

TITLE 91
LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES
SERIES 4
MOTOR VEHICLE OPERATORS' AND CHAUFFEURS' LICENSES

§91-4-1. General.

1.1. Scope. -- These legislative rules establish procedures for the issuance, expiration and renewal of Motor Vehicle operators' and chauffeurs' licenses.

1.2. Authority. -- W.Va. Code §17C-2-9

1.3. Filing Date. -- March 25, 1976

1.4. Effective Date. -- April 28, 1976

§91-4-2. Application and enforcement.

2.1. Application - These legislative rules apply to the issuance and processing of motor vehicle operators' and chauffeurs' licenses.

2.2. Enforcement - Enforcement of these legislative rules is vested with the Commissioner of Motor Vehicles or lawful designee.

§91-4-3. Driver's manual.

In accordance with the provisions of Chapter 17B, Article 2, Section 7 of the Code of West Virginia, 1931, as amended, a Driver's Manual and Handbook for applicants for an operator's or chauffeur's license shall be promulgated and revised from time to time. In addition to pertinent information concerning licensing examinations, the Manual shall contain safety hints and a concise statement of the traffic regulations and laws of the roads of this state. It is hoped that knowledge of such matters will promote greater highway safety. The Driver's Manual, Revised July 1, 1963, presently being distributed is hereby constituted the official rules and regulations of the Department concerning the examination of applicants for operator's and chauffeur's licenses and the qualifications required of such applicant.

§91-4-4. Instruction or learner's permits.

Any person under the age of twenty-one (21) years

at the time of taking the eye, sign recognition and traffic law tests preliminary to the issuance of an instruction or learner's permit shall exhibit his or her birth certificate, or a duly certified copy thereof to the examining officer at the time of taking such test and the birthdate on such birth certificate or certified copy thereof must be identical with the date of birth shown on the application for the instruction or learner's permit before said application may be approved by the examining officer.

An Application for an instruction or learner's permit will not be accepted by the Department unless the same is received by the Department within thirty days from the date on which the eye, sign recognition and traffic law tests were successfully completed by such applicant.

In accordance with the provisions of Chapter 17B, Article 2, Section 5 of the Code of West Virginia, 1931, as amended, no instruction or learner's permit may be renewed or issued to any person more than one hundred twenty (120) days from the date of original issuance of an instruction or learner's permit to such person unless such person again passes the eye, sign recognition and traffic law tests.

§91-4-5. West Virginia address required for operator's license.

An operator's license will not be issued to any person who does not show a bona fide address within the State of West Virginia. An exception will be made for persons residing in West Virginia who live near the State line and who receive their mail through a post office in an adjoining state. However, such persons must state on their application for such license that they reside in West Virginia. (Inasmuch as persons residing in West Virginia may not, as a matter of fact, receive mail through any post office in the State of Ohio, the above exception will not apply to Ohio addresses.)

Persons residing outside the State of West Virginia

may not renew their West Virginia operator's licenses until they again establish a residence in the State of West Virginia.

§91-4-6. Procedure for out-of-date operators and chauffeurs to secure a West Virginia drivers license and waive the examination.

Any applicant who holds an unexpired drivers license or licenses issued by another state, or states, or the District of Columbia, or one or more drivers license issued by any possession of the United States, may apply and receive a West Virginia drivers license without examination, provided such applicant surrenders to the Department of Motor Vehicles such license or licenses.

Due to the time required to secure a duplicate drivers license from many of the other states, and the policy of some states not to issue a duplicate drivers license to a person who is no longer a resident of their state, the Department will accept a certification from the driver licensing authority of another state or possession of the United States stating that the applicant was licensed in such other state and the license issued to such person was valid and unexpired. Such certification would be accepted in lieu of the out-of-state unexpired license.

At the discretion of the Commissioner and subject to the conditions outlined below, the applicant would not be required to surrender the license issued by such other jurisdiction.

If application is made for a chauffeurs license by a resident of West Virginia whose occupation requires that he be licensed as a chauffeur in another jurisdiction, such applicant would not be required to surrender the chauffeurs license issued by such other jurisdiction.

If application is made for a chauffeurs license by a resident of West Virginia whose occupation requires that he be licensed as an operator in another jurisdiction and such other jurisdiction does not issue or require a chauffeurs license, such applicant would not be required to surrender the operators license issued by such other jurisdiction.

In the event application is made for a chauffeurs license by a resident of West Virginia whose occupa-

tion requires that he be licensed as a chauffeur in another jurisdiction and such other jurisdiction requires both an operators and chauffeurs license, such applicant would not be required to surrender the operators and chauffeurs license issued by such other jurisdiction.

§91-4-7. Junior operator's license.

Upon review of Chapter Seventeen-B, Article Two, Sections Two and Three of the Motor Vehicle Code as amended and re-enacted by the Legislature, Regular Session 1965, authorizing the Department of Motor Vehicles to issue a junior operator's license to applicants between the ages of sixteen (16) and eighteen (18), it appears:

That action by the Department requires exercise of the administrative authority vested in the Commissioner to adopt regulations to carry out the provisions and to prescribe standards and procedures for such action. It is accordingly ordered:

Any person between the ages of sixteen (16) and eighteen (18) making application to the Department of Motor Vehicles for an operator's license will be issued a junior operator's license. The pink colored card issued by the Department will designate the licensee as a junior operator.

No junior operator's license will be issued unless the application therefor is accompanied by a written consent to the issuance of such junior operator's license, executed by the parents of the applicant; or if only one parent is living, then by such parent; or if the parents be living separate and apart, by the one to whom was awarded the custody of the applicant; or if there is a guardian entitled to the custody of the applicant, then by such guardian.

The parent's consent form is on the reverse side of the application for Instruction Permit.

The form must be completed in every detail and all questions must be answered. The form must be signed by the parents, parent or guardian as the case requires and acknowledged before a notary public. Once the consent is given by the parents, parent or guardian and the Department is issued the junior operator's license, the consent may not be withdrawn.

Application forms will be the same as used when making application for a regular operator's license, and will require the statutory five dollar (\$5.00) fee and will contain the same information shown on the regular operator's license. The license will expire the first day of the month following the month in which the applicant attains his or her eighteenth birthday. Renewal notices will be mailed at least thirty (30) days before the license expires.

Any junior operator who has a record of two (2) moving traffic convictions which have become final, the license of such junior operator shall be permanently revoked, with like effect as if such person had never held a junior operator's license. However, a person whose junior operator's license has been revoked, upon attaining the age of eighteen (18), shall be eligible for examination and driver testing for a regular operator's or chauffeur's license; provided such person is not disqualified by law.

Any person holding a Valid West Virginia Junior operator's license who has reached the age of eighteen (18) years shall be entitled to make application to the Department of Motor Vehicles for renewal of the operator's license and upon payment of the statutory fee of five dollars (\$5.00) the Department will issue to the applicant a regular operator's or chauffeur's without further examination or driver testing. If the junior operator's license is expired when application is made for the regular operator's license, a fee of six dollars (\$6.00) will be required.

Any person between the ages of sixteen (16) and eighteen (18) making application to the Department of Motor Vehicles for a junior operator's license, who has a valid operator's license from another state, may be issued such license without taking the usual test and examinations required by statute, provided the state issuing the out-of-state license requires an examination for a Junior operator's License. However, the application will be required to surrender the out-of-state license and furnish the Department of Motor Vehicles with the consent of the parents, parent or guardian as to the issuance of such junior operator's license.

Applicants between the ages of sixteen (16) and eighteen (18) who are married will not be required to have their parent's consent to the issuance of a junior operator's license. However, a copy of the marriage certificate must be submitted with the application for operator's license. The marriage certificate will be

returned to the applicant when the License is issued.

§91-4-8. Renewal of expired operator's or chauffeur's license.

Upon review of the policy of the Department of Motor Vehicles in renewing expired operator's and chauffeur's license, it appears:

That the Rules and Regulations currently used when renewing an expired operator's and chauffeur's license are not in the best interest of the public in promoting highway safety and the protection of persons operating vehicles on the highways of this State

From the effective date of this regulation, no application for renewal of an expired operator's or chauffeur's license shall be issued to any applicant whose license has expired three (3) years prior to the date application was made for renewal.

Applicants whose license have expired for more than three (3) years shall be required to take a complete driving test and written examination in accordance with Chapter Seventeen-B, Article One, Sections Five, Six and Seven of the West Virginia Motor Vehicle Code.

§91-4-9. Changes on operator's and chauffeur's license.

No change of any kind will be made on an operator's or chauffeur's license issued by the Department of Motor Vehicles unless there is compliance with the requirements and procedures herein set forth:

In cases involving a change of name for any reason whatsoever, the applicant shall be required to submit an application for a duplicate operator's or chauffeur's license in the corrected name of the applicant. In the space designated on the application for a change of name, the former name of the applicant shall be inserted . . . if the change of name is required due to marriage of the applicant, a copy of the applicants marriage certificate shall accompany the application

Where change of name is necessitated by reason of divorce, a copy of the court order granting the divorce shall accompany the application. In the event the applicant was divorced and remarried, a copy of the court order granting the divorce and also a copy of the applicant's marriage certificate shall accompany the application.

If the birth date shown on the operator's or chauffeur's license was erroneously made by the applicant and request is made to correct the birth date, a copy of the applicant's birth certificate shall accompany the application.

In addition to the application and the documents required to make the changes on an operator's or chauffeur's license, a fee of one dollar (\$1.00) should also accompany the application in accordance with Chapter Seventeen-B, Article Two, Section Thirteen of the West Virginia Motor Vehicle Laws.

§91-4-10. Issuance of new type plastic drivers license card.

Effective April 1, 1970, the Department of Motor Vehicles will begin issuing a new type plastic drivers license card on all applications for new, renewal or duplicate drivers license. The card is three and three-eighths inches by two and one-quarter inches in size and will contain the following information; the sex, race, weight, height, color of eyes, birthdate and social security number of the licensee; the license number, date of issuance and the date the license expires; the name of the licensee, street and post office address and the zip code number of the post office.

A space is provided on the card for restriction code numbers. The restriction code information is shown on the reverse side of the drivers license card as listed below:

Code 1 - Restricted to operating a vehicle with one or more artificial limbs.

Code 2 - Restricted to operating a vehicle with eye glasses or contact lens.

Code 3 - Restricted to operating a vehicle equipped with automatic clutch or transmission.

Code 4 - Restricted to operating a vehicle equipped with approved mechanical signal lights.

Code 5 - Restricted to operating a vehicle equipped with approved hand controls.

Code 6 - Restricted to operating a vehicle with an approved outside mirror provided licensee's vision is impaired to the extent that the mirror would be required to operate a vehicle safely.

Code 7 - Restricted to operating a vehicle with eye glasses or contact lens and with an approved outside mirror, provided licensee's vision is impaired to the extent that the mirror would be required to operate a vehicle safely.

Code 8 - Restricted to operating a motorcycle, motor scooter, or any other two (2) or three (3) wheel motor driven cycle.

Code 9 - Restricted to all other restrictions. Detailed information for this type restriction is shown on the front of drivers license card in the blank spaces near the bottom of the card. Code 9 would include cases restricted to operating one (1) vehicle only or operating vehicles of a specified class of any other uncoded special restriction.

The information required on a drivers license will be imprinted on the card embossed or raised letters and numerals.

Space is provided on the reverse side of the card for the licensee's signature. The signature will not be valid unless signed in ink.

The color of the drivers license card will be blue and the letters and numerals imprinted thereon will be black.

Near the bottom of the license card in the space so designated one (1) of the four (4) classes of drivers license will be imprinted; operators, chauffeurs, school bus or junior operator.

When application is made for a duplicate operator's license card, in addition to the information outlined herein the license card would be designated as a duplicate with the abbreviation DUP in the lower right-hand corner of the card.

Any drivers license issued by the Department prior to this change will be valid until it expires.

§91-4-11. Requirements necessary to issue a driver's license to a member of the armed forces.

The Department of Motor Vehicles will issue a West Virginia driver's license to a member of the armed forces, provided the applicant complies with the requirements outlined herein, and upon payment of the required fees. If the application has a valid driver's license issued by the armed forces, such li-

cense must be surrendered to the department at the time application is made for a West Virginia driver's license. In the event the application for a West Virginia driver's license shows that the applicant is licensed in another jurisdiction or it is determined by any other manner whatsoever, such driver's license must be surrendered to the department before a West Virginia driver's license will be issued, provided the applicant is a resident or has established a bona fide residence in the state of West Virginia.

The West Virginia Motor Vehicle Code provides that the operator's license of any member of the armed forces shall be extended to the expiration of a period of six (6) months from the date of his separation under honorable circumstances from active duty in the armed forces. The department will extend this privilege to any member of the armed forces, provided such person is a bona fide resident or has established residence in this state.

During the six (6) month period after a member is separated from the armed forces, he may operate a vehicle on the highways of this state with the driver's license issued by the armed forces.

Entered as a revised Department Administrative Regulation this first day of September, 1977.

§91-4-12. Birth certificate or other acceptable documents required before a driver's license examination can be conducted.

On or after the first day of March, 1971, no written or driving examination will be given to any applicant until such applicant presents his birth certificate showing his full name and complete birth date to the driver licensing examiner. A copy of the original birth certificate would be acceptable if the examining officer is satisfied that no alterations or changes have been made thereon.

In the event the applicant does not have a birth certificate, he should be advised that a complete certified copy may be obtained from the State Vital Statistics Office in the state of his birth. However, if for any reason the applicant cannot secure a birth certificate, the following documents would be accepted as proof of full name and complete date of birth.

a. A certified copy of the applicant's application for a social security card. The card issued to the applicant would not be acceptable. A copy of the ap-

plication may be obtained from the Social Security Administration in Baltimore, Maryland 21235.

b. The applicant's military service record. The United States Department of Defense Form No. DD-214 will be acceptable.

c. The applicant's voter registration record. The applicant's voter registration certificate would not be acceptable. A letter from the registration office or county clerk of the county in which the applicant is registered certifying that the registration record showed the full name and complete birth date of the applicant would be acceptable.

In addition to any other information that may be shown on any of the documents outlined above, the document must show the complete birth date and full name of the applicant. The document must be properly certified and signed by the custodian in charge of such records.

Before approving any application for a learner's permit or driver's license, the licensing examiner should determine if the application contains the same name and date of birth as shown on the birth certificate or other document submitted. Initials for the first or middle name of the applicant should not be approved if the document submitted shows the full name. If the document shows only the first and last name of the applicant it would be acceptable and the letters NMN (no middle name) should be inserted in the space designated on the application for the middle name.

If the applicant's name has been established by legal change of name, adoption or legitimation, a copy of the court order or adoption documents should accompany the birth certificate or any of the other documents submitted.

In the event a driver clinic interview is scheduled for a licensee by the Department of Motor Vehicles, the licensee would not be required to submit a birth certificate or any other document unless the examining officer is in doubt as to the identity of the licensee

In all cases of a licensee being re-examined as a result of a mandatory revocation, the driver license examiner, before approving the application, should determine if the question, "Has your privilege to operate a motor vehicle ever been revoked, suspended or refused in this State or any other State?" has been

answered correctly.

§91-4-13. Procedures and requirements necessary for a student to be issued a regular operator's license, when said student has been issued a West Virginia driver education certificate, as provided in chapter eighteen, article six of the West Virginia code.

The provisions of Chapter Eighteen, Article Six of the Driver Education Law are such that it requires administrative regulations by the Department of Motor Vehicles to properly administer the provisions of the Driver Education Law as it relates to the responsibility of the Department of Motor Vehicles.

Any person between the ages of sixteen (16) and eighteen (18) who has successfully passed the Driver Education Course and has in his possession a valid West Virginia Driver Education Certificate would be required to take the same driver examination as would be required of any other applicant. The Driver Education Certificate does not exempt the applicant from any part of the driver license examination.

Any applicant between the ages of sixteen (16) and eighteen (18) years who presents a legible copy of a valid West Virginia Driver Education Certificate with

his original or first application for an operator's license that has been approved by the Department of Public Safety, shall be issued a regular four (4) year operator's license instead of a junior probationary operator's license.

Any applicant between the ages of sixteen (16) and eighteen (18) years who does not present a West Virginia Driver Education Certificate with his approved original or first application for an operator's license will be issued a junior probationary operator's license.

A licensee who has been issued a junior probationary license may exchange such license for a regular four (4) year license by submitting a new application for an operator's license to the Department of Motor Vehicles. The application must be accompanied by a five dollar (\$5.00) fee, a legible copy of the applicant's driver education certificate, and the junior probationary license that was previously issued to the applicant.

The request for a legible copy of the Driver Education Certificate is to avoid the expense of returning the original to the applicant. The copy must be legible and all the information shown on the original certificate must be shown on the copy.