Enrolled

Committee Substitute for

Senate Bill 491

SENATORS TRUMP AND PALUMBO, original sponsors

[Passed March 6, 2019; in effect from passage]
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AN ACT to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating generally to automatic voting registration through the Division of Motor Vehicles; adding United States citizenship status to information that applicants must provide; requiring the Division of Motor Vehicles to develop a regular process by January 1, 2020, that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this code to confirm that persons who are noncitizens of the United States have not and cannot register to vote via the Online Voter Registration portal; delaying the effective date for automatic voter registration in conjunction with certain Division of Motor Vehicle transactions until July 1, 2021; and requiring the Division of Motor Vehicles, the Department of Transportation, and the Secretary of State to file certain reports with, and appear before, the Joint Committee on Government and Finance and the Joint Standing Committee on the Judiciary during the first interim meetings occurring after September 1, 2019.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services shall obtain as an integral and simultaneous part of every process of application for the issuance, renewal, or change of address of a motor vehicle driver’s license, or official identification card pursuant to the provisions of §17B-2-1 et seq. of this code, when the division’s regional offices are open for regular business, the following information from each qualified registrant:

(1) Full name, including first, middle, last, and any premarital names;

(2) Date of birth;

(3) Residence address and mailing address, if different;

(4) The applicant’s electronic signature;

(5) Telephone number, if available;
(6) Email address, if available;
(7) Political party membership, if any;
(8) Driver’s license number and last four digits of Social Security number;
(9) A notation that the applicant has attested that he or she meets all voter eligibility
requirements;
(10) United States citizenship status;
(11) Whether the applicant affirmatively declined to become registered to vote during the
transaction with the Division of Motor Vehicles;
(12) Date of application; and
(13) Any other information specified in rules adopted to implement this section.

(b) Unless the applicant affirmatively declines to become registered to vote or update their
voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor
Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to
the Secretary of State, who shall forward the information to the county clerk for the relevant county
to process the newly registered voter or updated information for the already-registered voter
pursuant to law. The Division of Motor Vehicles shall notify the applicant that by submitting his or
her signature, the applicant grants written consent for the submission of the information obtained
and required to be submitted to the Secretary of State pursuant to this section.

(c) By no later than January 1, 2020, the Division of Motor Vehicles shall create a regular
process that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this
code to confirm that persons who are noncitizens of the United States have not and cannot
register to vote via the Online Voter Registration portal.

(d) Information regarding a person’s failure to sign the voter registration application is
confidential and may not be used for any purpose other than to determine voter registration.

(e) A qualified voter who submits the required information or update to his or her voter
registration, pursuant to the provisions of subsection (a) of this section, in person at a driver
licensing facility at the time of applying for, obtaining, renewing, or transferring his or her driver’s
license or official identification card and who presents identification and proof of age at that time
is not required to make his or her first vote in person or to again present identification in order to
make that registration valid.

(f) A qualified voter, who submits by mail or by delivery by a third party an application for
registration on the form used in conjunction with driver licensing, is required to make his or her
first vote in person and present identification as required for other mail registration in accordance
with the provisions of §3-2-10(g) of this code. If the applicant has been previously registered in
the jurisdiction and the application is for a change of address, change of name, change of political
party affiliation, or other correction, the presentation of identification and first vote in person is not
required.

(g) An application for voter registration submitted pursuant to the provisions of this section
updates a previous voter registration by the applicant and authorizes the cancellation of
registration in any other county or state in which the applicant was previously registered.

(h) A change of address from one residence to another within the same county which is
submitted for driver licensing or nonoperator’s identification purposes in accordance with
applicable law serves as a notice of change of address for voter registration purposes if requested
by the applicant after notice and written consent of the applicant.

(i) Completed applications for voter registration or change of address for voting purposes
received by an office providing driver licensing services shall be forwarded to the Secretary of
State within five days of receipt unless other means are available for a more expedited
transmission. The Secretary of State shall remove and file any forms which have not been signed
by the applicant and shall forward completed, signed applications to the clerk of the appropriate
county commission within five days of receipt.

(j) Voter registration application forms containing voter information which are returned to
a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted
to the Secretary of State, and maintained by the Secretary of State’s office according to the
retention policy adopted by the Secretary of State.

(k) The Secretary of State shall establish procedures to protect the confidentiality of the
information obtained from the Division of Motor Vehicles, including any information otherwise
required to be confidential by other provisions of this code.

(l) A person registered to vote pursuant to this section may cancel his or her voter
registration at any time by any method available to any other registered voter.

(m) This section does not require the Division of Motor Vehicles to determine eligibility for
voter registration and voting.

(n) Except for the changes made to subsection (b) of this section during the 2017 regular
legislative session, the changes made to this section during the 2016 regular legislative session
become effective on July 1, 2021, and any costs associated therewith shall be paid by the Division
of Motor Vehicles. The Commissioner of the Division of Motor Vehicles, the Secretary of the
Department of Transportation, and the Secretary of State shall each appear before the Joint
Committee on Government and Finance and the Joint Standing Committee on the Judiciary,
during the first interim meetings of such committees occurring after September 1, 2019, to present
written reports containing a full and complete list of any infrastructure each agency requires to
achieve the purposes of this section. Along with the report required by this subsection, the Division
of Motor Vehicles shall submit a written schedule to both committees outlining how the division
will implement the requirements of this section by July 1, 2021.

(o) The Secretary of State shall propose rules for legislative approval in accordance with
the provisions of §29A-3-1 et seq. of this code to implement the requirements of this section.
Enr CS for SB 491

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 25th Day of March 2019.

Governor