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ENROLLED

Senate Bill No. 328
(By Senators Beach, Klempa and Plymale)

[Passed March 11, 2011; in effect ninety days from passage.]
AN ACT to amend and reenact §17E-1-3, §17E-1-6, §17E-1-9, §17E-1-10, §17E-1-11, §17E-1-12, §17E-1-13, §17E-1-17 and §17E-1-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17E-1-14a, all relating to the issuance, disqualification, suspension and revocation of driver’s licenses and privilege to operate a commercial motor vehicle; adding definitions; creating the offense of operating a commercial motor vehicle while texting; providing penalties and exceptions; establishing disqualification penalties for 2nd, 3rd or subsequent offenses; providing civil penalties for motor carriers who require or allow a driver to operate a commercial motor vehicle while texting; providing that a driver is disqualified from operating a commercial motor vehicle upon conviction for operating a commercial motor vehicle when texting; clarifying that out-of-service orders may pertain to a driver, commercial motor vehicle or a motor carrier operation; providing that the licensed driver accompanying a driver holding an instruction permit must be alert and unimpaired; adding additional certifications to the application and the face of a commercial driver’s license; providing for additional requirements related to maintenance and verification of medical certification status; including the United Mexican
States as an entity that the commissioner is required to provide driving record information; and prohibiting the division from issuing or renewing a commercial driver's license to a person who does not possess a valid medical certification status.

Be it enacted by the Legislature of West Virginia:

That §17E-1-3, §17E-1-6, §17E-1-9, §17E-1-10, §17E-1-11, §17E-1-12, §17E-1-13, §17E-1-17 and §17E-1-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §17E-1-14a, all to read as follows:

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-3. Definitions.

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

3 (1) “Alcohol” means:

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

7 (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;

12 (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

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

18 (2) “Alcohol concentration” means:

19 (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;

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

(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 of fault by the official filing the accident report as evidenced by an indication of contributing circumstances in the accident report.

(4) “Commercial driver's license” means a license or an instruction permit 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 twenty-six thousand one pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating of more than ten thousand pounds;

(B) If the vehicle has a gross vehicle weight rating of twenty-six thousand one 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 and 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, the Uniform Controlled Substances Act, and includes all substances listed on Schedules I through V, inclusive, of article two of said chapter, as 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 a 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) “Electronic device” includes, but is not limited to, a cellular telephone, personal digital assistant, pager or any other device used to input, write, send, receive, or read text.

(17) “Employee” means an operator of a commercial motor vehicle, including full time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent, owner-operator contractors when operating a commercial motor vehicle, who are either directly employed by or under lease to drive a commercial motor vehicle for an employer.

(18) “Employer” means a 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.

(19) “Endorsement” means an authorization to a person to operate certain types of commercial motor vehicles.

(20) “Farm vehicle” includes a motor vehicle or combination vehicle registered to a 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.

(21) “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.

(22) “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 and who is at least eighteen years of age with two years licensed driving experience.

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

(24) “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 gross vehicle weight rating (GVWR) of the power unit and the total weight of the towed unit and load, if any.

(25) “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 load, if any.

(26) “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.
(27) "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.

(28) "Issuance of a license" means the completion of a transaction signifying that the applicant has met all the requirements to qualify for, including, but not limited to: The initial issuance of a driver's license, the renewal of a driver's license, the issuance of a duplicate license as a replacement to a lost or stolen driver's license, the transfer of any level of driving privileges including the privilege of operating a commercial motor vehicle from another state or jurisdiction, the changing of driver's license class, restrictions or endorsements or the change of any other information pertaining to an applicant either appearing on the face of a driver's license or within the driver record of the licensee maintained by the division.

(29) "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.

(30) "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle".

(31) "Out-of-service order" means a a declaration by 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 that a driver, a commercial motor vehicle, or a motor carrier operation is out of service 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.
(32) “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;

(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; or

(C) The operation of any commercial vehicle by a motor carrier operation after the carrier has been placed out of service.

(33) “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.

(34) “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 and 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 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; or

(I) Any other serious violations determined by the United States Secretary of Transportation.

(J) Vehicle defects are excluded as serious traffic violations except as to violations committed by a special permittee on the coal resource transportation road system.

(35) “State” means a state of the United States and the District of Columbia or a province or territory of Canada or a state or federal agency of the United Mexican States.

(36) "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.

(37) “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.

(38) “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
258 attached to the vehicle or the chassis. These vehicles include, 259 but are not limited to, cargo tanks and portable tanks as 260 defined in 49 C. F. R. Part 171 (1998). This definition does 261 not include portable tanks having a rated capacity under one 262 thousand gallons.

263 (39) “Texting” means manually entering alphanumeric text 264 into or reading text from an electronic device.

265 (A) This action includes, but is not limited to, short 266 messaging service, e-mailing, instant messaging and a 267 command or request to access a World Wide Web page or 268 engaging in any other form of electronic text retrieval or 269 entry for present or future communication.

270 (B) Texting does not include:

271 (i) Reading, selecting or entering a telephone number, an 272 extension number or voicemail retrieval codes and com- 273 mands into an electronic device for the purpose of initiating 274 or receiving a phone call or using voice commands to initiate 275 or receive a telephone call;

276 (ii) Inputting, selecting or reading information on a global 277 positioning system or navigation system; or

278 (iii) Using a device capable of performing multiple func- 279 tions including, but not limited to, fleet management sys- 280 tems, dispatching devices, smart phones, citizen band radios 281 or music players for a purpose that is not otherwise prohib- 282 ited by this section


286 (41) “United States” means the fifty states and the District 287 of Columbia.

288 (42) “Valid or Certified Medical Certification Status” 289 means that an applicant or driver has a current medical 290 evaluation or determination by a licensed physician that the
applicant or driver meets the minimum federal motor carrier safety administration physical qualifications within the prescribed time frames pursuant 49 CFR Part §391. Not-certified means that an applicant or driver does not have a current medical evaluation or has not been certified by a licensed physician as meeting the minimum federal motor carrier safety administration physical qualifications pursuant 49 CFR Part §391.

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

§17E-1-6. Employer responsibilities.

(a) Each employer shall 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 in which the driver:

(1) 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;

(2) Has more than one driver's license at one time;

(3) The commercial motor vehicle he or she is driving or the motor carrier operation is subject to an out-of-service order;

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

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

(c) No employer may require or allow a driver to operate a commercial motor vehicle while texting.

(d) 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) or subsection (c) of this section.

(1) If the conviction is for a violation of subdivision (3), of subsection (b) of this section, the penalty is $2,750.

(2) If the conviction is for a violation of subdivision (4), of subsection (b) or (c) of this section, the penalty shall be no more than $25,000.


(a) No person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 C.F.R. Part §383, Subparts G and H (2004) and has satisfied all other requirements of the Federal Motor Carrier Safety Improvement Act of 1999 in addition to other requirements imposed by state law or federal regulations.

(b) Third party testing. The commissioner may authorize a person, including an agency of this or another state, an employer, private individual or institution, department, agency or instrumentality of local government, to administer the skills test specified by this section so long as:

(1) The test is the same which would otherwise be administered by the state; and

(2) The party has entered into an agreement with the state that complies with the requirements of 49 C.F.R., part §383.75.

(c) Indemnification of driver examiners. No person who has been officially trained and certified by the state as a driver examiner, who administers a driving test, and no other person, firm or corporation by whom or with which that person is employed or is in any way associated, may be criminally liable for the administration of the tests or civilly
liable in damages to the person tested or other persons or property unless for gross negligence or willful or wanton injury.

(d) The commissioner may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part § 383.77 and the requirements specified by the commissioner.

(e) A commercial driver’s license or commercial driver’s instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, when the person does not possess a valid or current medical certification status or while the person’s driver’s license is suspended, revoked or canceled in any state. A commercial driver’s license may not be issued by any other state unless the person first surrenders all such licenses to the division.

(f) Commercial driver’s instruction permit may be issued as follows:

(1) To an individual who holds a valid Class E or Class D driver’s license and has passed the vision and written tests required for issuance of a commercial driver’s license.

(2) The commercial instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period. The holder of a commercial driver’s instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver’s license valid for the type of vehicle driven, who is twenty-one years of age or older, who is alert and unimpaired and who occupies a seat beside the individual for the purpose of giving instruction or testing.

(3) Only to a person who is at least eighteen years of age and has held a graduated Class E, Class E or Class D license for at least two years.
(4) The applicant for a commercial driver’s instruction permit shall also be otherwise qualified to hold a commercial driver’s license.

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

(a) The application for a commercial driver’s license or commercial driver’s instruction permit must include at least the following:

1. (1) The full name and current mailing and residential address of the person;

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

3. (3) Date of birth;

4. (4) The applicant’s social security number;

5. (5) The person’s signature;

6. (6) The person’s color photograph;

7. (7) Certifications including those required by 49 C.F.R. Part § 383.71(a)(2004);

8. (8) Any other information required by the commissioner;

9. (9) A consent to release driving record information; and

10. (10) Certification stating that the applicant is:

(A) Engaged in interstate commerce and subject to 49 C.F.R. Part §391 standards;

(B) Engaged in interstate commerce but excepted from 49 C.F.R. Part §391 standards;

(C) Engaged in intrastate commerce and subject to state medical standards; or

(D) Engaged in intrastate commerce but not subject to state medical standards.
(b) When a licensee changes his or her name, mailing address or residence, or when a licensee’s classifications, endorsements, or restrictions or medical certification status changes; the licensee shall submit an application for a duplicate license and obtain a duplicate driver’s license displaying the updated information.

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

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

The commercial driver’s license shall be marked “commercial driver’s license” or “CDL” and, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

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

(b) The person’s color photograph;

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

(d) Date of birth;

(e) The person’s signature;

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

(g) The name of this state;

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

(i) Any information required by the Federal Motor Carrier Safety Administration concerning the driver’s valid or current medical certification status.

§17E-1-12. Classifications, endorsements and restrictions.
(a) Commercial driver’s licenses may be issued with the following classifications:

1. **Class A combination vehicle.** — Any combination of vehicles with a gross combined vehicle weight rating of twenty-six thousand one pounds or more, provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds.

2. **Class B heavy straight vehicle.** — Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more and any vehicle towing a vehicle not in excess of ten thousand pounds.

3. **Class C small vehicle.** — Any single vehicle or combination vehicle that does not fall under either Class A or Class B but are:
   - Vehicles designed to transport sixteen or more passengers, including the driver; and
   - Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 C.F.R. Part §172, Subpart F (2004).

4. Each applicant who desires to operate a vehicle in a classification different from the class in which the applicant is authorized is required to retake and pass all related tests except the following:
   - A driver who has passed the knowledge and skills test for a combination vehicle in Class A may operate a heavy straight vehicle in Class B or a small vehicle in Class C provided he or she possesses the required endorsements; and
   - A driver who has passed the knowledge and skills test for a vehicle in Class B may operate any small vehicle in Class C provided he or she possesses the required endorsements.

(b) **Endorsements and restrictions.** — The commissioner upon issuing a commercial driver’s license may impose
endorsements and restrictions determined by the commissioner to be appropriate to assure the safe operation of a specific class, type or category of motor vehicle or a specifically equipped motor vehicle and to comply with 49 U.S.C., et seq., and 49 C.F.R. §383.93 (2004) including, but not limited to, endorsements or restrictions to operate:

(1) Double or triple trailers which requires successful completion of a knowledge test;

(2) Passenger vehicles which requires successful completion of a knowledge and skills test;

(3) Tank vehicles which requires successful completion of a knowledge test;

(4) Vehicles used for the transportation of hazardous materials as defined in section three of this article which requires the completion of a knowledge test and a background security risk check in accordance with 49 C.F.R. §1572.5(2004);

(5) School buses which requires successful completion of a knowledge and skills test unless the applicant meets the criteria for waiver of the skills test in accordance with 49 C.F.R. §383.123(b)(2004); or

(6) Vehicles equipped with air brakes which requires the completion of a skills test.

(c) Applicant record check. — Before issuing a commercial driver’s license, the commissioner shall obtain driving record and medical certification status information through the commercial driver’s license information system, the national driver register and from each state in which the person has been licensed.

(d) Notification of license issuance. — Within ten days after issuing a commercial driver’s license, the commissioner shall notify the commercial driver’s license information system of the issuance and provide all information required to ensure identification of the person.
Expiration of license. –

(1) Every commercial driver's license issued to persons who have attained their twenty-first birthday expires on the applicant's birthday in those years in which the applicant's age is evenly divisible by five. Except as provided in subdivision (2) of this subsection, no commercial driver's license may be issued for less than three years nor more than seven years. The commercial driver's license shall be renewed by the applicant's birthday and is valid for a period of five years, expiring on the applicant's birthday and in a year in which the applicant's age is evenly divisible by five. No commercial driver's license with a hazardous materials endorsement may be issued for more than five years.

(2) Every commercial driver's license issued to persons who have not attained their twenty-first birthday expires thirty days after the applicant's birthday in the year in which the applicant attains the age of twenty-one years.

(3) Commercial driver's licenses held by any person in the Armed Forces which expire while that person is on active duty remains valid for thirty days from the date on which that person reestablishes residence in West Virginia.

(4) Any person applying to renew a commercial driver's license which has been expired for six months or more shall follow the procedures for an initial issuance of a commercial driver's license, including the testing provisions.

(5) Any commercial driver's license held by a person who does not possess a valid or current medical certification status is no longer valid for the operation of a commercial motor vehicle and is downgraded to the appropriate licensure level commensurate with the licensees qualifications regardless of the expiration date or indicated class on the face of the license within the time frames prescribed by 49 CFR §383.73(j).

(f) When applying for renewal of a commercial driver's license, the applicant shall complete the application form and provide updated information and required certifications.
(g) If the applicant wishes to obtain or retain a hazardous materials endorsement, the applicant shall comply with a background check in accordance with 49 U.S.C. §5103a and 49 C.F.R. Part §1572 (2004) and subject to the following:

1. The applicant is a citizen of the United States or a lawful permanent resident of the United States;

2. The applicant completes the application prescribed by the division and submits fingerprints in a form and manner prescribed by the division and the United States Department of Homeland Security Transportation Security Administration at the time of application or at any other time in accordance with 49 C.F.R. §1572.5(2004);

3. The applicant pays all fees prescribed by the Transportation Security Administration or its agent and the division;

4. The applicant has not been adjudicated as a mental defective or committed to a mental institution as prescribed in 49 C.F.R. §1572.109(2004);

5. The applicant has not committed a disqualifying criminal offense as described in 49 C.F.R. §1572.103(2004);

6. The applicant has passed the Transportation Security Administration security threat assessment and the division has received a final notification of threat assessment or notification of no security threat from the Transportation Security Administration. An appeal of a decision, determination or ruling of the Federal Bureau of Investigation or the Transportation Security Agency shall be directed to that agency; and

7. The applicant has successfully passed the written test for the issuance or renewal of a hazardous material endorsement.


(a) A person may 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, 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 convic-
tion resulting from a separate incident includes 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 (4) and (6)
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, is not eligible
for reinstatement.

(3) Any disqualification imposed by this section is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is disqualified from operating a commercial motor vehicle for life.

(3) Refusing to submit to any designated secondary chemical test 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 is 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 is 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 is 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 is 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 is 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 is disqualified from operating a commercial motor vehicle for one year.

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

(C) 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 is 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 is 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 driver's license holder is disqualified from operating a commercial motor vehicle for life.

(5) Using a motor vehicle in the commission of any felony as defined in section three, article one of this chapter except 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 eight of this subsection;
(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is disqualified from operating a commercial motor vehicle for life and is not 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
is 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 cancella-
tion of the commercial driver's license holder's privilege to
operate any motor vehicle, a commercial driver's license
holder is disqualified from operating a commercial motor
vehicle for a period of sixty days.

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

(D) For a third or subsequent conviction of any combina-
tion 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
is 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 is 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 is 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 is 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 is 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 is 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 within a three-year period while operating a commercial motor vehicle, a driver is 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 is 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 is 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 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 is 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 within a three-year period while operating a commercial motor vehicle, a driver is 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,
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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 except 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 is not 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 is 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 is 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 is 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 is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant to section fourteen-a of this article or similar law of this or any other jurisdiction or 49 CFR §392.80;

(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 is 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 is 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 railroad crossing violations described in subdivisions (1) through (6) of this subsection, is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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 is 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;

(A) For the first conviction, a driver is 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 is 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 is 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 is 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 is 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 is 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 is disqualified for the following periods of time:

(1) If 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 is 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 is disqualified from operating a commercial motor vehicle for two 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 is disqualified from operating a commercial motor vehicle for three years.

(2) If 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 is 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 is 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 is 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), 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 may 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 terms and conditions for reinstatement set by this state or by another state or jurisdiction.

(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.

(k) In accordance with the provisions of 49 C.F.R. 1572.11(a), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle if the driver fails to surrender his or her driver's license with a hazardous material endorsement to the division upon proper notice by the division to the driver that the division received notice from the Department of Homeland Security Transportation Security Administration of an initial determination of threat assessment and immediate revocation that the driver does not meet the standards for security threat assessment provided in 49 C.F.R. 1572.5. The disqualification remains in effect until the driver either surrenders the driver's license to the division or provides the division with an affidavit attesting to the fact that the driver has lost or is otherwise unable to surrender the license.
(l) In accordance with 49 C.F.R §391.41, a driver is disqualified from operating a commercial motor vehicle if the driver is not physically qualified to operate a commercial motor vehicle or does not possess a valid medical certification status.

(m) In accordance with the provisions of 49 C.F.R. §383.73(g), the division shall disqualify a driver's privilege to operate a commercial motor vehicle if the division determines that the licensee has falsified any information or certifications required under the provisions of 49 C.F.R. 383 Subpart J or 49 C.F.R. §383.71a for sixty days in addition to any other penalty prescribed by this code.

§17E-1-14a. Commercial Drivers Prohibited From Texting.

(a) No commercial driver may engage in texting while driving a commercial motor vehicle.

(b) No motor carrier may allow or require its drivers to engage in texting while driving a commercial motor vehicle.

(c) For the purposes of this section only, and unless a more restrictive prohibition is prescribed in this code, driving means operating a commercial motor vehicle with the motor running, including while temporarily stationed because of traffic, a traffic control device or other momentary delays. Driving does not include operating a commercial motor vehicle with or without the motor running when the driver moved the vehicle to the side of or off a highway, as defined in 49 CFR 390.5, and halted in a location where the vehicle can safely remain stationary.

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

Subject to the provisions of article two-a, chapter seventeen-a of this code, the commissioner shall furnish full information regarding the driving record of any person:

(a) To the driver license administrator of any other state of the United States and the District of Columbia or a province
or territory of Canada or a state or federal agency of the
United Mexican States requesting that information;
(b) To any motor carrier employer or prospective motor
carrier employer;
(c) To the United States Secretary of Transportation; and
(d) To the driver:
Nothing in this section prevents an insurer from obtaining
a standard driving record issued in accordance with section
two, article two, chapter seventeen-d of this code.

§17E-1-20. Reciprocity.

(a) Notwithstanding any law to the contrary, a person may
drive a commercial motor vehicle if the person has a com-
mmercial driver’s license by any state of the United States and
the District of Columbia or a province or territory of Canada
or a state or federal agency of the United Mexican States 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, if the person
is not disqualified from driving a commercial motor vehicle
or not 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 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Vice Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

Acting President of the Senate

Speaker of the House of Delegates

The within was presented this the 3rd Day of October, 2011.

Governor
PRESENTED TO THE GOVERNOR

MARC 23, 2011

Time 10:50 AM