating
108 privilege has been suspended for a violation of §60-7-12a of this code shall be eligible for an
109 occupational limited license unless the individual has previously violated §60-7-12a. of this code.

110 (f) Offenses committed during a period for which an occupational limited license has been
111 issued. — Any driver who has been issued an occupational limited license and as to whom the
112 division receives a report of conviction of an offense for which the penalty is a cancellation,
113 disqualification, recall, suspension, or revocation of operating privileges or a report relating to
114 mandatory sentencing shall have the occupational limited license recalled, and the driver shall
115 surrender the limited license to the division or its agents.

116 (g) Restrictions. — A driver who has been issued an occupational limited license shall
117 observe the following:

118 (1) The driver shall operate a designated vehicle only:

119 (A) Between the driver's place of residence and place of employment or study and as
120 necessary in the course of employment or conducting a business or pursuing a course of study
121 where the operation of a motor vehicle is a requirement of employment or of conducting a
122 business or of pursuing a course of study.

123 (B) To and from a place for scheduled or emergency medical examination or treatment.
124 Provided, That this subparagraph includes treatment relating to driving after imbibing alcohol or
125 utilizing drugs.

126 (2) A driver who has been issued an occupational limited license may not operate a school
127 bus.

128 (3) The operating privilege of a driver who has been issued an occupational limited license
129 remains under suspension or revocation except when operating a motor vehicle in accordance
130 with the conditions of issuance or restrictions of the occupational limited license.

131 (4) Any person who violates the conditions of issuance or restrictions of the occupational
132 limited license is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$200 and,
133 upon receipt of a certified record of conviction, the division shall recall the limited license.

134 (h) A driver who has been issued an occupational limited license shall possess a
135 completed occupational limited license affidavit on a form prescribed by the division at all times
136 when operating a motor vehicle. The driver shall exhibit the completed form upon demand by a
137 police officer. The affidavit shall indicate that the driver is operating the motor vehicle at a time
138 and between places in accordance with the restrictions of this section. An occupational limited
139 license affidavit shall contain information required by rules which may be proposed by the division
140 under the provisions of §29A-3-1 et seq. of this code. The driver is not required to possess a
141 completed occupational limited license affidavit when operating a motor vehicle to a location for
142 emergency medical treatment.

143 (i) Changes in condition. — A driver who is granted an occupational limited license shall
144 immediately inform the division in writing of any change in the conditions under which that driver
145 applied for the occupational limited license, including loss of employment, change of
146 employments, or change in location of employment. Upon failure to give prompt notice of any
147 changes or if the conditions for the limited license no longer exist, the division shall recall the
148 occupational limited license.

149 (j) Appeal from denial or recall of occupational limited license. — Any driver who is denied
150 an occupational limited license or whose occupational limited license is recalled may file with the
151 division a petition for a hearing under the provisions of §29A-5-1 et seq. of this code. The division
152 may charge a reasonable fee based on the cost to the division for conducting such a hearing.
153 The appeal shall not operate as an automatic supersedeas. If an administrative hearing officer
154 orders a supersedeas in any appeal, the petitioner shall earn no credit towards serving the
155 suspension for which the petitioner was granted an occupational limited license. An appeal from
156 a decision of an administrative hearing officer may be taken in the manner provided in §29A-6-1
157 et seq. of this code.”

NOTE: The purpose of this bill is to provide for an occupational limited 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.