WEST VIRGINIA CODE CHAPTER 17B ARTICLE 2B

WV Legislature

§17B-2B-1. Definitions.

For purposes of this article, the following terms have the meaning indicated:

(1) “Applicant” means any person applying for a Class G instruction permit or license to operate a motor vehicle in this state who must use a bioptic telescopic device to meet the commissioner’s minimum visual acuity and visual field standards for licensure.

(2) “Approved driver training program” means a program that:

(A) Provides and coordinates comprehensive assessment and training of driving skills and responses;

(B) Emphasizes clinical and functional vision skills, predriver readiness skills and the physical, mental and social driving skills of an applicant; and

(C) Is approved by the Division of Rehabilitation Services, after consultation with the division.

(3) “Bioptic telescopic device” means a two focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens so as to allow an unobstructed view of the horizontal visual field through normal distance corrective lenses.

(4) “Corrective lenses” means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device.

(5) “Daytime driving restriction” means a limitation on the operation of a motor vehicle to:

(A) The period of time between 30 minutes after sunrise and 30 minutes before sunset; and

(B) Weather conditions that do not significantly reduce the visibility of the roadway, other traffic, and traffic control devices.

(6) “Field expander” means a device used to compensate for peripheral visual field loss.

(7) “Restricted out-of-state driver” means a person who has been issued, by another state, a valid driver’s license with a restriction requiring the driver to use a bioptic telescopic device.

(8) “Vision specialist” means a licensed ophthalmologist or optometrist.

(9) “Visual acuity” means the measure of a person’s clarity of vision based on the Snellen visual acuity scale.

(10) “Visual field” means the area of physical space visible to the eye in a given fixed position.

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§17B-2B-2. Class G instruction permit or driver's license; participation in approved driver training program; eligibility criteria; required curriculum.

(a) A person who does not meet the visual acuity and visual field standards established by the commissioner for licensure to operate a motor vehicle in this state, but who is able to satisfy the minimum vision requirements using a bioptic telescopic device is eligible for a Class G instruction permit or driver's license pursuant to this article if he or she is participating in or has successfully completed an approved driver training program.

(b) An applicant is eligible to participate in an approved driver training program if he or she:

(1) Submits to the commissioner and to the Division of Rehabilitation Services a report of examination by a vision specialist, on a form prescribed by the Division of Rehabilitation Services, which certifies that:

(A) In the opinion of the vision specialist, the applicant's vision can be corrected with the use of a bioptic telescopic device and without field expanders to satisfy the minimum visual acuity and visual field standards established by the commissioner;

(B) No ocular diagnosis or prognosis currently exists or is likely to occur during the period of licensure which would cause deterioration of the applicant's visual acuity or visual field to levels below the commissioner's minimum visual acuity and visual field standards for licensure; and

(C) The applicant is a likely candidate for acceptance into an approved driver training program; and

(2) Satisfies any other criteria for participation established by the Division of Rehabilitation Services.

(c) An approved driver training program shall include, at a minimum:

(1) Predriving instruction with regard to highway signs and the rules of the road;

(2) Predriving instruction in proper use of bioptic telescopic devices; and

(3) At least 30 hours of behind-the-wheel instruction in driving with bioptic telescopic devices.

(d) The Division of Rehabilitation Services, or its approved driver training program, may waive predriving instruction with regard to highway signs and the rules of the road pursuant to subdivision (1), subsection (c) of this section if the applicant:

(1) Has at least three years of experience driving with an unrestricted license; and

(2) Passes the written examination provided in §17B-2B-3(a)(2) of this code.

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§17B-2B-3. Class G instruction permit; eligibility criteria; restrictions; duration of permit.

(a) An applicant is eligible for a Class G instruction permit if he or she has:

(1) Been accepted into and enrolled in an approved driver training program;

(2) Passed a written examination, in the manner prescribed by the commissioner, testing the applicant's:

(A) Ability to read and understand highway signs regulating, warning and directing traffic; and

(B) Knowledge of the traffic laws of this state; and

(3) Satisfied, at each stage of the licensing process, any additional requirements for an instruction permit required by article two of this chapter that are not addressed in this article.

(b) The commissioner may not issue a Class G instruction permit until the applicant has surrendered any license he or she currently holds to operate a motor vehicle.

(c) A Class G instruction permit authorizes the permittee to operate a Class A passenger motor vehicle, weighing eight thousand (8000) pounds or less, subject to the following restrictions:

(1) The applicant may drive only while using a bioptic telescopic device;

(2) The applicant is subject to a daytime driving restriction;

(3) The applicant may drive only when accompanied by a certified driver rehabilitation specialist or driver rehabilitation educator; and

(4) Any other conditions or restrictions the commissioner considers necessary to insure the safe operation of the motor vehicle.

(d) A Class G instruction permit is valid for up to one year. Upon expiration of the instruction permit, the applicant may reapply for a new instruction permit, provided that he or she is eligible pursuant to subsection (a) of this section.

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§17B-2B-4. Class G driver's license; eligibility criteria; duration of license; surrender of current license; provisions not applicable to persons already licensed to drive with bioptic device.

(a) A person who has obtained a Class G instruction permit may obtain a Class G driver's license to operate a motor vehicle if he or she has:

(1) Been certified by the Division of Rehabilitation Services, or its approved driver training program, as having successfully completed an approved driver training program, along with any recommendations regarding license restrictions or modifications, including, but not limited to:

(A) Special adaptive equipment;

(B) Hours of permitted operation;

(C) Types of roads on which the applicant may operate a vehicle; and

(D) How far from home the applicant may operate a vehicle;

(2) Submitted to the commissioner and to the Director of the Division of Rehabilitation Services, on a form prescribed by the Division of Rehabilitation Services, a report of examination by a vision specialist, conducted after the applicant completes the approved driver training program, certifying that the applicant continues to meet the minimum visual acuity and visual field standards established by the commissioner for licensure to operate a motor vehicle;

(3) Successfully completed a comprehensive road skills examination, conducted at a location determined by the commissioner, with a certified driver rehabilitation specialist or driver rehabilitation educator in the test vehicle along with the driving examiner. The comprehensive road skills examination shall include, at a minimum:

(A) A "passenger in car" test with bioptic telescopic device in place designed to test competency in using the bioptic telescopic device under stationary and dynamic conditions;

(B) A maneuverability skills test; and

(C) A standardized on-road test designed to test driving competency of the applicant; and

(4) Satisfied, at each stage of the licensing process, any additional requirements for licensure required by article two of this chapter that are not addressed in this article;

(b) If an applicant fails the comprehensive road skills examination three times, he or she is not eligible to retake the examination until he or she has successfully completed additional training in an approved driver training program and been recommended for retesting by the director of the program.

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(c) An applicant who has a current license to operate a motor vehicle other than a Class G driver's license must surrender his or her current driver's license before the commissioner will issue a Class G driver's license or instruction permit.

(d) Every Class G licensee must provide the commissioner with a report of examination by a vision specialist, conducted no more than three months prior to the annual anniversary of the issuance of the license, certifying that the applicant continues to meet the minimum visual acuity and visual field standards established by the commissioner for licensure to operate a motor vehicle. The report shall be submitted on a form prescribed by the commissioner.

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§17B-2B-5. Restrictions on Class G driver's license; removal of daytime driving restriction.

(a) A Class G driver's license authorizes the licensee to operate a Class A passenger motor vehicle, weighing eight thousand pounds or less, subject to the following restrictions:

(1) The applicant may drive only while using a bioptic telescopic device;

(2) Daytime driving restriction; and

(3) Any other conditions or restrictions the commissioner considers necessary to insure the safe operation of the motor vehicle.

(b) An applicant to whom a Class G driver's license has been issued may apply to the commissioner for removal of the daytime driving restriction if the applicant has:

(1) Operated a motor vehicle for thirty-six months without an at-fault accident, moving violation or license suspension;

(2) Submitted a report of a vision examination, conducted not more than six months prior to the application, by a vision specialist showing that the licensee's visual impairment is stable and that he or she can see well enough to operate a vehicle at night;

(3) Successfully completed additional evaluation and training, in an approved driver training program, specifically designed for night driving;

(4) Passed a comprehensive night driving examination.

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§17B-2B-6. Restricted out-of-state drivers; required to obtain Class G driver's license; surrender of current license; waiver of requirement to participate in an approved driver training program.

(a) A restricted out-of-state driver establishing residence in West Virginia must apply for a Class G driver's license in this state.

(b) To obtain a Class G driver's license, the restricted out-of-state driver must:

(1) Satisfy all the requirements of licensure contained in sections three and four of this article;

(2) Surrender his or her out-of-state driver's license to the commissioner; and

(3) Provide the commissioner with a report of examination by a vision specialist, conducted no more than 90-days prior to the application, showing that the applicant meets the minimum vision standards.

(c) If, based upon an evaluation of the out-of-state driver's abilities, along with any recommendations, the Division of Rehabilitation Services, or its approved driver training program, certifies to the commissioner that the restricted out-of-state driver was required, as a condition of licensure in the other state, to complete training substantially equivalent to the approved driver training program required by this article, the commissioner may waive the requirement that the restricted out-of-state driver complete an approved driver training program in this state prior to licensure.

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§17B-2B-7. Renewal of license.

(a) A Class G driver's license is valid for no more than two years.

(b) To renew a Class G driver's license, the licensee must submit a report of a comprehensive vision examination by a vision specialist at least ninety-days prior to expiration of the license.

(c) If the vision specialist certifies that the conditions causing the licensee's visual impairment are stable, and the licensee continues to satisfy the commissioner's minimum visual acuity and visual field standards for licensure, the division shall renew the license for a period of one year.

(d) If the vision specialist certifies that the conditions causing the licensee's visual impairment are unstable or deteriorating, the commissioner may require the licensee to undergo additional testing or training before deciding whether to renew the license.

(e) If any comprehensive vision examination by a vision specialist determines that the licensee no longer satisfies the minimum visual acuity or visual field standards for licensure, the division shall not renew the license.

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§17B-2B-8. Suspension, revocation and reinstatement of license.

(a) The commissioner may immediately suspend the Class G driver's license of any driver who is involved in an accident resulting in bodily injury or death, violates the restrictions placed on his or her license or is convicted of more than one moving violation within a twelve-month period, if the commissioner makes a finding that allowing the licensee to continue to drive pending resolution of the suspension would present a danger to the public.

(b) The commissioner shall suspend the driver's license of any licensee who fails to meet visual acuity or visual field minimum standards.

(c) The commissioner shall suspend the driver's license of any licensee who fails an evaluation of his or her ability to safely operate a motor vehicle by the division of rehabilitation's driving training program.

(d) A licensee whose license is suspended pursuant to this section may request a hearing within ten days of receiving the commissioner's notice of immediate suspension. No stay of the license suspension may be granted pending the hearing, but the commissioner must conduct a requested hearing on the suspension of the license within seventy days of receiving the request for a hearing. Only the licensee may request a continuance, but no stay of the suspension may be granted pending the delayed hearing.

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§17B-2B-9. Commissioner and director to collect information regarding Class G licensees; report to Legislature.

(a) The commissioner shall collect and monitor information regarding accidents, license suspensions and revocations and convictions of Class G licensees.

(b) On or before February 1, of each year after the first Class G driver's license is issued:

(1) The commissioner shall provide to the Joint Committee on Government and Finance a written report detailing:

(A) The number of Class G driver's licenses issued in the previous calendar year; and

(B) Whether and to what extent holders of Class G driver's licenses were, during the previous calendar year:

(i) Involved in vehicular crashes; or

(ii) The subject of proceedings to suspend or revoke their licenses or were convicted of offenses involving moving violations, the rules of the road, illegal substance use or legal substance abuse.

(2) The Director of the Division of Rehabilitation Services shall provide to the Joint Committee on Government and Finance a written report detailing, for the previous calendar year:

(A) The number of applicants for the approved driver training program;

(B) The number of persons who successfully completed the program;

(C) The number of persons who failed to complete the program and the reason for each failure; and

(D) The status of the approved driver training program's funding and the extent to which persons who applied for the program were able to pay the costs associated with it.

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§17B-2B-10. Rules.

(a) The Director of the Division of Rehabilitation Services, after consultation with the commissioner, shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code establishing:

(1) Additional criteria, including minimum visual acuity and visual field standards, for acceptance into an approved driver training program;

(2) Additional curriculum requirements for an approved driver training program;

(3) Standards for successful completion of an approved driver training program;

(4) Standards for the comprehensive road skills test;

(5) Criteria for certifying whether an out-of-state driver training program is substantially equivalent to an approved driver training program in this state;

(6) Minimum requirements for additional driver training, if required, including criteria for night time driving;

(7) Any other standards or criteria necessary to implement this article.

(b) The commissioner, in collaboration with the Director of the Division of Rehabilitation Services, shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code establishing:

(1) Criteria for issuance of a Class G instruction permit or driver's license, including minimum visual acuity and visual field standards;

(2) Standards for imposing and removing additional restrictions on an individual applicant's Class G instruction permit or driver's license;

(3) Standards for suspension, revocation and reinstatement of a Class G instruction permit or driver's license; and

(4) Any other standards or criteria necessary to implement this article.

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§17B-2B-11. Applicability.

Except for the provisions of subsection (d), section four of this article requiring an annual report of vision examination to be submitted to the commissioner, the provisions of this article are not applicable to any person licensed by the commissioner to operate a motor vehicle with a bioptic telescopic device prior to the effective date of this article.

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