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
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 the 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.

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

(1) "Alcohol" means:

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

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

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

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

(2) "Alcohol concentration" means:

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

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

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

(D) The number of grams of alcohol per eighty-six milliliters of serum.
(3) "At fault traffic accident" means for the purposes of waiving the road test, a determination, by the official filing the accident report, of fault as evidenced by an indication of contributing circumstances in the accident report.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. Part §391 (2004).
(13) "Drive" means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For the purposes of sections twelve, thirteen and fourteen of this article, "drive" includes operation or physical control of a motor vehicle anywhere in this state.

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

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

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

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

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

(19) "Farm vehicle" includes a motor vehicle or combination vehicle registered to the farm owner or entity operating the farm and used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage
plants and in the transportation of agricultural or horticultural
supplies and machinery to the farms or orchards to be used
on the farms or orchards.

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

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

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

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

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

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

(26) "Imminent Hazard" means existence of a condition
that presents a substantial likelihood that death, serious
illness, severe personal injury or a substantial endangerment to health, property or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment.

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

(28) “Non-Commercial motor vehicle” means a motor vehicle or combination of motor vehicles not defined by the term “commercial motor vehicle”.

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

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

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

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

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

(32) "Serious traffic violation" means conviction for any of the following offenses when operating a commercial motor vehicle:
(A) Excessive speeding involving any single offense for any speed of fifteen miles per hour or more above the posted limits;

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

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

(D) Following the vehicle ahead too closely;

(E) Driving a commercial motor vehicle without obtaining a commercial driver’s license;

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

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

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

(I) Vehicle defects are excluded as serious traffic violations, except as to violations committed by a special permittee on the coal resource transportation road system; or
(J) Any other serious violations determined by the United States Secretary of Transportation.

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

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

(35) “Suspension, revocation or cancellation” of a driver’s license, or a commercial driver’s license means the privilege to operate any type of motor vehicle on the roads and highways of this state is withdrawn.

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


(38) “United States” means the fifty states and the District of Columbia.

(39) “Vehicle Group” means a class or type of vehicle with certain operating characteristics.

§17E-1-6. Employer responsibilities.

(a) Each employer must require the applicant to provide the information specified in section five of this article.
(b) No employer may knowingly allow, permit, require or authorize a driver to drive a commercial motor vehicle during any period:

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

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

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

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

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

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

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

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

§17E-1-7. Commercial driver's license required; disqualification for driving without valid license.
(a) On or after the first day of April, one thousand nine hundred ninety-two, except when driving under a commercial driver's instruction permit accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds a commercial driver's license and applicable endorsements valid for the vehicle they are driving.

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

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

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

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

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

(e) Any person not holding a commercial driver's license who is convicted of an offense that requires disqualification from operating a commercial motor vehicle shall also be disqualified from eligibility for a commercial driver's license for the same time periods as prescribed in federal law or rule or section thirteen of this article for commercial driver's license holders.
§17E-1-8. Exemptions to the commercial driver's license requirements.

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

1. Driven by a farmer or farm vehicle driver;

2. Used only to transport either agricultural products, farm machinery, farm supplies, to or from a farm;

3. Not used in the operation of a common or contract motor carrier; and

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

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

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

1. Owned and operated by state, county and municipal fire departments;

2. Owned and operated by state, county and municipal civil defense organizations;

3. Owned and operated by a manufacturer engaged in a type of business that requires firefighter equipment to protect the safety of their plants and its employees; or
(4) Owned and operated by volunteer fire departments.

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

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


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

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

(2) Any person disqualified from operating a commercial motor vehicle for life under the provisions of this chapter for offenses described in subsection (b), subdivisions (1) through (8) of this section is eligible for reinstatement of privileges to
operate a commercial motor vehicle after ten years and after
completion of the safety and treatment program or other
appropriate program prescribed by the Division. Any person
whose lifetime disqualification has been amended under the
provisions of this subdivision and who is subsequently
convicted of a disqualifying offense described in subsection
(b), subdivisions (1) through (8) of this section shall not be
eligible for reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

(C) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver shall be disqualified from operating a commercial motor vehicle for life.
(3) Refusing to submit to any designated secondary chemical required by the provisions of this code or the provisions of 49 C.F.R. §383.72 (2004);

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

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

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

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

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

(4) Leaving the scene of an accident;

(A) For the first conviction while operating a commercial motor vehicle, a driver shall be disqualified from operating a commercial motor vehicle for one year.
For the first conviction while operating a noncommercial motor vehicle, a commercial driver’s license holder shall be disqualified for one year.

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

For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver shall be disqualified for life.

For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver’s license holder shall be disqualified from operating a commercial motor vehicle for life.

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

For the first conviction while operating a commercial motor vehicle, a driver shall be disqualified from operating a commercial motor vehicle for one year.

For the first conviction while operating a noncommercial motor vehicle, a commercial driver’s license holder shall be disqualified from operating a commercial motor vehicle for one year.

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

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

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

(6) Operating a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver’s privilege to operate a motor vehicle has been suspended, revoked or canceled, or the driver’s privilege to operate a commercial motor vehicle has been disqualified.

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

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

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

(7) Causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent homicide as defined in section five, article three, chapter seventeen-b, and section one, article five, chapter seventeen-c of this code;
(A) For the first conviction while operating a commercial motor vehicle, a driver shall be disqualified from operating a commercial motor vehicle for one year.

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

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

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

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

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

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

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

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

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

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

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

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder shall be disqualified from operating a commercial motor vehicle for a period of sixty days.
(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver shall be disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

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

(3) Making improper or erratic traffic lane changes;

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

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

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

(4) Following the vehicle ahead too closely;

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

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

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

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

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

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

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

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

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

(6) Driving a commercial motor vehicle without obtaining a commercial driver’s license;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) For the first conviction of violating an out of service order while operating a commercial motor vehicle, a driver shall be disqualified from operating a commercial motor vehicle for one-hundred eighty days.
(B) For a second conviction in a separate incident within
a ten-year period for violating an out-of-service order while
operating a commercial motor vehicle, a driver shall be
disqualified from operating a commercial motor vehicle for
three years.

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

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

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

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

(i) In accordance with the provisions of 49 C.F.R.
§391.15(b), a driver is disqualified from operating a
commercial motor vehicle for the duration of any suspension,
revocation or cancellation of his or her driver’s license or
privilege to operate a motor vehicle by this state or by any
other state or jurisdiction until the driver complies with the
(j) In accordance with the provisions of 49 C. F. R. 353.52 (2006), the division shall immediately disqualify a driver’s privilege to operate a commercial motor vehicle upon a notice from the Assistant Administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Any disqualification period imposed under the provisions of this subsection shall be served concurrently with any other period of disqualification if applicable.

§ 17E-1-20. Reciprocity.

(a) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver’s license by any state in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses; if the license is not suspended, revoked or canceled; and if the person is not disqualified from driving a commercial motor vehicle, or subject to an “out-of-service” order.

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

§ 17E-1-25. Penalties.

(a) It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this state, declared to be a felony.
(b) Unless another penalty is provided in this chapter or by the laws of this state, every person convicted of a misdemeanor for the violation of any provisions of this chapter shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than six months in the county jail, or both fined and imprisoned, except that for the second violation of section seven of this article and, upon conviction thereof, the offender shall be fined not less than five hundred dollars nor more than two thousand dollars or imprisoned for not less than six months nor more than nine months in the county jail, or both fined and imprisoned. For the third or any subsequent conviction for violation of section seven of this article, upon conviction thereof, the offender shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars, or imprisoned for not less than nine months nor more than one year in the county jail, or both fined and imprisoned.

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