

FILED

2007 MAR 21 PM 4:34

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2575**

(By Delegates Hrutkay, Stephens, Burdiss, Shook, Pethtel,
Ellem, Pino, Proudfoot, Schadler and Webster)

Passed March 9, 2007

In Effect Ninety Days from Passage

HB 2575 S

ENROLLED

FILED

2007 MAR 21 PM 4: 34

COMMITTEE SUBSTITUTE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

FOR

H. B. 2575

(BY DELEGATES HRUTKAY, STEPHENS, BURDISS, SHOOK,
PETHTEL, ELLEM, PINO, PROUDFOOT, SCHADLER AND WEBSTER)

[Passed March 9, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §17E-1-3, §17E-1-6, §17E-1-7, §17E-1-8, §17E-1-13, §17E-1-20 and §17E-1-25 of the Code of West Virginia, 1931, as amended, all relating to commercial driver's licences; updating the definition of hazardous materials; reducing the penalty for driving a commercial motor vehicle without a commercial driver's license in possession; reducing the penalty for driving a commercial motor vehicle without a commercial driver's license or proper endorsement; updating provisions pertaining to commercial driver's licenses to conform with federal law; suspending, revoking or canceling the privilege of operating a motor vehicle for offenses in another state; and providing a civil penalty for persons convicted of violating an out-of-service order.

Be it enacted by the Legislature of West Virginia:

That §17E-1-3, §17E-1-6, §17E-1-7, §17E-1-8, §17E-1-13, §17E-1-20 and §17E-1-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-3. Definitions.

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

3 (1) "Alcohol" means:

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

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

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

16 (D) Wine of not less than one half of one percent of
17 alcohol by volume.

18 (2) "Alcohol concentration" means:

19 (A) The number of grams of alcohol per one hundred
20 milliliters of blood;

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

23 (C) The number of grams of alcohol per sixty-seven
24 milliliters of urine.

25 (D) The number of grams of alcohol per eighty-six
26 milliliters of serum.

27 (3) "At fault traffic accident" means for the purposes of
28 waiving the road test, a determination, by the official filing
29 the accident report, of fault as evidenced by an indication of
30 contributing circumstances in the accident report.

31 (4) "Commercial driver's license" means a license issued
32 in accordance with the requirements of this article to an
33 individual which authorizes the individual to drive a class of
34 commercial motor vehicle.

35 (5) "Commercial driver's license information system" is
36 the information system established pursuant to the Federal
37 Commercial Motor Vehicle Safety Act to serve as a
38 clearinghouse for locating information related to the licensing
39 and identification of commercial motor vehicle drivers.

40 (6) "Commercial driver instruction permit" means a
41 permit issued pursuant to subsection (d), section nine of this
42 article.

43 (7) "Commercial motor vehicle" means a motor vehicle
44 designed or used to transport passengers or property:

45 (A) If the vehicle has a gross combination vehicle weight
46 rating of 26,001 pounds or more inclusive of a towed unit(s)
47 with a gross vehicle weight rating of more than 10,000
48 pounds;

49 (B) If the vehicle has a gross vehicle weight rating of
50 more than 26,001 pounds or more;

51 (C) If the vehicle is designed to transport sixteen or more
52 passengers, including the driver; or

53 (D) If the vehicle is of any size transporting hazardous
54 materials as defined in this section.

55 (8) "Commissioner" means the Commissioner of Motor
56 Vehicles of this state.

57 (9) "Controlled substance" means any substance
58 classified under the provisions of chapter sixty-a of this code
59 (Uniform Controlled Substances Act) and includes all
60 substances listed on Schedules I through V, inclusive, article
61 two of said chapter sixty-a, as they are revised. The term
62 "controlled substance" also has the meaning such term has
63 under 21 U.S.C. §802.6 and includes all substances listed on
64 Schedules I through V of 21 C.F.R. §1308 as they may be
65 amended by the United States Department of Justice.

66 (10) "Conviction" means an unvacated adjudication of
67 guilt; a determination that a person has violated or failed to
68 comply with the law in a court of original jurisdiction or by
69 an authorized administrative tribunal or proceeding; an
70 unvacated forfeiture of bail or collateral deposited to secure
71 the persons appearance in court; a plea of guilty or nolo
72 contendere accepted by the court or the payment of a fine or
73 court cost, or violation of a condition of release without bail
74 regardless of whether or not the penalty is rebated,
75 suspended, or probated.

76 (11)"Division" means the Division of Motor Vehicles.

77

78 (12)"Disqualification" means any of the following three
79 actions:

80 (A) The suspension, revocation, or cancellation of a
81 driver's license by the state or jurisdiction of issuance.

82 (B) Any withdrawal of a person's privilege to drive a
83 commercial motor vehicle by a state or other jurisdiction as
84 the result of a violation of state or local law relating to motor
85 vehicle traffic control other than parking or vehicle weight
86 except as to violations committed by a special permittee on
87 the coal resource transportation system or vehicle defect
88 violations.

89 (C) A determination by the Federal Motor Carrier Safety
90 Administration that a person is not qualified to operate a
91 commercial motor vehicle under 49 C.F.R. Part §391 (2004).

92 (13) "Drive" means to drive, operate or be in physical
93 control of a motor vehicle in any place open to the general
94 public for purposes of vehicular traffic. For the purposes of
95 sections twelve, thirteen and fourteen of this article, "drive"
96 includes operation or physical control of a motor vehicle
97 anywhere in this state.

98 (14) "Driver" means any person who drives, operates or
99 is in physical control of a commercial motor vehicle, in any
100 place open to the general public for purposes of vehicular
101 traffic, or who is required to hold a commercial driver's
102 license.

103 (15) "Driver's license" means a license issued by a state
104 to an individual which authorizes the individual to drive a
105 motor vehicle of a specific class.

106 (16) "Employee" means any operator of a commercial
107 motor vehicle, including full time, regularly employed
108 drivers; casual, intermittent, or occasional drivers; leased
109 drivers and independent, owner-operator contractors (while
110 in the course of operating a commercial motor vehicle) who
111 are either directly employed by or under lease to drive a
112 commercial motor vehicle for an employer.

113 (17) "Employer" means any person, including the United
114 States, a state or a political subdivision of a state, who owns
115 or leases a commercial motor vehicle or assigns a person to
116 drive a commercial motor vehicle.

117 (18) "Endorsement" means an authorization to a person
118 to operate certain types of commercial motor vehicles.

119 (19) "Farm vehicle" includes a motor vehicle or
120 combination vehicle registered to the farm owner or entity
121 operating the farm and used exclusively in the transportation
122 of agricultural or horticultural products, livestock, poultry
123 and dairy products from the farm or orchard on which they
124 are raised or produced to markets, processing plants, packing
125 houses, canneries, railway shipping points and cold storage

126 plants and in the transportation of agricultural or horticultural
127 supplies and machinery to the farms or orchards to be used
128 on the farms or orchards.

129 (20) "Farmer" includes an owner, tenant, lessee, occupant
130 or person in control of the premises used substantially for
131 agricultural or horticultural pursuits who is at least eighteen
132 years of age with two years' licensed driving experience.

133
134 (21) "Farmer vehicle driver" means the person employed
135 and designated by the "farmer" to drive a "farm vehicle" as
136 long as driving is not his or her sole or principal function on
137 the farm who is at least eighteen years of age with two years'
138 licensed driving experience.

139 (22) "Felony" means an offense under state or federal law
140 that is punishable by death or imprisonment for a term
141 exceeding one year.

142 (23) "Gross combination weight rating (GCWR)" means
143 the value specified by the manufacturer as the loaded weight
144 of a combination (articulated) vehicle. In the absence of a
145 value specified by the manufacturer, GCWR will be
146 determined by adding the GVWR of the power unit and the
147 total weight of the towed unit and any load thereon.

148 (24) "Gross vehicle weight rating (GVWR)" means the
149 value specified by the manufacturer as the loaded weight of
150 a single vehicle. In the absence of a value specified by the
151 manufacturer the GVWR will be determined by the total
152 weight of the vehicle and any load thereon.

153 (25) "Hazardous materials" means any material that has
154 been designated as hazardous under 49 U.S.C. §5103 and is
155 required to be placarded under subpart F of 49 C.F.R. Part
156 §172 or any quantity of a material listed as a select agent or
157 toxin in 42 C.F.R. Part §73.

158 (26) "Imminent Hazard" means existence of a condition
159 that presents a substantial likelihood that death, serious

160 illness, severe personal injury or a substantial endangerment
161 to health, property or the environment may occur before the
162 reasonably foreseeable completion date of a formal
163 proceeding begun to lessen the risk of that death, illness,
164 injury or endangerment.

165 (27) "Motor vehicle" means every vehicle which is
166 self-propelled and every vehicle which is propelled by
167 electric power obtained from overhead trolley wires but not
168 operated upon rails.

169 (28) "Non-Commercial motor vehicle" means a motor
170 vehicle or combination of motor vehicles not defined by the
171 term "commercial motor vehicle".

172 (29) "Out-of-service order" means a temporary
173 prohibition against driving a commercial motor vehicle as a
174 result of a determination by a law-enforcement officer, an
175 authorized enforcement officer of a federal, state, Canadian,
176 Mexican, county or local jurisdiction including any special
177 agent of the Federal Motor Carrier Safety Administration
178 pursuant to 49 C.F.R. §§386.72, 392.5, 395.13, 396.9 or
179 compatible laws or the North American uniform out-of-
180 service criteria that an imminent hazard exists.

181 (30) "Violation of an out-of-service order" means:

182 (A) The operation of a commercial motor vehicle during
183 the period the driver was placed out-of-service; or

184 (B) The operation of a commercial motor vehicle by a
185 driver after the vehicle was placed out of service and before
186 the required repairs are made.

187 (31) "School bus" means a commercial motor vehicle
188 used to transport preprimary, primary, or secondary school
189 students from home-to-school, from school-to-home, or to
190 and from school sponsored events. School bus does not
191 include a bus used as a common carrier.

192 (32) "Serious traffic violation" means conviction for any
193 of the following offenses when operating a commercial motor
194 vehicle:

195 (A) Excessive speeding involving any single offense for
196 any speed of fifteen miles per hour or more above the
197 posted limits;

198 (B) Reckless driving as defined in section three, article
199 five, chapter seventeen-c of this code, careless, or negligent
200 driving, including, but not limited to, the offenses of driving
201 a commercial motor vehicle in willful or wanton disregard
202 for the safety of persons or property;

203 (C) Erratic or improper traffic lane changes including,
204 but not limited to, passing a school bus when prohibited,
205 improper lane changes and other passing violations;

206 (D) Following the vehicle ahead too closely;

207 (E) Driving a commercial motor vehicle without
208 obtaining a commercial driver's license;

209 (F) Driving a commercial motor vehicle without a
210 commercial driver's license in the driver's possession.
211 However, any person who provides proof to the law-
212 enforcement agency that issued the citation, by the date the
213 person must appear in court, or pay any fine for such
214 violation, that the person held a valid commercial driver's
215 license on the date the citation was issued, shall not be guilty
216 of this offense;

217 (G) Driving a commercial motor vehicle without the
218 proper class of commercial driver's license and/or,
219 endorsements for the specific vehicle group being operated
220 or for the passengers or type of cargo being transported; or

221 (H) A violation of state or local law relating to motor
222 vehicle traffic control, other than a parking violation, arising
223 in connection with a fatal traffic accident.

224 (I) Vehicle defects are excluded as serious traffic
225 violations, except as to violations committed by a special
226 permittee on the coal resource transportation road system; or

227 (J) Any other serious violations determined by the United
228 States Secretary of Transportation.

229 (33) "State" means a state of the United States and the
230 District of Columbia.

231 (34) "State of Domicile" means the state where a person
232 has his or her true, fixed and permanent home and principle
233 residence and to which he or she has the intention of
234 returning whenever absent in accordance with chapter
235 seventeen-a, article three, section one-a.

236 (35) "Suspension, revocation or cancellation" of a
237 driver's license, or a commercial driver's license means the
238 privilege to operate any type of motor vehicle on the roads
239 and highways of this state is withdrawn.

240 (36) "Tank vehicle" means any commercial motor vehicle
241 that is designed to transport any liquid or gaseous materials
242 within a tank that is either permanently or temporarily
243 attached to the vehicle or the chassis. These vehicles include,
244 but are not limited to, cargo tanks and portable tanks, as
245 defined in 49 C. F. R. Part 171 (1998). However, this
246 definition does not include portable tanks having a rated
247 capacity under one thousand gallons.

248 (37) "Transportation Security Administration" means the
249 United States Department of Homeland Security
250 Transportation Security Administration.

251 (38) "United States" means the fifty states and the
252 District of Columbia.

253 (39) "Vehicle Group" means a class or type of vehicle
254 with certain operating characteristics.

§17E-1-6. Employer responsibilities.

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

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

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

10 (2) In which the driver has more than one driver's license
11 at one time.

12 (3) During any period in which the driver, or the
13 commercial motor vehicle he or she is driving or the motor
14 carrier operation, is subject to an out-of-service order; or

15 (4) In violation of federal, state or local law or regulation
16 pertaining to railroad highway grade crossings; or

17 (5) During any period the driver is in violation of any
18 provision of 49 C.F.R., Part §382 related to controlled
19 substances and alcohol use and testing.

20 (c) The division shall impose a civil penalty, in addition
21 to any penalty required under the provisions of section
22 twenty-five of this article, on any employer who knowingly
23 allows, permits, requires or authorizes a driver to drive a
24 commercial motor vehicle in violation of subdivision (3) or
25 (4) of subsection (b) of this section.

26 (1) If the conviction is for a violation of subdivision (3)
27 of subsection (b) of this section, the penalty shall be two
28 thousand, seven hundred-fifty dollars.

29 (2) If the conviction is for a violation of subdivision (4)
30 of subsection (b) of this section, the penalty shall be no more
31 than ten thousand dollars.

**§17E-1-7. Commercial driver's license required;
disqualification for driving without valid license.**

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

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

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

15 (d) The Commissioner shall suspend for a period of sixty
16 days the driving privileges of any person who is convicted of
17 operating a commercial motor vehicle:

18 (1) without holding a valid commercial driver's license
19 and the applicable endorsements valid for the vehicle he or
20 she is driving in accordance with subsection (a) of this
21 section, or

22 (2) for any conviction for operating a commercial motor
23 vehicle while his or her privilege to operate a motor vehicle
24 were suspended, revoked, canceled or while disqualified
25 from operating a commercial motor vehicle in accordance
26 with subsection (b) of this section.

27 (e) Any person not holding a commercial driver's license
28 who is convicted of an offense that requires disqualification
29 from operating a commercial motor vehicle shall also be
30 disqualified from eligibility for a commercial driver's license
31 for the same time periods as prescribed in federal law or rule
32 or section thirteen of this article for commercial driver's
33 license holders.

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

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

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

6 (2) Used only to transport either agricultural products,
7 farm machinery, farm supplies, to or from a farm;

8 (3) Not used in the operation of a common or contract
9 motor carrier; and

10 (4) Used within one hundred fifty miles of the qualifying
11 farm. Farmers who wish to be exempted from the commercial
12 driver's license requirements must apply to the Division of
13 Motor Vehicles for a certificate of exemption.

14
15 (b) Active duty military personnel operating vehicles
16 being used for military purposes are exempted from the
17 provisions of this article in accordance with the provisions of
18 49 CFR §383.3 (c)(2006).

19 (c) Fire fighting and rescue equipment. Operators of
20 vehicles authorized to hold an "authorized emergency vehicle
21 permit" for use of red signal lights only are exempt from the
22 provisions of this article while the "authorized emergency
23 vehicle permit" is in force. Vehicles in this class include, but
24 are not limited to, firefighters and rescue equipment:

25 (1) Owned and operated by state, county and municipal
26 fire departments;

27 (2) Owned and operated by state, county and municipal
28 civil defense organizations;

29 (3) Owned and operated by a manufacturer engaged in a
30 type of business that requires firefighter equipment to protect
31 the safety of their plants and its employees; or

32 (4) Owned and operated by volunteer fire departments.

33 (d) Operators of off-road construction and mining
34 equipment. Operators of equipment which, by its design,
35 appearance and function, is not intended for use on a public
36 road, including, without limitation, motorscrapers, backhoes,
37 motorgraders, compactors, excavators, tractors, trenches and
38 bulldozers, are exempt from the provisions of this article:
39 *Provided*, That the exemption recognized by this subsection
40 shall not be construed to permit the operation of such
41 equipment on any public road except such operation as may
42 be required for a crossing of such road: *Provided, however*,
43 That no such equipment may be operated on a public road for
44 a distance exceeding five hundred feet from the place where
45 such equipment entered upon the public road.

46 (e) The Federal Motor Carrier Safety Improvement Act
47 of 1999 exempts vehicles used exclusively for personal use
48 such as recreation vehicles and rental trucks used only to
49 transport the driver's personal or household property.

§17E-1-13. Disqualification.

1 (a) A person shall not operate a commercial motor
2 vehicle if his or her privilege to operate a commercial motor
3 vehicle is disqualified under the provisions of the Federal
4 Motor Carrier Safety Improvement Act of 1999 (public law
5 106-159 §1748), 49 C.F.R. Part §383, Subpart D (2004) or in
6 accordance with the provisions of this section.

7 (1) For the purposes of determining first and subsequent
8 violations of the offenses listed in this section, each
9 conviction for any offense listed in this section resulting from
10 a separate incident shall include convictions for offenses
11 committed in a commercial motor vehicle or a
12 noncommercial motor vehicle.

13 (2) Any person disqualified from operating a commercial
14 motor vehicle for life under the provisions of this chapter for
15 offenses described in subsection (b), subdivisions (1) through
16 (8) of this section is eligible for reinstatement of privileges to

17 operate a commercial motor vehicle after ten years and after
18 completion of the safety and treatment program or other
19 appropriate program prescribed by the Division. Any person
20 whose lifetime disqualification has been amended under the
21 provisions of this subdivision and who is subsequently
22 convicted of a disqualifying offense described in subsection
23 (b), subdivisions (1) through (8) of this section shall not be
24 eligible for reinstatement.

25 (3) Any disqualification imposed by this section shall be
26 in addition to any action to suspend, revoke or cancel the
27 driver's license or driving privileges if suspension, revocation
28 or cancellation is required under another provision of this
29 code.

30 (4) The provisions of this section apply to any person
31 operating a commercial motor vehicle and to any person
32 holding a commercial driver's license.

33 (b) Any person is disqualified from driving a commercial
34 motor vehicle for the following offenses and time periods if
35 convicted of:

36 (1) Driving a motor vehicle under the influence of
37 alcohol or a controlled substance;

38 (A) For a first conviction or for refusal to submit to any
39 designated secondary chemical test while operating a
40 commercial motor vehicle, a driver shall be disqualified from
41 operating a commercial motor vehicle for a period of one
42 year.

43 (B) For a first conviction or for refusal to submit to any
44 designated secondary chemical test while operating a
45 noncommercial motor vehicle, a commercial driver's license
46 holder shall be disqualified from operating a commercial
47 motor vehicle for a period of one year.

48 (C) For a first conviction or for refusal to submit to any
49 designated secondary chemical test while operating a
50 commercial motor vehicle transporting hazardous materials

51 required to be placarded under 49 C.F.R. Part §172, Subpart
52 F, a driver shall be disqualified from operating a commercial
53 motor vehicle for a period of three years.

54 (D) For a second conviction or for refusal to submit to
55 any designated secondary chemical test in a separate incident
56 of any combination of offenses in this subsection while
57 operating a commercial motor vehicle, a driver shall be
58 disqualified from operating a commercial motor vehicle for
59 life.

60 (E) For a second conviction or refusal to submit to any
61 designated secondary chemical test in a separate incident of
62 any combination of offenses in this subsection while
63 operating a noncommercial motor vehicle, a commercial
64 motor vehicle license holder shall be disqualified from
65 operating a commercial motor vehicle for life.

66 (2) Driving a commercial motor vehicle while the
67 person's alcohol concentration of the person's blood, breath
68 or urine is four hundredths of one percent or more, by weight;

69 (A) For a first conviction or for refusal to submit to any
70 designated secondary chemical test while operating a
71 commercial motor vehicle, a driver shall be disqualified from
72 operating a commercial motor vehicle for one year.

73 (B) For a first conviction or for refusal to submit to any
74 designated secondary chemical test while operating a
75 commercial motor vehicle transporting hazardous materials
76 required to be placarded under 49 C.F.R. Part §172, Subpart
77 F, a driver shall be disqualified from operating a commercial
78 motor vehicle for three years.

79 (C) For a second conviction or refusal to submit to any
80 designated secondary chemical test in a separate incident of
81 any combination of offenses in this subsection while
82 operating a commercial motor vehicle, a driver shall be
83 disqualified from operating a commercial motor vehicle for
84 life.

85 (3) Refusing to submit to any designated secondary
86 chemical required by the provisions of this code or the
87 provisions of 49 C.F.R. §383.72 (2004);

88 (A) For the first conviction or refusal to submit to any
89 designated secondary chemical test while operating a
90 commercial motor vehicle, a driver shall be disqualified from
91 operating a commercial motor vehicle for one year.

92 (B) For the first conviction or refusal to submit to any
93 designated secondary chemical test while operating a
94 noncommercial motor vehicle, a commercial driver's license
95 holder shall be disqualified from operating a commercial
96 motor vehicle for one year.

97 (C) For the first conviction or for refusal to submit to any
98 designated secondary chemical test while operating a
99 commercial motor vehicle transporting hazardous materials
100 required to be placarded under 49 C.F.R. Part §172, Subpart
101 F (2004), a driver shall be disqualified from operating a
102 commercial motor vehicle for a period of three years.

103 (D) For a second conviction or refusal to submit to any
104 designated secondary chemical test in a separate incident of
105 any combination of offenses in this subsection while
106 operating a commercial motor vehicle, a driver shall be
107 disqualified from operating a commercial motor vehicle for
108 life.

109 (E) For a second conviction or refusal to submit to any
110 designated secondary chemical test in a separate incident of
111 any combination of offenses in this subsection while
112 operating a noncommercial motor vehicle, a commercial
113 driver's license holder shall be disqualified from operating a
114 commercial motor vehicle for life.

115 (4) Leaving the scene of an accident;

116 (A) For the first conviction while operating a commercial
117 motor vehicle, a driver shall be disqualified from operating
118 a commercial motor vehicle for one year.

119 (B) For the first conviction while operating a
120 noncommercial motor vehicle, a commercial driver's license
121 holder shall be disqualified for one year.

122 (C) For the first conviction while operating a commercial
123 motor vehicle transporting hazardous materials required to be
124 placarded under 49 C.F.R. Part §172, Subpart F (2004), a
125 driver shall be disqualified from operating a commercial
126 motor vehicle for a period of three years.

127 (D) For a second conviction in a separate incident of any
128 combination of offenses in this subsection while operating a
129 commercial motor vehicle, a driver shall be disqualified from
130 operating a commercial motor vehicle for life.

131 (E) For a second conviction in a separate incident of any
132 combination of offenses in this subsection while operating a
133 noncommercial motor vehicle, a commercial driver's license
134 holder shall be disqualified from operating a commercial
135 motor vehicle for life.

136 (5) Using a motor vehicle in the Commission of any
137 felony as defined in section three, article one of this chapter:
138 *Provided*, That the Commission of any felony involving the
139 manufacture, distribution or dispensing of a controlled
140 substance, or possession with intent to manufacture,
141 distribute or dispense a controlled substance falls under the
142 provisions of subdivision(8)of this subsection;

143 (A) For the first conviction while operating a commercial
144 motor vehicle, a driver shall be disqualified from operating
145 a commercial motor vehicle for one year.

146 (B) For the first conviction while operating a
147 noncommercial motor vehicle, a commercial driver's license
148 holder shall be disqualified from operating a commercial
149 motor vehicle for one year.

150 (C) For the first conviction while operating a commercial
151 motor vehicle transporting hazardous materials required to be
152 placarded under 49 C.F.R. Part §172, Subpart F,(2004), a

153 driver shall be disqualified from operating a commercial
154 motor vehicle for a period of three years.

155 (D) For a second conviction in a separate incident of any
156 combination of offenses in this subsection while operating a
157 commercial motor vehicle, a driver shall be disqualified from
158 operating a commercial motor vehicle for life.

159 (E) For a second conviction in a separate incident of any
160 combination of offenses in this subsection while operating a
161 noncommercial motor vehicle, a commercial motor vehicle
162 license holder shall be disqualified from operating a
163 commercial motor vehicle for life.

164 (6) Operating a commercial motor vehicle when, as a
165 result of prior violations committed operating a commercial
166 motor vehicle, the driver's privilege to operate a motor
167 vehicle has been suspended, revoked or canceled, or the
168 driver's privilege to operate a commercial motor vehicle has
169 been disqualified.

170 (A) For the first conviction while operating a commercial
171 motor vehicle, a driver shall be disqualified from operating
172 a commercial motor vehicle for one year.

173 (B) For the first conviction while operating a commercial
174 motor vehicle transporting hazardous materials required to be
175 placarded under 49 C.F.R. Part §172, Subpart F,(2004), a
176 driver shall be disqualified from operating a commercial
177 motor vehicle for a period of three years.

178 (C) For a second conviction in a separate incident of any
179 combination of offenses in this subsection while operating a
180 commercial motor vehicle, a driver shall be disqualified from
181 operating a commercial motor vehicle for life.

182 (7) Causing a fatality through the negligent operation of
183 a commercial motor vehicle, including, but not limited to, the
184 crimes of motor vehicle manslaughter, homicide and
185 negligent homicide as defined in section five, article three,
186 chapter seventeen-b, and section one, article five, chapter
187 seventeen-c of this code;

188 (A) For the first conviction while operating a commercial
189 motor vehicle, a driver shall be disqualified from operating
190 a commercial motor vehicle for one year.

191 (B) For the first conviction while operating a commercial
192 motor vehicle transporting hazardous materials required to be
193 placarded under 49 C.F.R. Part §172, Subpart F,(2004), a
194 driver shall be disqualified from operating a commercial
195 motor vehicle for a period of three years.

196 (C) For a second conviction in a separate incident of any
197 combination of offenses in this subsection while operating a
198 commercial motor vehicle, a driver shall be disqualified from
199 operating a commercial motor vehicle for life.

200 (8) Using a motor vehicle in the commission of any
201 felony involving the manufacture, distribution or dispensing
202 of a controlled substance, or possession with intent to
203 manufacture, distribute or dispense a controlled substance, a
204 driver shall be disqualified from operating a commercial
205 motor vehicle for life and shall not be eligible for
206 reinstatement.

207 (c) Any person is disqualified from driving a commercial
208 motor vehicle if convicted of;

209 (1) Speeding excessively involving any speed of fifteen
210 miles per hour or more above the posted speed limit;

211 (A) For a second conviction of any combination of
212 offenses in this subsection in a separate incident within a
213 three-year period while operating a commercial motor
214 vehicle, a driver shall be disqualified from operating a
215 commercial motor vehicle for a period of sixty days.

216 (B) For a second conviction of any combination of
217 offenses in this section in a separate incident within a three-
218 year period while operating a noncommercial motor vehicle,
219 if the conviction results in the suspension, revocation or
220 cancellation of the commercial driver's license holder's
221 privilege to operate any motor vehicle, a commercial driver's

222 license holder shall be disqualified from operating a
223 commercial motor vehicle for a period of sixty days.

224 (C) For a third or subsequent conviction of any
225 combination of the offenses in this subsection in a separate
226 incident in a three-year period while operating a commercial
227 motor vehicle, a driver shall be disqualified from operating
228 a commercial motor vehicle for a period of one hundred
229 twenty days.

230 (D) For a third or subsequent conviction of any
231 combination of offenses in this subsection in a separate
232 incident within a three-year period while operating a
233 noncommercial motor vehicle, if the conviction results in the
234 suspension, revocation or cancellation of the commercial
235 driver's license holder's privilege to operate any motor
236 vehicle, a commercial driver's license holder shall be
237 disqualified from operating a commercial motor vehicle for
238 a period of one hundred twenty days.

239 (2) Reckless driving as defined in section three, article
240 five, chapter seventeen-c of this code, careless, or negligent
241 driving including, but not limited to, the offenses of driving
242 a motor vehicle in willful or wanton disregard for the safety
243 of persons or property;

244 (A) For a second conviction of any combination of
245 offenses in this subsection in a separate incident within a
246 three-year period while operating a commercial motor
247 vehicle, a driver shall be disqualified from operating a
248 commercial motor vehicle for a period of sixty days.

249 (B) For a second conviction of any combination of
250 offenses in this section in a separate incident within a three-
251 year period while operating a noncommercial motor vehicle,
252 if the conviction results in the suspension, revocation, or
253 cancellation of the commercial driver's license holder's
254 privilege to operate any motor vehicle, a commercial driver's
255 license holder shall be disqualified from operating a
256 commercial motor vehicle for a period of sixty days.

257 (C) For a third or subsequent conviction of any
258 combination of the offenses in this subsection in a separate
259 incident in a three-year period while operating a commercial
260 motor vehicle, a driver shall be disqualified from operating
261 a commercial motor vehicle for a period of one hundred
262 twenty days.

263 (D) For a third or subsequent conviction of any
264 combination of offenses in this subsection in a separate
265 incident within a three-year period while operating a
266 noncommercial motor vehicle, if the conviction results in the
267 suspension, revocation or cancellation of the commercial
268 driver's license holder's privilege to operate any motor
269 vehicle, a commercial driver's license holder shall be
270 disqualified from operating a commercial motor vehicle for
271 a period of one hundred twenty days.

272 (3) Making improper or erratic traffic lane changes;

273 (A) For a second conviction of any combination of
274 offenses in this subsection in a separate incident within a
275 three-year period while operating a commercial motor
276 vehicle, a driver shall be disqualified from operating a
277 commercial motor vehicle for a period of sixty days.

278 (B) For a second conviction of any combination of
279 offenses in this section in a separate incident within a three-
280 year period while operating a noncommercial motor vehicle,
281 if the conviction results in the suspension, revocation, or
282 cancellation of the commercial driver's license holder's
283 privilege to operate any motor vehicle, a commercial driver's
284 license holder shall be disqualified from operating a
285 commercial motor vehicle for a period of sixty days.

286 (C) For a third or subsequent conviction of any
287 combination of the offenses in this subsection in a separate
288 incident in a three-year period while operating a commercial
289 motor vehicle, a driver shall be disqualified from operating
290 a commercial motor vehicle for a period of one hundred
291 twenty days.

292 (D) For a third or subsequent conviction of any
293 combination of offenses in this subsection in a separate
294 incident within a three-year period while operating a
295 noncommercial motor vehicle, if the conviction results in the
296 suspension, revocation or cancellation of the commercial
297 driver's license holder's privilege to operate any motor
298 vehicle, a commercial driver's license holder shall be
299 disqualified from operating a commercial motor vehicle for
300 a period of one hundred twenty days.

301 (4) Following the vehicle ahead too closely;

302 (A) For a second conviction of any combination of
303 offenses in this subsection in a separate incident within a
304 three-year period while operating a commercial motor
305 vehicle, a driver shall be disqualified from operating a
306 commercial motor vehicle for a period of sixty days.

307 (B) For a second conviction of any combination of
308 offenses in this section in a separate incident within a three-
309 year period while operating a noncommercial motor vehicle,
310 if the conviction results in the suspension, revocation, or
311 cancellation of the commercial driver's license holder's
312 privilege to operate any motor vehicle, a commercial driver's
313 license holder shall be disqualified from operating a
314 commercial motor vehicle for a period of sixty days.

315 (C) For a third or subsequent conviction of any
316 combination of the offenses in this subsection in a separate
317 incident in a three-year period while operating a commercial
318 motor vehicle, a driver shall be disqualified from operating
319 a commercial motor vehicle for a period of one hundred
320 twenty days.

321 (D) For a third or subsequent conviction of any
322 combination of offenses in this subsection in a separate
323 incident within a three-year period while operating a
324 noncommercial motor vehicle, if the conviction results in the
325 suspension, revocation or cancellation of the commercial
326 driver's license holder's privilege to operate any motor
327 vehicle, a commercial driver's license holder shall be

328 disqualified from operating a commercial motor vehicle for
329 a period of one hundred twenty days.

330 (5) Violating any law relating to traffic control arising in
331 connection with a fatal accident, other than a parking
332 violation;

333 (A) For a second conviction of any combination of
334 offenses in this subsection in a separate incident within a
335 three-year period while operating a commercial motor
336 vehicle, a driver shall be disqualified from operating a
337 commercial motor vehicle for a period of sixty days.

338 (B) For a second conviction of any combination of
339 offenses in this section in a separate incident within a three-
340 year period while operating a noncommercial motor vehicle,
341 if the conviction results in the suspension, revocation, or
342 cancellation of the commercial driver's license holder's
343 privilege to operate any motor vehicle, a commercial driver's
344 license holder shall be disqualified from operating a
345 commercial motor vehicle for a period of sixty days.

346 (C) For a third or subsequent conviction of any
347 combination of the offenses in this subsection in a separate
348 incident in a three-year period while operating a commercial
349 motor vehicle, a driver shall be disqualified from operating
350 a commercial motor vehicle for a period of one hundred
351 twenty days.

352 (D) For a third or subsequent conviction of any
353 combination of offenses in this subsection in a separate
354 incident within a three-year period while operating a
355 noncommercial motor vehicle, if the conviction results in the
356 suspension, revocation or cancellation of the commercial
357 driver's license holder's privilege to operate any motor
358 vehicle, a commercial motor vehicle license holder shall be
359 disqualified from operating a commercial motor vehicle for
360 a period of one hundred twenty days.

361 (6) Driving a commercial motor vehicle without
362 obtaining a commercial driver's license;

363 (A) For a second conviction of any combination of
364 offenses in this subsection in a separate incident within a
365 three-year period while operating a commercial motor
366 vehicle, a driver shall be disqualified from operating a
367 commercial motor vehicle for a period of sixty days.

368 (B) For a third or subsequent conviction of any
369 combination of the offenses in this subsection in a separate
370 incident in a three-year period while operating a commercial
371 motor vehicle, a driver shall be disqualified from operating
372 a commercial motor vehicle for a period of one hundred
373 twenty days.

374 (7) Driving a commercial motor vehicle without a
375 commercial driver's license in the driver's possession,
376 provided that any person who provides proof of possession
377 of a commercial driver's license to the enforcement agency
378 that issued the citation, by the court appearance or fine
379 payment deadline shall not be guilty of this offense;

380 (A) For a second conviction of any combination of
381 offenses in this subsection in a separate incident within a
382 three-year period while operating a commercial motor
383 vehicle, a commercial driver's license holder shall be
384 disqualified from operating a commercial motor vehicle for
385 a period of sixty days.

386 (B) For a third or subsequent conviction of any
387 combination of the offenses in this subsection in a separate
388 incident in a three-year period while operating a commercial
389 motor vehicle, a commercial driver's license holder shall be
390 disqualified from operating a commercial motor vehicle for
391 a period of one hundred twenty days.

392 (8) Driving a commercial motor vehicle without the
393 proper class of commercial driver's license or the proper
394 endorsements for the specific vehicle group being operated,
395 or for the passengers or type of cargo being transported;

396 (A) For a second conviction of any combination of
397 offenses in this subsection in a separate incident within a

398 three-year period while operating a commercial motor
399 vehicle, a commercial driver's license holder shall be
400 disqualified from operating a commercial motor vehicle for
401 a period of sixty days.

402 (B) For a third or subsequent conviction of any
403 combination of the offenses in this subsection in a separate
404 incident in a three-year period while operating a commercial
405 motor vehicle, a commercial driver's license holder shall be
406 disqualified from operating a commercial motor vehicle for
407 a period of one hundred twenty days.

408 (d) Any person convicted of operating a commercial
409 motor vehicle in violation of any federal, state or local law or
410 ordinance pertaining to any of the railroad crossing violations
411 described in subdivisions (1) through (6) of this subsection
412 shall be disqualified from operating a commercial motor
413 vehicle for the period of time specified;

414 (1) Failing to slow down and check that the tracks are
415 clear of an approaching train, if not required to stop in
416 accordance with the provisions of section three, article
417 twelve, chapter seventeen-c of this code;

418 (A) For the first conviction, a driver shall be disqualified
419 from operating a commercial motor vehicle for a period of
420 sixty days;

421 (B) For a second conviction of any combination of
422 offenses in this subsection within a three-year period, a driver
423 shall be disqualified from operating a commercial motor
424 vehicle for one hundred twenty days; and

425 (C) For a third or subsequent conviction of any
426 combination of offenses in this subsection within a three-year
427 period, a driver shall be disqualified from operating a
428 commercial motor vehicle for one year.

429 (2) Failing to stop before reaching the crossing, if the
430 tracks are not clear, if not required to stop, in accordance
431 with the provisions of section one, article twelve, chapter
432 seventeen-c of this code;

433 (A) For the first conviction, a driver shall be disqualified
434 from operating a commercial motor vehicle for a period of
435 sixty days;

436 (B) For a second conviction of any combination of
437 offenses in this subsection within a three-year period, a driver
438 shall be disqualified from operating a commercial motor
439 vehicle for one hundred twenty days; and

440 (C) For a third or subsequent conviction of any
441 combination of offenses in this subsection within a three-year
442 period, a driver shall be disqualified from operating a
443 commercial motor vehicle for one year.

444 (3) Failing to stop before driving onto the crossing, if
445 required to stop in accordance with the provisions of section
446 three, article twelve, chapter seventeen-c of this code;

447 (A) For the first conviction, a driver shall be disqualified
448 from operating a commercial motor vehicle for a period of
449 sixty days;

450 (B) For a second conviction of any combination of
451 offenses in this subsection within a three-year period , the
452 driver shall be disqualified from operating a commercial
453 motor vehicle for one hundred twenty days; and

454 (C) For a third or subsequent conviction of any
455 combination of offenses in this subsection within a three-year
456 period, a driver shall be disqualified from operating a
457 commercial motor vehicle for one year.

458 (4) Failing to have sufficient space to drive completely
459 through the crossing without stopping in accordance with the
460 provisions of section three, article twelve, chapter
461 seventeen-c of this code;

462 (A) For the first conviction, a driver shall be disqualified
463 from operating a commercial motor vehicle for a period of
464 sixty days;

465 (B) For a second conviction of any combination of
466 offenses in this subsection within a three-year period, a driver
467 shall be disqualified from operating a commercial motor
468 vehicle for one hundred twenty days; and

469 (C) For a third or subsequent conviction of any
470 combination of offenses in this subsection within a three-year
471 period, a driver shall be disqualified from operating a
472 commercial motor vehicle for one year.

473 (5) Failing to obey a traffic control device or the
474 directions of an enforcement official at the crossing in
475 accordance with the provisions of section one, article twelve,
476 chapter seventeen-c of this code; or

477 (A) For the first conviction, a driver shall be disqualified
478 from operating a commercial motor vehicle for a period of
479 sixty days;

480 (B) For a second conviction of any combination of
481 offenses in this subsection within a three-year period, a driver
482 shall be disqualified from operating a commercial motor
483 vehicle for one hundred twenty days; and

484 (C) For a third or subsequent conviction of any
485 combination of offenses in this subsection within a three-year
486 period, a driver shall be disqualified from operating a
487 commercial motor vehicle for one year.

488 (6) Failing to negotiate a crossing because of insufficient
489 undercarriage clearance in accordance with the provisions of
490 section three, article twelve, chapter seventeen-c of this code.

491 (A) For the first conviction, a driver shall be disqualified
492 from operating a commercial motor vehicle for a period of
493 sixty days;

494 (B) For a second conviction of any combination of
495 offenses in this subsection within a three-year period, a driver
496 shall be disqualified from operating a commercial motor
497 vehicle for one hundred twenty days; and

498 (C) For a third or subsequent conviction of any
499 combination of offenses in this subsection within a three-year
500 period, a driver shall be disqualified from operating a
501 commercial motor vehicle for one year.

502 (e) Any person who is convicted of violating an out-of-
503 service order while operating a commercial motor vehicle
504 shall be disqualified for the following periods of time if:

505 (1) Convicted of violating a driver or vehicle out-of-
506 service order while transporting nonhazardous materials;

507 (A) For the first conviction of violating an out-of-service
508 order while operating a commercial motor vehicle, a driver
509 shall be disqualified from operating a commercial motor
510 vehicle for ninety days.

511 (B) For a second conviction in a separate incident within
512 a ten-year period for violating an out of service order while
513 operating a commercial motor vehicle, a driver shall be
514 disqualified from operating a commercial motor vehicle for
515 one year.

516 (C) For a third or subsequent conviction in a separate
517 incident within a ten-year period for violating an out-of-
518 service order while operating a commercial motor vehicle, a
519 driver shall be disqualified from operating a commercial
520 motor vehicle for three years.

521 (2) Convicted of violating a driver or vehicle out-of-
522 service order while transporting hazardous materials required
523 to be placarded under 49 C.F.R. Part §172, Subpart F (2004),
524 or while operating a vehicle designed to transport sixteen or
525 more passengers including the driver;

526 (A) For the first conviction of violating an out of service
527 order while operating a commercial motor vehicle, a driver
528 shall be disqualified from operating a commercial motor
529 vehicle for one-hundred eighty days.

530 (B) For a second conviction in a separate incident within
531 a ten-year period for violating an out-of-service order while
532 operating a commercial motor vehicle, a driver shall be
533 disqualified from operating a commercial motor vehicle for
534 three years.

535 (C) For a third or subsequent conviction in a separate
536 incident within a ten-year period for violating an out-of-
537 service order while operating a commercial motor vehicle, a
538 driver shall be disqualified from operating a commercial
539 motor vehicle for three years.

540 (f) After disqualifying, suspending, revoking or canceling
541 a commercial driver's license, the division shall update its
542 records to reflect that action within ten days.

543 (g) In accordance with the provisions of 49 U.S.C.
544 §313119(a)(19)(2004), and 49 C.F.R §384.226 (2004), and
545 notwithstanding the provisions of section twenty-five, article
546 eleven, chapter sixty-one of this code, no record of
547 conviction, revocation, suspension or disqualification related
548 to any type of motor vehicle traffic control offense, other
549 than a parking violation, of a commercial driver's license
550 holder or a person operating a commercial motor vehicle may
551 be masked, expunged, deferred, or be subject to any diversion
552 program.

553 (h) Notwithstanding any provision in this code to the
554 contrary, the Division shall not issue any temporary driving
555 permit, work-only driving permit or hardship license or
556 permit that authorizes a person to operate a commercial
557 motor vehicle when his or her privilege to operate any motor
558 vehicle has been revoked, suspended, disqualified or
559 otherwise canceled for any reason.

560 (i) In accordance with the provisions of 49 C.F.R.
561 §391.15(b), a driver is disqualified from operating a
562 commercial motor vehicle for the duration of any suspension,
563 revocation or cancellation of his or her driver's license or
564 privilege to operate a motor vehicle by this state or by any
565 other state or jurisdiction until the driver complies with the

566 terms and conditions for reinstatement set by this state or by
567 another state or jurisdiction.

568 (j) In accordance with the provisions of 49 C. F. R.
569 353.52 (2006), the division shall immediately disqualify a
570 driver's privilege to operate a commercial motor vehicle
571 upon a notice from the Assistant Administrator of the Federal
572 Motor Carrier Safety Administration that the driver poses an
573 imminent hazard. Any disqualification period imposed under
574 the provisions of this subsection shall be served concurrently
575 with any other period of disqualification if applicable.

§ 17E-1-20. Reciprocity.

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

9 (b) The Commissioner is authorized to suspend, revoke
10 or cancel the privilege to operate a motor vehicle or
11 disqualify the privilege to operate a commercial motor
12 vehicle of any resident of this State or of a nonresident upon
13 receiving notice of the conviction of such person in another
14 state of an offense therein which, if committed in this State,
15 would be grounds for the suspension, revocation or
16 cancellation of the privilege to operate a motor vehicle or the
17 disqualification of the privilege to operate a commercial
18 motor vehicle.

§ 17E-1-25. Penalties.

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


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

22 (d) The division shall impose a civil penalty, in addition
23 to any penalty required under the provisions of this section on
24 any driver who is convicted of violating subsection (e)
25 section thirteen of this article. The penalty shall be one
26 thousand one hundred dollars.

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



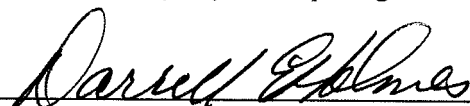
Chairman Senate Committee



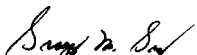
Chairman House Committee

Originating in the House.

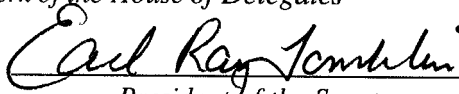
In effect ninety days from passage.



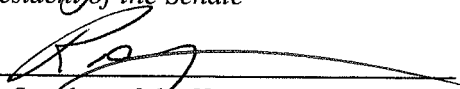
Clerk of the Senate



Clerk of the House of Delegates

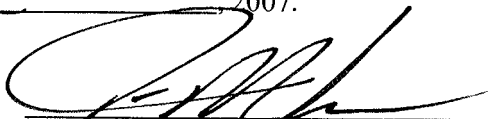


President of the Senate



Speaker of the House of Delegates

The within is approved this the 21st
day of March 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 15 2007

Time 3:58 p