

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 250**

By Senators Clements and Woelfel

[Introduced January 17, 2023; referred  
to the Committee on Transportation and  
Infrastructure]

1 A BILL to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating  
2 to require level one permit holders to display a student driver sign on the rear of the vehicle.

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

**ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.**

**§17B-2-3a. Graduated driver's license.**

1 (a) A person under the age of 18 may not operate a motor vehicle unless he or she has  
2 obtained a graduated driver's license in accordance with the three-level graduated driver's license  
3 system described in the following provisions.

4 (b) Any person under the age of 21, regardless of class or level of licensure, who operates  
5 a motor vehicle with any measurable alcohol in his or her system is subject to §17C-5-2 and §17C-  
6 5A-2 of this code. Any person under the age of 17, regardless of class or licensure level, is subject  
7 to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of  
8 this code: *Provided*, That a person may otherwise be eligible for a restricted license or instruction  
9 permit pursuant to §18-8-11.

10 (c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other  
11 requirements prescribed in this code may be issued a level one instruction permit.

12 (1) *Eligibility.* — The division may not issue a level one instruction permit unless the  
13 applicant:

14 (A) Presents a completed application, as prescribed by §17B-2-6 of this code, which is  
15 accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated  
16 driver's license, and executed by a parent or guardian entitled to custody of the applicant;

17 (B) Presents a certified copy of a birth certificate issued by a state or other governmental  
18 entity responsible for vital records unexpired, or a valid passport issued by the United States  
19 government evidencing that the applicant meets the minimum age requirement and is of verifiable  
20 identity;

21 (C) Passes the vision and written knowledge examination and completes the driving under

22 the influence awareness program, as prescribed in §17B-2-7 of this code; and

23 (D) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge  
24 test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based  
25 on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index:  
26 *Provided*, That an increase in the fee may not exceed 10 percent of the total fee amount in a single  
27 year.

28 (2) *Terms and conditions of instruction permit.* — A level one instruction permit issued  
29 under this section is valid until 30 days after the date the applicant attains the age of 18 and is not  
30 renewable: *Provided*, That for an applicant who is an active member of any branch of the United  
31 States military, a level one instruction permit issued under the provisions of this section is valid  
32 until 180 days after the date the applicant attains the age of 18. However, any permit holder who  
33 allows his or her permit to expire prior to successfully passing the road skills portion of the driver  
34 examination, and who has not committed any offense which requires the suspension, revocation,  
35 or cancellation of the instruction permit, may reapply for a new instruction permit under §17B-2-6  
36 of this code. The division shall immediately revoke the permit upon receipt of a second conviction  
37 for a moving violation of traffic regulations and laws of the road or violation of the terms and  
38 conditions of a level one instruction permit, which convictions have become final unless a greater  
39 penalty is required by this section or any other provision of this code. Any person whose instruction  
40 permit has been revoked is disqualified from retesting for a period of 90 days. However, after the  
41 expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction  
42 permit who is under the age of 18 years may not use a wireless communication device while  
43 operating a motor vehicle, unless the use of the wireless communication device is for contacting a  
44 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be  
45 restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only  
46 operate a motor vehicle under the following conditions:

47 (A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or

48 older, or a driver's education or driving school instructor who is acting in an official capacity as an  
49 instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The  
50 vehicle may be operated with no more than two additional passengers, unless the passengers are  
51 family members;

52 (B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

53 (C) All occupants use safety belts in accordance with §17C-15-49 of this code;

54 (D) The permit holder is operating the vehicle without any measurable blood alcohol  
55 content, in accordance with §17C-5-2(h) of this code; and

56 (E) The permit holder maintains current school enrollment and is making satisfactory  
57 academic progress or otherwise shows compliance with §18-8-11 of this code: *Provided*, That a  
58 person may otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.

59 (F) Any vehicle operated by a permit holder shall display a "Student Driver" sign on the rear  
60 of the vehicle. The sign may be a magnet or sticker, and shall be on a reflective, caution yellow  
61 background, with black lettering not smaller than 1.5 inches tall in size, containing the words  
62 "Student Driver" that is clearly visible to drivers approaching the vehicle from the rear. The Division  
63 of Motor Vehicles may provide such a sign to permit holders and may provide persons with  
64 information on where appropriate signs may be purchased that comply with this signage  
65 requirement.

66 (d) *Level two intermediate driver's license.* — An applicant 16 years of age or older,  
67 meeting all other requirements of this code, may be issued a level two intermediate driver's  
68 license.

69 (1) *Eligibility.* — The division may not issue a level two intermediate driver's license unless  
70 the applicant:

71 (A) Presents a completed application as prescribed in §17B-2-6 of this code;

72 (B) Has held the level one instruction permit conviction-free for the 180 days immediately  
73 preceding the date of application for a level two intermediate license;

74 (C) Has completed either a driver's education course approved by the State Department of  
75 Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of  
76 night time driving, certified by a parent or legal guardian or other responsible adult over the age of  
77 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph  
78 may be construed to require any school or any county board of education to provide any particular  
79 number of driver's education courses or to provide driver's education training to any student;

80 (D) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

81 (F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee  
82 every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor  
83 Statistics most current Consumer Price Index: *Provided*, That an increase in the fee may not  
84 exceed 10 percent of the total fee amount in a single year.

85 (2) *Terms and conditions of a level two intermediate driver's license.* — A level two  
86 intermediate driver's license issued under the provisions of this section expires 30 days after the  
87 applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license,  
88 whichever comes first. A holder of a level two intermediate driver's license who is under the age of  
89 18 years shall not use a wireless communication device while operating a motor vehicle, unless  
90 the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all  
91 other provisions of this code for which a driver's license may be restricted, suspended, revoked, or  
92 canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle  
93 under the following conditions:

94 (A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10  
95 p.m.;

96 (B) The licensee operates a vehicle only under the direct supervision of a licensed driver,  
97 age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going  
98 to or returning from:

99 (i) Lawful employment;

- 100 (ii) A school-sanctioned activity;
- 101 (iii) A religious event; or
- 102 (iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent
- 103 bodily injury or death of another;
- 104 (C) All occupants of the vehicle use safety belts in accordance with §17C-15-49 of this
- 105 code;
- 106 (D) For the first six months after issuance of a level two intermediate driver's license, the
- 107 licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless
- 108 these passengers are family members of the licensee; for the second six months after issuance of
- 109 a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying
- 110 more than one passenger less than 20 years old, unless these passengers are family members of
- 111 the licensee;
- 112 (E) The licensee operates a vehicle without any measurable blood alcohol content in
- 113 accordance with §17C-5-2(h) of this code;
- 114 (F) The licensee maintains current school enrollment and is making satisfactory academic
- 115 progress or otherwise shows compliance with §18-8-11 of this code: *Provided*, That a person may
- 116 otherwise be eligible for a restricted license or instruction permit pursuant to §18-8-11.
- 117 (G) Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2)
- 118 of this code of the terms and conditions of a level two intermediate driver's license, the licensee
- 119 shall enroll in an approved driver improvement program unless a greater penalty is required by this
- 120 section or by any other provision of this code; and
- 121 At the discretion of the commissioner, completion of an approved driver improvement
- 122 program may be used to negate the effect of a minor traffic violation as defined by the
- 123 commissioner against the one year conviction-free driving criteria for early eligibility for a level
- 124 three driver's license and may also negate the effect of one minor traffic violation for purposes of
- 125 avoiding a second conviction under §17B-2-3a(d)(2)(G) of this code; and

126 (H) Upon the second conviction for a moving traffic violation or a violation of the terms and  
127 conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke  
128 or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or  
129 until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this  
130 section or any other provision of this code. Any person whose driver's license has been revoked as  
131 a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may  
132 reapply for an instruction permit, then a driver's license in accordance with §17B-2-5, §17B-2-6  
133 and §17B-2-7 of this code.

134 (e) *Level three, full Class E license.* — The level three license is valid until 30 days after the  
135 date the licensee attains his or her 21st birthday. A holder of a level three driver's license who is  
136 under the age of 18 years shall not use a wireless communication device while operating a motor  
137 vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system.  
138 Unless otherwise provided in this section or any other section of this code, the holder of a level  
139 three full Class E license is subject to the same terms and conditions as the holder of a regular  
140 Class E driver's license.

141 A level two intermediate licensee whose privilege to operate a motor vehicle has not been  
142 suspended, revoked, or otherwise canceled and who meets all other requirements of the code  
143 may be issued a level three full Class E license without further examination or road skills testing if  
144 the licensee:

145 (1) Has reached the age of 17 years;

146 (2) Presents a completed application as prescribed by §17B-2-6 of this code;

147 (3) Has held the level two intermediate license conviction free for the 12-month period  
148 immediately preceding the date of the application;

149 (4) Has completed any driver improvement program required under §17B-2-3a(d)(2)(G) of  
150 this code; and

151 (5) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall

152 be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund  
153 established in §3-2-12 of this code.

154 (f) A person violating the provisions of the terms and conditions of a level one instruction  
155 permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor  
156 and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined  
157 \$50; and for a third or subsequent offense be fined \$75.

NOTE: The purpose of this bill is to require level one permit holders to display a "Student Driver" sign on the rear of the vehicle.

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