WEST VIRGINIA CODE: §17B-2-3a

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

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

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

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

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

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

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

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code; and

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

(2) Terms and conditions of instruction permit. — A level one instruction permit issued under this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable: *Provided*, That for an applicant who is an active member of any branch of the United States military, a level one instruction permit issued under the provisions of this section is valid until 180 days after the date the applicant attains the age of 18. However,

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any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction permit who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

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

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

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

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

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

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

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

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

(C) Has completed either a driver's education course approved by the State Department of

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Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph may be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

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

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

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

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

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

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

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

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers

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are family members of the licensee;

(E) The licensee operates a vehicle without any measurable blood alcohol content in accordance with §17C-5-2(h) of this code;

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

(G) Upon the first conviction for a moving traffic violation or a violation of §17B-2-3a(d)(2) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under §17B-2-3a(d)(2)(G) of this code; and

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

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

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

(1) Has reached the age of 17 years;

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

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

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

(5) Pays a fee of $2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.

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

(g) All adjudications of delinquency or convictions of any type in a juvenile proceeding which involve a traffic offense, a violation of any provision of this section, or an order in furtherance of §49-4-713 or §49-4-715 of this code shall be forwarded to the Commissioner of the Division of Motor Vehicles notwithstanding §49-5-101 of this code.

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