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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

ENROLLED
Committee Substitute for
SENATE BILL NO. 509

(By Senator *TUCKER, Mr. President, et al*)

PASSED April 7, 1989
In Effect *90 days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 509

(BY SENATORS TUCKER, MR. PRESIDENT, AND HARMAN,
BY REQUEST OF THE EXECUTIVE)

[Passed April 7, 1989; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new chapter, designated chapter seventeen-e, establishing the Uniform Commercial Driver's License Act; definitions; setting forth limitations on the number of commercial driver's licenses; providing for notification by the driver; setting forth employer responsibilities; requiring a commercial driver's license; establishing exemptions to the commercial driver's license requirements; setting commercial driver license qualification standards; providing for third party testing; indemnification of driver examiners; waiver of skills test; limitations on issuance of license; establishing a commercial driver's instruction permit; setting forth the application requirements and information needed for a commercial driver's license; providing for classifications, endorsements and restrictions; establishing an applicant record check; providing for the notification of license issuance; establishing expiration of license and license renewal procedures; establishing disqualification offenses and cancellation of a commercial motor vehicle license;

prohibiting a commercial driver from operating with any alcohol in their system; establishing implied consent requirements for commercial motor vehicle drivers; providing for notification of traffic convictions; requiring driving record information to be furnished; providing for rule-making authority; providing for authority to enter agreements; providing for reciprocity; setting forth a severability and savings clause; establishing effective dates; providing for funding for the commercial driver's license, providing for fees and establishing a special revolving fund; providing enforcement; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new chapter, designated chapter seventeen-e, to read as follows:

CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-1. Short title.

1 This article may be cited as the "Uniform Commer-
2 cial Driver's License Act."

§17E-1-2. Statement of intent and purpose.

1 The purpose of this article is to implement the
2 federal commercial motor vehicle safety act of 1986
3 (Title XII of Public Law 99570) and reduce or prevent
4 commercial motor vehicle accidents, fatalities and
5 injuries by:

6 (a) Permitting commercial drivers to hold only one
7 license;

8 (b) Disqualifying commercial drivers who have
9 committed certain serious traffic offenses; and

10 (c) Strengthening licensing and testing standards.

11 This article is a remedial law and shall be liberally
12 construed to promote the public health, safety and

13 welfare. Where this article is silent, the general driver
14 licensing provisions apply.

§17E-1-3. Definitions.

1 Notwithstanding any other provision of this code,
2 the following definitions apply to this article:

3 “Alcohol” means:

4 (a) Any substance containing any form of alcohol,
5 including, but not limited to, ethanol, methanol,
6 propanol and isopropanol;

7 (b) Beer, ale, port or stout and other similar fer-
8 mented beverages (including sake or similar products)
9 of any name or description containing one half of one
10 percent or more of alcohol by volume, brewed or
11 produced from malt, wholly or in part, or from any
12 substitute therefor;

13 (c) Distilled spirits or that substance known as ethyl
14 alcohol, ethanol, or spirits of wine in any form
15 (including all dilutions and mixtures thereof from
16 whatever source or by whatever process produced); or

17 (d) Wine of not less than one half of one percent of
18 alcohol by volume.

19 “Alcohol concentration” means:

20 (a) The number of grams of alcohol per one hundred
21 milliliters of blood; or

22 (b) The number of grams of alcohol per two hundred
23 ten liters of breath; or

24 (c) The number of grams of alcohol per sixty-seven
25 milliliters of urine.

26 “Commercial driver license” means a license issued
27 in accordance with the requirements of this article to
28 an individual which authorizes the individual to drive
29 a class of commercial motor vehicle.

30 “Commercial driver license information system” is
31 the information system established pursuant to the
32 federal commercial motor vehicle safety act to serve as
33 a clearinghouse for locating information related to the

34 licensing and identification of commercial motor
35 vehicle drivers.

36 “Commercial driver instruction permit” means a
37 permit issued pursuant to subsection (e), section nine
38 of this article.

39 “Commercial motor vehicle” means a motor vehicle
40 designed or used to transport passengers or property;

41 (a) If the vehicle has a gross vehicle weight rating as
42 determined by federal regulation;

43 (b) If the vehicle is designed to transport sixteen or
44 more passengers, including the driver; or

45 (c) If the vehicle is transporting hazardous materials
46 and is required to be placarded in accordance with 49
47 C.F.R. part 172, sub-part F.

48 “Commissioner” means the commissioner of motor
49 vehicles of this state.

50 “Controlled substance” means any substance so
51 classified under the provisions of chapter sixty-a of
52 this code (uniform controlled substances act) and
53 includes all substances listed on Schedules I through
54 V, article two of said chapter sixty-a, as they may be
55 revised from time to time.

56 “Conviction” means the final judgment in a judicial
57 or administrative proceeding or a verdict or finding of
58 guilty, a plea of guilty, a plea of nolo contendere, an
59 implied admission of guilt or a forfeiture of bond or
60 collateral upon a charge of a disqualifying offense, as
61 a result of proceedings upon any violation of the
62 requirement of this article.

63 “Department” means the department of motor
64 vehicles.

65 “Disqualification” means a prohibition against
66 driving a commercial motor vehicle.

67 “Drive” means to drive, operate or be in physical
68 control of a motor vehicle in any place open to the
69 general public for purposes of vehicular traffic. For
70 purposes of sections twelve, thirteen and fourteen of

71 this article "drive" includes operation or physical
72 control of a motor vehicle anywhere in this state.

73 "Driver" means any person who drives, operates or
74 is in physical control of a commercial motor vehicle, in
75 any place open to the general public for purposes of
76 vehicular traffic, or who is required to hold a commer-
77 cial driver license.

78 "Driver license" means a license issued by a state to
79 an individual which authorizes the individual to drive
80 a motor vehicle of a specific class.

81 "Employee" means a person who is employed by an
82 employer to drive a commercial motor vehicle, includ-
83 ing independent contractors. An employee who is
84 employed by himself or herself as a commercial motor
85 vehicle driver must comply with both the require-
86 ments of this article pertaining to employees and
87 employers.

88 "Employer" means any person, including the United
89 States, a state, or a political subdivision of a state, who
90 owns or leases a commercial motor vehicle, or assigns
91 a person to drive a commercial motor vehicle.

92 "Farm vehicle" includes a motor vehicle or combi-
93 nation vehicle registered to the farm owner or entity
94 operating the farm and used exclusively in the trans-
95 portation of agricultural or horticultural products,
96 livestock, poultry and dairy products from the farm or
97 orchard on which they are raised or produced to
98 markets, processing plants, packing houses, canneries,
99 railway shipping points and cold storage plants and in
100 the transportation of agricultural or horticultural
101 supplies and machinery to such farms or orchards to
102 be used thereon.

103 "Farmer" includes, but is not limited to, owner,
104 tenant, lessee, occupant or person in control of the
105 premises used substantially for agricultural or horti-
106 cultural pursuits, who is at least eighteen years of age
107 with two years licensed driving experience.

108 "Farmer vehicle driver" means the person
109 employed and designated by the "farmer" to drive a

110 “farm vehicle” as long as driving is not his sole or
111 principal function on the farm, who is at least eighteen
112 years of age with two years licensed driving
113 experience.

114 “Gross vehicle weight rating” means the value
115 specified by the manufacturer as the maximum loaded
116 weight of a single or a combination (articulated)
117 vehicle, or registered gross weight, whichever is
118 greater. The gross vehicle weight rating of a combina-
119 tion (articulated) vehicle (commonly referred to as the
120 “gross combination weight rating”) is the gross vehicle
121 weight rating of the power unit plus the gross vehicle
122 weight rating of the towed unit or units.

123 “Hazardous materials” has the meaning as that
124 found in Section 103 of the Hazardous Materials
125 Transportation Act (49 App. U.S.C. 1801 et seq.).

126 “Motor vehicle” means every vehicle which is self-
127 propelled, and every vehicle which is propelled by
128 electric power obtained from overhead trolley wires but
129 not operated upon rails.

130 “Out-of-service order” means a temporary prohibi-
131 tion against driving a commercial motor vehicle.

132 “Serious traffic violation” means:

133 (a) Operating a motor vehicle under the influence of
134 alcohol or a controlled substance in violation of the
135 provisions of section two, article five, chapter
136 seventeen-c of this code;

137 (b) Failure to stop and render aid and provide
138 required information after involvement in a motor
139 vehicle accident resulting in death, injury or property
140 damage, as provided in section five, article three,
141 chapter seventeen-b and sections one through five,
142 inclusive, article four, chapter seventeen-c of this code;

143 (c) A felony in the commission of which a motor
144 vehicle is used; as stated in subsection (2), section five,
145 article three, chapter seventeen-b of this code;

146 (d) Excessive speeding defined as fifteen miles per
147 hour in excess of all posted limits;

148 (e) Reckless driving as defined in section three,
149 article five, chapter seventeen-c of this code including
150 erratic lane changes and following the vehicle ahead
151 too closely;

152 (f) A violation of state or local law relating to motor
153 vehicle traffic control (other than a parking violation)
154 arising in connection with a fatal traffic accident.
155 Vehicle weight and vehicle defects are excluded as
156 serious traffic violations;

157 (g) Violation of an out-of-service order; or

158 (h) Any other serious violations as may be deter-
159 mined by the U. S. Secretary of Transportation.

160 "State" means a state of the United States and the
161 District of Columbia.

162 "At fault traffic accident" means for the purposes of
163 waiving the road test, a determination, by the official
164 filing the accident report, of fault as evidenced by an
165 indication of contributing circumstances in the acci-
166 dent report.

§17E-1-4. Limitation on number of driver's licenses.

1 No person who drives a commercial motor vehicle
2 may have more than one driver license at one time
3 except during the ten-day period beginning on the
4 date the person is issued a driver's license.

§17E-1-5. Notification required by driver.

1 (a) *Notification of convictions.*

2 (1) *To state.* — Any driver of a commercial motor
3 vehicle holding a driver's license issued by this state,
4 who is convicted of violating any state law or local
5 ordinance relating to motor vehicle traffic control, in
6 any other state or federal, provincial, territorial or
7 municipal laws of Canada, other than parking viola-
8 tions, shall notify the West Virginia department of
9 motor vehicles in the manner specified by the com-
10 missioner within thirty days of the date of conviction.

11 (2) *To employers.* — Any driver of a commercial
12 motor vehicle holding a driver's license issued by this

13 state, who is convicted of violating any state law or
14 local ordinance relating to motor vehicle traffic control
15 in this state or any other state or federal, provincial,
16 territorial or municipal laws of Canada, other than
17 parking violations, must notify his or her employer in
18 writing of the conviction within thirty days of the date
19 of conviction.

20 (b) *Notification of suspensions, revocations, cancella-*
21 *tions and expiration.* — Each driver whose driver's
22 license is suspended, revoked, canceled, or expired, by
23 any state, who loses the privilege to drive a commer-
24 cial motor vehicle in any state for any period, or who
25 is disqualified from driving a commercial motor
26 vehicle for any period, must notify his or her
27 employer of that fact before the end of the business
28 day following the day the driver received notice of
29 that fact.

30 (c) *Notification of previous employment.* — Each
31 person who applies to be a commercial motor vehicle
32 driver must provide the employer, at the time of the
33 application, with the following information for the ten
34 years preceding the date of application:

35 (1) A list of the names and addresses of the appli-
36 cant's previous employers for which the applicant was
37 a driver of a commercial motor vehicle;

38 (2) The dates between which the applicant drove for
39 each employer; and

40 (3) The reason for leaving that employer. The
41 applicant must certify that all information furnished is
42 true and complete. An employer may require an
43 applicant to provide additional information.

§17E-1-6. Employer responsibilities.

1 (a) Each employer must require the applicant to
2 provide the information specified in section five of this
3 article.

4 (b) No employer may knowingly allow, permit, or
5 authorize a driver to drive a commercial motor vehicle
6 during any period:

7 (1) In which the driver has a driver's license
8 suspended, revoked, or canceled by a state; has lost the
9 privilege to drive a commercial motor vehicle in a
10 state, or has been disqualified from driving a commer-
11 cial motor vehicle; or

12 (2) In which the driver has more than one driver's
13 license at one time except during the ten-day period
14 beginning on the date the employee is issued a driver's
15 license.

§17E-1-7. Commercial driver's license required.

1 (a) On or after the first day of April, one thousand
2 nine hundred ninety-two, except when driving under
3 a commercial driver's instruction permit accompanied
4 by the holder of a commercial driver's license valid for
5 the vehicle being driven, no person may drive a
6 commercial motor vehicle unless the person holds a
7 commercial driver's license and applicable endorse-
8 ments valid for the vehicle they are driving.

9 (b) No person may drive a commercial motor vehicle
10 while their driving privilege is suspended, revoked,
11 canceled, or expired, while subject to a disqualifica-
12 tion, or in violation of an out-of-service order.

13 (c) Drivers of a commercial motor vehicle must have
14 a commercial driver's license in their possession at all
15 times while driving.

§17E-1-8. Exemptions to the commercial driver's license requirements.

1 (a) *Farmers.* — Bona fide farmers or farm vehicle
2 drivers, as defined, operating a vehicle otherwise
3 covered by the commercial driver's license require-
4 ments may be exempted from the provisions of this
5 article only if the vehicle used is:

6 (1) Driven by a farmer or farm vehicle driver;

7 (2) Used only to transport either agricultural pro-
8 ducts, farm machinery, farm supplies, to or from a
9 farm;

10 (3) Not used in the operation of a common or

11 contract motor carrier; and

12 (4) Used within one hundred fifty miles of the
13 qualifying farm.

14 Farmers who wish to be exempted from the com-
15 mercial driver's license requirements must apply to
16 the department of motor vehicles for a certificate of
17 exemption.

18 (b) *Military personnel.* — Military personnel, includ-
19 ing the national guard and reserve will be exempt
20 from the provision of this article, only:

21 (1) When in uniform; and

22 (2) Operating equipment owned by the United States
23 department of defense, except during declared emer-
24 gencies or disaster situations; and

25 (3) On duty; and

26 (4) In possession of a valid classified military driver's
27 license for the class of vehicle being driven.

28 (c) *Fire fighting and rescue equipment.* — Operators
29 of vehicles authorized to hold an "authorized emer-
30 gency vehicle permit" for use of red signal lights only
31 are exempt from the provision of this article while the
32 "authorized emergency vehicle permit" is in force.
33 Vehicles in this class include, but are not limited to,
34 fire fighters and rescue equipment:

35 (1) Owned and operated by state, county and munic-
36 ipal fire departments.

37 (2) Owned and operated by state, county and munic-
38 ipal civil defense organizations.

39 (3) Owned and operated by a manufacturer engaged
40 in a type of business that requires fire fighter equip-
41 ment to protect the safety of their plants and its
42 employees.

43 (4) Owned and operated by volunteer fire
44 departments.

45 (d) The Commercial Motor Vehicles Safety Act of
46 1986, exempts vehicles used exclusively for personal

47 use such as recreation vehicles and rental trucks used
48 only to transport the driver's personal or household
49 property.

§17E-1-9. Commercial driver license qualification standards.

1 (a) On or after the first day of July, one thousand
2 nine hundred eighty-nine, the conversion process will
3 phase out the existing West Virginia chauffeur's
4 license which shall expire by the first day of April, one
5 thousand nine hundred ninety-two. At the expiration
6 of a chauffeur's license between the first day of July,
7 one thousand nine hundred eighty-nine, and the first
8 day of April, one thousand nine hundred ninety-two,
9 an individual must either qualify for a commercial
10 driver's license or renew with an operator's license.
11 Any one holding an operator's license on the first day
12 of July, one thousand nine hundred eighty-nine, who
13 either drives a commercial motor vehicle or expects to
14 drive a commercial motor vehicle must qualify for a
15 commercial driver's license by April, one thousand
16 nine hundred ninety-two.

17 Those who qualify for a commercial driver's license
18 after the first day of July, one thousand nine hundred
19 eighty-nine, will be issued a provisional commercial
20 driver's license. The provisional commercial driver's
21 license will be valid until the driver's history record
22 has been checked and recorded with the national
23 commercial driver's license information system. If the
24 record checks indicate no disqualifying problem, the
25 qualified driver will be issued a full commercial
26 driver's license at no additional fee. All provisional
27 commercial driver licenses will expire no later than
28 the first day of April, one thousand nine hundred
29 ninety-two.

30 (b) (1) *General.* — No person may be issued a
31 commercial driver's license unless that person is a
32 resident of this state and has passed a knowledge and
33 skills test for driving a commercial motor vehicle
34 which complies with minimum federal standards
35 established by federal regulations enumerated in 49
36 C.F.R. part 383, sub-parts G and H, and has satisfied all

37 other requirements of the Federal Commercial Motor
38 Vehicle Safety Act in addition to other requirements
39 imposed by state law or federal regulations. The tests
40 will be administered by the department of public
41 safety according to rules promulgated by the
42 commissioner.

43 (2) *Third party testing.* — The commissioner may
44 authorize a person, including an agency of this or
45 another state, an employer, private individual or
46 institution, department, agency or instrumentality of
47 local government, to administer the skills test specified
48 by this section: *Provided*, That (i) the test is the same
49 which would otherwise be administered by the state
50 and (ii) the party has entered into an agreement with
51 the state which complies with the requirements of 49
52 C.F.R. party 383.75.

53 (3) *Indemnification of driver examiners.* — No
54 person who has been officially trained and certified by
55 the state as a driver examiner, who administers any
56 such driving test, and no other person, firm or corpo-
57 ration by whom or with which such person is
58 employed or is in any way associated, may be crimi-
59 nally liable for the administration of such tests, or
60 civilly liable in damages to the person tested or other
61 persons or property unless for gross negligence or
62 willful or wanton injury.

63 (4) Monitoring of third party testing will be carried
64 out by the department of public safety according to
65 rules promulgated by the commissioner.

66 (c) *Waiver of skills test.* — The commissioner may
67 waive the skills test specified in this section for a
68 commercial driver license applicant who meets the
69 requirements of 49 C.F.R. part 383.77 and those
70 requirements specified by the commissioner.

71 (d) *Limitations on issuance of license.* — A commer-
72 cial driver's license or commercial driver's instruction
73 permit may not be issued to a person while the person
74 is subject to a disqualification from driving a commer-
75 cial motor vehicle, or while the person's driver's
76 license is suspended, revoked or canceled in any state;

77 nor may a commercial driver's license be issued by
78 any other state unless the person first surrenders all
79 such licenses to the department, which must be
80 returned to the issuing state(s) for cancellation.

81 (e) *Commercial driver's instruction permit.* — (1) A
82 commercial driver's instruction permit may be issued
83 to an individual who holds a valid operator or Class
84 "D" driver license who has passed the vision and
85 written tests required for issuance of a commercial
86 driver license. (2) The commercial instruction permit
87 may not be issued for a period to exceed six months.
88 Only one renewal or reissuance may be granted
89 within a two-year period. The holder of a commercial
90 driver's instruction permit may drive a commercial
91 motor vehicle on a highway only when accompanied
92 by the holder of a commercial driver license valid for
93 the type of vehicle driven who occupies a seat beside
94 the individual for the purpose of giving instruction or
95 testing. (3) A commercial driver's instruction permit
96 may only be issued to an individual who is at least
97 eighteen years of age and has held an operator's or
98 junior operator's license for at least two years. (4) The
99 applicant for a commercial driver's instruction permit
100 must also be otherwise qualified to hold a commercial
101 driver's license.

§17E-1-10. Application for commercial driver's license.

1 (a) The application for a commercial driver's license
2 or commercial driver's instruction permit, must
3 include at least the following:

4 (1) The full name and current mailing and residen-
5 tial address of the person;

6 (2) A physical description of the person including
7 sex, height, weight, eye and hair color;

8 (3) Date of birth;

9 (4) The applicant's social security number;

10 (5) The person's signature;

11 (6) The person's color photograph;

12 (7) Certifications including those required by 49
13 C.F.R. part 383.71(a);

14 (8) Any other information required by the commis-
15 sioner; and

16 (9) A consent to release driving record information.

17 (b) When a licensee changes his or her name,
18 mailing address or residence, an application for a
19 duplicate license must be made.

20 (c) No person who has been a resident of this state
21 for thirty days or more may drive a commercial motor
22 vehicle under the authority of a commercial driver's
23 license issued by another jurisdiction.

§17E-1-11. Commercial driver's license.

1 The commercial driver's license must be marked
2 "commercial driver's license" or "CDL," and must be,
3 to the maximum extent practicable, tamper proof. It
4 must include, but not be limited to, the following
5 information:

6 (a) The name and residential address of the person;

7 (b) The person's color photograph;

8 (c) A physical description of the person including
9 sex, height, weight, eye, and hair color;

10 (d) Date of birth;

11 (e) The person's signature;

12 (f) The class or type of commercial motor vehicle or
13 vehicles which the person is authorized to drive
14 together with any endorsement(s) or restriction(s);

15 (g) The name of this state;

16 (h) The dates between which the license is valid; and

17 (i) Social security number.

§17E-1-12. Classifications, endorsements and restrictions.

1 Commercial driver's licenses may be issued, with
2 the following classifications, endorsements, and res-
3 trictions; the holder of a valid commercial driver's

4 license may drive all vehicles in the class for which
5 that license is issued, and all lesser classes of vehicles
6 and vehicles which require an endorsement, unless
7 the proper endorsement appears on the license:

8 (a) *Classifications:*

9 Class A - Any combination of vehicles with a gross
10 vehicle weight rating of twenty-six thousand one
11 pounds or more, provided the gross vehicle weight
12 rating of the vehicle(s) being towed is in excess of ten
13 thousand pounds or is a semi-trailer or a trailer with
14 two or more axles.

15 Class B - Any single vehicle with a gross vehicle
16 weight rating of twenty-six thousand one pounds or
17 more, and any such vehicle towing a vehicle not in
18 excess of ten thousand pounds or is a semi-trailer or
19 a trailer with two or more axles.

20 Class C - Any single vehicle with a gross vehicle
21 weight rating of less than twenty-six thousand one
22 pounds or any such vehicle towing a vehicle with a
23 gross vehicle weight rating not in excess of ten
24 thousand pounds comprising:

25 (1) Vehicles designed to transport sixteen or more
26 passengers, including the driver; and

27 (2) Vehicles used in the transportation of hazardous
28 materials which requires the vehicle to be placarded
29 under 49 C.F.R., part 172, sub-part F.

30 Class D - Automobiles, pickup trucks, and all other
31 motor vehicles not specified in Class A, B, and C.

32 (b) *Endorsements and restrictions:*

33 "H" Authorizes the driver to drive a vehicle trans-
34 porting hazardous materials.

35 "K" Restricts the driver to vehicles not equipped
36 with airbrakes.

37 "T" Authorizes driving double and triple trailers.

38 "P" Authorizes driving vehicles carrying passengers.

39 "N" Authorizes driving tank vehicles.

40 "X" Represents a combination of hazardous mate-
41 rials and tank vehicle endorsements.

42 (c) *Applicant record check.* — Before issuing a
43 commercial driver's license, the commissioner must
44 obtain driving record information through the com-
45 mercial driver's license information system, the
46 national driver register and from each state in which
47 the person has been licensed.

48 (d) *Notification of license issuance.* — Within ten
49 days after issuing a commercial driver's license, the
50 commissioner shall notify the commercial driver's
51 license information system of that fact, providing all
52 information required to ensure identification of the
53 person.

54 (e) *Expiration of license.* — The commercial driver's
55 license shall expire four years from date of issuance.

56 Commercial driver's licenses held by any person in
57 the armed forces which expire while that person is on
58 active duty shall remain valid for thirty days from the
59 date on which that person reestablishes residence in
60 West Virginia.

61 Any person applying to renew a commercial driver's
62 license which has been expired for two years or more
63 must follow the procedures for an initial issuance of a
64 commercial driver's license, including the testing
65 provisions.

66 (f) *License renewal procedures.* — When applying
67 for renewal of a commercial driver's license, the
68 applicant must complete the application form, provid-
69 ing updated information and required certifications. If
70 the applicant wishes to retain a hazardous materials
71 endorsement, the written test for a hazardous mate-
72 rials endorsement must be taken and passed.

§17E-1-13. Disqualification and cancellation.

1 (a) *Disqualification offenses.* — On or after the first
2 day of April, one thousand nine hundred ninety-two,
3 any person is disqualified from driving a commercial
4 motor vehicle for a period of not less than one year if

5 convicted of a first violation of:

6 (1) Driving a commercial motor vehicle under the
7 influence of alcohol or a controlled substance;

8 (2) Driving a commercial motor vehicle while the
9 alcohol concentration of the person's blood or breath is
10 four hundredths or more;

11 (3) Leaving the scene of an accident involving a
12 commercial motor vehicle driven by the person;

13 (4) Using a commercial motor vehicle in the commis-
14 sion of any felony as defined in this article;

15 (5) Refusal to submit to a test to determine the
16 driver's alcohol concentration while driving a com-
17 mercial motor vehicle.

18 In addition, the conviction of any of the following
19 offenses as an operator of any vehicle is a disqualifi-
20 cation offense:

21 (1) Manslaughter or negligent homicide resulting
22 from the operation of a motor vehicle as defined under
23 the provision of section five, article three, chapter
24 seventeen-b, and section one, article five, chapter
25 seventeen-c of this code;

26 (2) Driving while license is suspended or revoked, as
27 defined under the provisions of section three, article
28 four, chapter seventeen-b of this code;

29 (3) Perjury or making a false affidavit or statement
30 under oath to the department of motor vehicles, as
31 defined under the provisions of subsection (4), section
32 five, article three, and section two, article four,
33 chapter seventeen-b of this code.

34 If any of the above violations occurred while trans-
35 porting a hazardous material required to be placarded,
36 the person is disqualified for a period of not less than
37 three years.

38 (b) A person is disqualified for life if convicted of
39 two or more violations of any of the offenses specified
40 in subsection (a) of this section, or any combination of
41 those offenses, arising from two or more separate

42 incidents.

43 (c) The commissioner may issue rules establishing
44 guidelines, including conditions, under which a dis-
45 qualification for life under subsection (b) of this
46 section may be reduced to a period of not less than ten
47 years.

48 (d) A person is disqualified from driving a commer-
49 cial motor vehicle for life who uses a commercial
50 motor vehicle in the commission of any felony involv-
51 ing the manufacture, distribution or dispensing of a
52 controlled substance, or possession with intent to
53 manufacture, distribute or dispense a controlled
54 substance.

55 (e) A person is disqualified from driving a commer-
56 cial motor vehicle for a period of not less than sixty
57 days if convicted of two serious traffic violations, or
58 one hundred twenty days if convicted of three serious
59 violations, committed in a commercial motor vehicle
60 arising from separate incidents occurring within a
61 three-year period.

62 (f) After suspending, revoking or cancelling a com-
63 mercial driver's license, the department shall update
64 its records to reflect that action within ten days.

**§17E-1-14. Commercial drivers prohibited from operating
with any alcohol in system.**

1 (a) Notwithstanding any other provision of this
2 article, a person may not drive, operate or be in
3 physical control of a commercial motor vehicle while
4 having any measurable alcohol in his or her system.

5 (b) In addition to any other penalties provided by
6 this code, a person who drives, operates or is in
7 physical control of a commercial motor vehicle while
8 having any measurable alcohol in his or her system or
9 who refuses to take a preliminary breath test to
10 determine their alcohol content as provided by section
11 fifteen of this article must be placed out of service for
12 twenty-four hours.

§17E-1-15. Implied consent requirements for commercial motor vehicles drivers.

1 (a) A person who drives a commercial motor vehicle
2 within this state is deemed to have given consent,
3 subject to provisions of section four, article five,
4 chapter seventeen-c of this code, to take a test or tests
5 of that person's blood, breath or urine for the purpose
6 of determining that person's alcohol concentration, or
7 the presence of other drugs.

8 (b) A test or tests may be administered at the
9 direction of a law-enforcement officer, who after
10 stopping or detaining the commercial motor vehicle
11 driver, has reasonable cause to believe that driver was
12 driving a commercial motor vehicle while having
13 alcohol in his or her system.

14 (c) A person requested to submit to a test as pro-
15 vided in subsection (a) of this section must be warned
16 by the law-enforcement officer requesting the test that
17 a refusal to submit to the test will result in that person
18 being disqualified from operating a commercial motor
19 vehicle under section fifteen of this article.

20 (d) If the person refuses testing, or submits to a test
21 which discloses an alcohol concentration of four
22 hundredths or more, that law-enforcement officer
23 must submit a sworn report to the department of
24 motor vehicles certifying that the test was requested
25 pursuant to subsection (a) of this section and that the
26 person refused to submit to testing, or submitted to a
27 test which disclosed an alcohol concentration of four
28 hundredths or more.

29 (e) Upon receipt of the sworn report of a law-
30 enforcement officer submitted under subsection (d) of
31 this section, the commissioner must disqualify the
32 driver from driving a commercial motor vehicle under
33 section fifteen of this article.

§17E-1-16. Notification of traffic convictions.

1 Within ten days after receiving a report of the
2 conviction of any holder of a commercial driver
3 license for any violation of state law or local ordinance

4 relating to motor vehicle traffic control, other than
5 parking violations, committed in a commercial motor
6 vehicle, the commissioner must notify the driver
7 licensing authority in the licensing state of the convic-
8 tion and the United States department of transporta-
9 tion, federal highway administration, and the public
10 service commission, transportation division.

§17E-1-17. Driving record information to be furnished.

1 Notwithstanding any other provision of law to the
2 contrary, the commissioner must furnish full informa-
3 tion regarding the driving record of any person:

4 (a) To the driver license administrator of any other
5 state or province or territory of Canada, requesting
6 that information;

7 (b) To any employer or prospective employer;

8 (c) To insurers upon request;

9 (d) To credit reporting organizations and for other
10 legitimate business transactions; or

11 (e) The driver himself.

§17E-1-18. Rule-making authority.

1 The commissioner shall adopt rules and regulations
2 necessary to carry out the provisions of this article.

§17E-1-19. Authority to enter agreements.

1 The commissioner may enter into or make agree-
2 ments, arrangements or declarations to carry out the
3 provisions of this chapter.

§17E-1-20. Reciprocity.

1 Notwithstanding any law to the contrary, a person
2 may drive a commercial motor vehicle if the person
3 has a commercial driver's license by any state in
4 accordance with the minimum federal standards for
5 the issuance of commercial motor vehicle driver
6 licenses; if the license is not suspended, revoked or
7 canceled; and if the person is not disqualified from
8 driving a commercial motor vehicle, or subject to an
9 "out-of-service" order.

§17E-1-21. Severability and savings clause.

1 The provisions of any chapter or parts of chapters of
2 this code, which are inconsistent with the provisions of
3 this chapter, are repealed to the extent of such
4 inconsistency.

§17E-1-22. Effective dates.

1 All provisions of this chapter are effective immedi-
2 ately on passage except:

3 (a) Section seven - the first day of April, one
4 thousand nine hundred ninety-two.

5 (b) Section eight - the first day of July, one thousand
6 nine hundred eighty-nine.

7 (c) Section nine - the first day of July, one thousand
8 nine hundred eighty-nine.

9 (d) Section ten - the first day of July, one thousand
10 nine hundred eighty-nine.

11 (e) Sections eleven, twelve, thirteen, fourteen - the
12 first day of April, one thousand nine hundred ninety-
13 two.

§17E-1-23. Funding for the commercial driver's license fees.

1 Each application for a commercial driver's license
2 shall be accompanied by the fees hereafter provided
3 and such fees shall be deposited in a special revolving
4 fund for the operation by the department of its
5 functions established by this chapter.

6 The fee for a commercial driver's license shall be
7 established by the commissioner to cover all necessary
8 costs for program administration. The fees for knowl-
9 edge and road testing shall also be established by the
10 commissioner to cover all program costs projected to
11 be incurred by the department of motor vehicles and
12 the department of public safety. The commissioner of
13 motor vehicles is authorized and directed to transfer
14 into a special revolving fund under the control of the
15 superintendent of the department of public safety such
16 amounts required by the department of public safety
17 and determined by the commissioner as necessary to
18 administer its responsibilities under this article.

§17E-1-24. Enforcement.

1 In addition to the officers of the department of
2 public safety, any police officer, or employee of the
3 department of highways designated by the commis-
4 sioner of highways as a weight enforcement officer, or
5 any inspector of the public service commission, motor
6 carrier division, may enforce the provisions of this
7 article.

§17E-1-25. Penalties.

1 It is a misdemeanor for any person to violate any of
2 the provisions of this chapter unless such violation is
3 by this chapter or other law of this state, declared to
4 be a felony.

5 Unless another penalty is provided in this chapter or
6 by the laws of this state, every person convicted of a
7 misdemeanor for the violation of any provisions of this
8 chapter shall be fined not less than one hundred
9 dollars nor more than one thousand dollars, or impri-
10 soned for not more than six months in the county jail,
11 or both fined and imprisoned, except that for the
12 second violation of section seven of this article and,
13 upon conviction thereof, the offender shall be fined
14 not less than five hundred dollars nor more than two
15 thousand dollars or imprisoned for not less than six
16 months nor more than nine months in the county jail,
17 or both fined and imprisoned. For the third or any
18 subsequent conviction for violation of section seven of
19 this article, upon conviction thereof, the offender shall
20 be fined not less than one thousand dollars nor more
21 than two thousand five hundred dollars, or imprisoned
22 for not less than nine months nor more than one year
23 in the county jail, or both fined and imprisoned.

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

Fredrick L. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Ladd C. Miller
.....
Clerk of the Senate

Donald J. Vozz
.....
Clerk of the House of Delegates

Land Tucker
.....
President of the Senate

Robert C. ...
.....
Speaker House of Delegates

The within *is* approved this the *24th*
day of *April* 1989
Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/14/89

Time 4:50