

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 423

BY SENATORS SYPOLT, CLEMENTS, BALDWIN, MARTIN,

AND SMITH

[Introduced January 18, 2022; referred
to the Committee on Transportation and
Infrastructure; and then to the Committee on the
Judiciary]

1 A BILL to amend and reenact §17B-2-1 and §17B-2-8 of the Code of West Virginia, 1931, as
 2 amended, all relating to exempting persons with valid religious objections from having their
 3 photographs taken and placed on government licenses or other identification cards; and
 4 requiring rules to implement this exemption.

Be it enacted by the Legislature of West Virginia:

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
 7 by law, is not required to obtain any other license to exercise the privilege by a county, municipality
 8 or 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. Licenses shall be issued in different colors for those drivers under age 18, those
 12 drivers age 18 to 21 and adult drivers. The commissioner is authorized to select and assign colors
 13 to the licenses of the various age groups.

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

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

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

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

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

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

42 (d) All licenses issued under this section may contain information designating the licensee
43 as a diabetic, as an organ donor, as deaf or hard-of-hearing, as having any other handicap or
44 disability or that the licensee is an honorably discharged veteran of any branch of the Armed

45 Forces of the United States, according to criteria established by the division, if the licensee
46 requests this information on the license. An honorably discharged veteran may be issued a
47 replacement license without charge if the request is made before the expiration date of the current
48 license and the only purpose for receiving the replacement license is to get the veterans
49 designation placed on the license.

50 (e) No person, except those hereinafter expressly exempted, may drive a motorcycle on
51 a street or highway in this state or on a subdivision street used by the public generally unless the
52 person has a valid motorcycle license, a valid license which has been endorsed under section
53 seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

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

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

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

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

62 (i) Is 65 years or older;

63 (ii) Is legally blind; or

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

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

68 (2) The identification card shall contain the same information as a driver's license except
69 that the identification card shall be clearly marked as an identification card: *Provided, That a*
70 *person with a valid religious objection is exempt from having his or her picture taken and placed*

71 on this identification card authorized or required by any provision of this code. The division may
72 issue an identification card with less information to persons under the age of 16. An identification
73 card may be renewed annually on application and payment of the fee required by this section.

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

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

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

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

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

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

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

95 (A) Proof of identity;

96 (B) Proof of residency; and

97 (C) A valid Social Security number.

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

100 (A) Change his or her identity;

101 (B) Assume another person's identity; or

102 (C) Commit a fraud.

103 (h) A person over the age of 70 years, or who is on Social Security Disability, who wishes
104 to obtain or renew a driver's license or identification card under the provisions of this section, may
105 not be required to furnish a copy of a birth certificate if they can provide:

106 (1) Proof of identity;

107 (2) Proof of residency;

108 (3) A valid Social Security number; and

109 (4) One of the following identifying items:

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

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

112 (C) School records, including a yearbook;

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

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

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

§17B-2-8. Issuance and contents of licenses; fees.

1 (a) The division shall, upon payment of the required fee, issue to every applicant qualifying

2 therefor a driver's license, which shall indicate the type or general class or classes of vehicle or
3 vehicles the licensee may operate in accordance with this chapter or Chapter 17E of this code,
4 or motorcycle-only license. Each license shall contain a coded number assigned to the licensee,
5 the full legal name, date of birth, residence address, a brief description and a color photograph of
6 the licensee and either a facsimile of the signature of the licensee or a space upon which the
7 signature of the licensee is written with pen and ink immediately upon receipt of the license. No
8 license is valid until it has been so signed by the licensee.

9 (1) A person with a valid religious objection is exempt from having his or her picture taken
10 and placed on this license or any other identification card authorized or required by any provision
11 of this code.

12 (2) The commissioner shall propose rules for legislative approval in accordance with §29A-
13 3-1 et seq. of this code necessary to implement the exemption in subdivision (1) of this subsection
14 and §17B-2-1(f)(2) of this code.

15 (b) A driver's license which is valid for operation of a motorcycle shall contain a motorcycle
16 endorsement. A driver's license which is valid for the operation of a commercial motor vehicle
17 shall be issued in accordance with Chapter 17E of this code.

18 (c) The division shall use such process or processes in the issuance of licenses that will,
19 insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction,
20 forging or modification of, or the superimposition of a photograph on, the license.

21 (d) The fee for the issuance of a Class E driver's license is \$5 per year for each year the
22 license is valid. The Division of Motor Vehicles may adjust this fee every five years on September
23 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer
24 Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee
25 amount in a single year. The fee for issuance of a Class D driver's license is \$6.25 per year for
26 each year the license is valid. An additional fee of 50 cents shall be collected from the applicant
27 at the time of original issuance or each renewal and the additional fee shall be deposited in the

28 Combined Voter Registration and Driver's Licensing Fund established pursuant to the provisions
29 of §3-2-12 of this code. The additional fee for adding a motorcycle endorsement to a driver's
30 license is \$1 per year for each year the license is issued.

31 (e) The fee for issuance of a motorcycle-only license is \$2.50 for each year for which the
32 motorcycle license is valid. The fees for the motorcycle endorsement or motorcycle-only license
33 shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as
34 established in §17B-1D-7 of this code.

35 (f) The fee for the issuance of either the level one or level two graduated driver's license
36 as prescribed in §17B-2-3a of this code is \$5.

37 (g) The fee for issuance of a federally compliant driver's license or identification card for
38 federal use is \$10 in addition to any other fee required by this chapter. Any fees collected under
39 the provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established
40 in accordance with §17A-2-21 of this code.

41 (h) The division may use an address on the face of the license other than the applicant's
42 address of residence if:

43 (1) The applicant has a physical address or location that is not recognized by the post
44 office for the purpose of receiving mail;

45 (2) The applicant is enrolled in a state address confidentiality program or the alcohol test
46 and lock program;

47 (3) The applicant's address is entitled to be suppressed under a state or federal law or
48 suppressed by a court order; or

49 (4) At the discretion of the commissioner, the applicant's address may be suppressed to
50 provide security for classes of applicants such as law-enforcement officials, protected witnesses
51 and members of the state and federal judicial systems.

52 (i) Notwithstanding any provision in this article to the contrary, a valid military identification
53 card with an expiration date issued by the United States Department of Defense for active duty,

54 reserve or retired military personnel containing a digitized photo and the holder's full legal name
55 may be used to establish current full legal name and legal presence. The commissioner may at
56 his or her discretion expand the use of military identification cards for other uses as permitted
57 under this code or federal rule.

NOTE: The purpose of this bill is to exempt a person with a valid religious objection from the requirement that his or her picture be taken and placed on a driver's license or other identification card authorized or required under any provision of the code.

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