

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

### ENROLLED

### Committee Substitute

### for

## House Bill 4478

BY DELEGATES BUTLER, FAST, J. JEFFRIES, CADLE,

SYPOLT, BARTLETT, PORTERFIELD AND HARDY

[Passed March 5, 2020; in effect ninety days from  
passage.]

FILED

2020 MAR 25 P 4: 32

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

HB4478

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1 AN ACT to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended,  
2 relating to the lifetime disqualification without reinstatement from operating a commercial  
3 motor vehicle for individuals who use a commercial motor vehicle in committing certain  
4 felony acts relating to controlled substance violations or human trafficking violations.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.**

**§17E-1-13. Disqualification.**

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

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

8 (2) Any person disqualified from operating a commercial motor vehicle for life under the  
9 provisions of this chapter for offenses described in subdivisions (1), (2), (3), (4) and (6), subsection  
10 (b) of this section is eligible for reinstatement of privileges to operate a commercial motor vehicle  
11 after 10 years and after completion of the Safety and Treatment Program or other appropriate  
12 program prescribed by the division. Any person whose lifetime disqualification has been amended  
13 under the provisions of this subdivision, and who is subsequently convicted of a disqualifying  
14 offense described in subdivisions (1) through (7), inclusive, subsection (b) of this section, is not  
15 eligible for reinstatement. Any person disqualified from operating a commercial motor vehicle for  
16 life under subsection (n) of this section is not eligible for reinstatement.

17 (3) Any person who committed a disqualifying offense contained in paragraph (B) or (E),  
18 subdivision (1), subsection (b) of this section prior to obtaining a commercial driver's license, and  
19 who committed the disqualifying offense more than 10 years before he or she applied for a

20 commercial driver's license, and who has completed the Safety and Treatment Program or other  
21 appropriate program prescribed by the division, shall be considered to have served the period of  
22 disqualification and is eligible to obtain a commercial driver's license so long as all other eligibility  
23 requirements contained in §17E-1-9 and §17E-1-10 of this code are satisfied.

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

27 (5) The provisions of this section apply to any person operating a commercial motor  
28 vehicle and to any person holding a commercial driver's license.

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

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

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

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

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

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

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

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

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

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

59 (C) For a second conviction or refusal to submit to any designated secondary chemical  
60 test in a separate incident of any combination of offenses in this subsection while operating a  
61 commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for  
62 life.

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

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

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

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

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

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

83 (4) Leaving the scene of an accident;

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

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

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

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

94 (E) For a second conviction in a separate incident of any combination of offenses in this  
95 subsection while operating a noncommercial motor vehicle, a commercial driver's license holder  
96 is disqualified from operating a commercial motor vehicle for life.

97           (5) Using a motor vehicle in the commission of any felony as defined in §17E-1-3 of this  
98 code; except as set forth specifically in subsection (n) of this section;

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

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

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

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

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

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

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

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

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

124 (7) Causing a fatality through the negligent operation of a commercial motor vehicle,  
125 including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent  
126 homicide as defined in §17B-3-5, and §17C-5-1 of this code;

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

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

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

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

136 (1) Speeding excessively involving any speed of 15 miles per hour or more above the  
137 posted speed limit;

138 (A) For a second conviction of any combination of offenses in this subsection in a separate  
139 incident within a three-year period while operating a commercial motor vehicle, a driver  
140 is disqualified from operating a commercial motor vehicle for a period of 60 days.

141 (B) For a second conviction of any combination of offenses in this section in a separate  
142 incident within a three-year period while operating a noncommercial motor vehicle, if the  
143 conviction results in the suspension, revocation, or cancellation of the commercial driver's license  
144 holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified  
145 from operating a commercial motor vehicle for a period of 60 days.



146 (C) For a third or subsequent conviction of any combination of the offenses in this  
147 subsection in a separate incident in a three-year period while operating a commercial motor  
148 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120  
149 days.

150 (D) For a third or subsequent conviction of any combination of offenses in this subsection  
151 in a separate incident within a three-year period while operating a noncommercial motor vehicle,  
152 if the conviction results in the suspension, revocation, or cancellation of the commercial driver's  
153 license holder's privilege to operate any motor vehicle, a commercial driver's license holder shall  
154 be disqualified from operating a commercial motor vehicle for a period of 120 days.

155 (2) Reckless driving as defined in §17C-5-3 of this code, careless or negligent driving,  
156 including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard  
157 for the safety of persons or property;

158 (A) For a second conviction of any combination of offenses in this subsection in a separate  
159 incident within a three-year period while operating a commercial motor vehicle, a driver is  
160 disqualified from operating a commercial motor vehicle for a period of 60 days.

161 (B) For a second conviction of any combination of offenses in this section in a separate  
162 incident within a three-year period while operating a noncommercial motor vehicle, if the  
163 conviction results in the suspension, revocation, or cancellation of the commercial driver's license  
164 holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified  
165 from operating a commercial motor vehicle for a period of 60 days.

166 (C) For a third or subsequent conviction of any combination of the offenses in this  
167 subsection in a separate incident in a three-year period while operating a commercial motor  
168 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120  
169 days.

170 (D) For a third or subsequent conviction of any combination of offenses in this subsection  
171 in a separate incident within a three-year period while operating a noncommercial motor vehicle,

172 if the conviction results in the suspension, revocation, or cancellation of the commercial driver's  
173 license holder's privilege to operate any motor vehicle, a commercial driver's license holder  
174 is disqualified from operating a commercial motor vehicle for a period of 120 days.

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

176 (A) For a second conviction of any combination of offenses in this subsection in a separate  
177 incident within a three-year period while operating a commercial motor vehicle, a driver  
178 is disqualified from operating a commercial motor vehicle for a period of 60 days.

179 (B) For a second conviction of any combination of offenses in this section in a separate  
180 incident within a three-year period while operating a noncommercial motor vehicle, if the  
181 conviction results in the suspension, revocation, or cancellation of the commercial driver's license  
182 holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified  
183 from operating a commercial motor vehicle for a period of 60 days.

184 (C) For a third or subsequent conviction of any combination of the offenses in this  
185 subsection in a separate incident in a three-year period while operating a commercial motor  
186 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120  
187 days.

188 (D) For a third or subsequent conviction of any combination of offenses in this subsection  
189 in a separate incident within a three-year period while operating a noncommercial motor vehicle,  
190 if the conviction results in the suspension, revocation, or cancellation of the commercial driver's  
191 license holder's privilege to operate any motor vehicle, a commercial driver's license holder  
192 is disqualified from operating a commercial motor vehicle for a period of 120 days.

193 (4) Following the vehicle ahead too closely;

194 (A) For a second conviction of any combination of offenses in this subsection in a separate  
195 incident within a three-year period while operating a commercial motor vehicle, a driver  
196 is disqualified from operating a commercial motor vehicle for a period of 60 days.

197 (B) For a second conviction of any combination of offenses in this section in a separate  
198 incident within a three-year period while operating a noncommercial motor vehicle, if the  
199 conviction results in the suspension, revocation, or cancellation of the commercial driver's license  
200 holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified  
201 from operating a commercial motor vehicle for a period of 60 days.

202 (C) For a third or subsequent conviction of any combination of the offenses in this  
203 subsection in a separate incident in a three-year period while operating a commercial motor  
204 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120  
205 days.

206 (D) For a third or subsequent conviction of any combination of offenses in this subsection  
207 in a separate incident within a three-year period while operating a noncommercial motor vehicle,  
208 if the conviction results in the suspension, revocation, or cancellation of the commercial driver's  
209 license holder's privilege to operate any motor vehicle, a commercial driver's license holder  
210 is disqualified from operating a commercial motor vehicle for a period of 120 days.

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

213 (A) For a second conviction of any combination of offenses in this subsection in a separate  
214 incident within a three-year period while operating a commercial motor vehicle, a driver is  
215 disqualified from operating a commercial motor vehicle for a period of 60 days.

216 (B) For a second conviction of any combination of offenses in this section in a separate  
217 incident within a three-year period while operating a noncommercial motor vehicle, if the  
218 conviction results in the suspension, revocation, or cancellation of the commercial driver's license  
219 holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified  
220 from operating a commercial motor vehicle for a period of 60 days.

221 (C) For a third or subsequent conviction of any combination of the offenses in this  
222 subsection in a separate incident in a three-year period while operating a commercial motor

223 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120  
224 days.

225 (D) For a third or subsequent conviction of any combination of offenses in this subsection  
226 in a separate incident within a three-year period while operating a noncommercial motor vehicle,  
227 if the conviction results in the suspension, revocation, or cancellation of the commercial driver's  
228 license holder's privilege to operate any motor vehicle, a commercial motor vehicle license holder  
229 is disqualified from operating a commercial motor vehicle for a period of 120 days.

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

231 (A) For a second conviction of any combination of offenses in this subsection in a separate  
232 incident within a three-year period while operating a commercial motor vehicle, a driver  
233 is disqualified from operating a commercial motor vehicle for a period of 60 days.

234 (B) For a third or subsequent conviction of any combination of the offenses in this  
235 subsection in a separate incident in a three-year period while operating a commercial motor  
236 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of 120  
237 days.

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

242 (A) For a second conviction of any combination of offenses in this subsection in a separate  
243 incident within a three-year period while operating a commercial motor vehicle, a commercial  
244 driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60  
245 days.

246 (B) For a third or subsequent conviction of any combination of the offenses in this  
247 subsection in a separate incident in a three-year period while operating a commercial motor

248 vehicle, a commercial driver's license holder is disqualified from operating a commercial motor  
249 vehicle for a period of 120 days.

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

253 (A) For a second conviction of any combination of offenses in this subsection in a separate  
254 incident within a three-year period while operating a commercial motor vehicle, a commercial  
255 driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60  
256 days.

257 (B) For a third or subsequent conviction of any combination of the offenses in this  
258 subsection in a separate incident in a three-year period while operating a commercial motor  
259 vehicle, a commercial driver's license holder is disqualified from operating a commercial motor  
260 vehicle for a period of 120 days.

261 (9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant  
262 to §17E-1-14a of this code or similar law of this or any other jurisdiction or 49 C. F. R. §392.80;

263 (A) For a second conviction of any combination of offenses in this subsection in a separate  
264 incident within a three-year period while operating a commercial motor vehicle, a commercial  
265 driver's license holder is disqualified from operating a commercial motor vehicle for a period of 60  
266 days.

267 (B) For a third or subsequent conviction of any combination of the offenses in this  
268 subsection in a separate incident in a three-year period while operating a commercial motor  
269 vehicle, a commercial driver's license holder is disqualified from operating a commercial motor  
270 vehicle for a period of 120 days.

271 (d) Any person convicted of operating a commercial motor vehicle in violation of any  
272 federal, state, or local law or ordinance pertaining to railroad crossing violations described in

273 subdivisions (1) through (6), inclusive, of this subsection is disqualified from operating a  
274 commercial motor vehicle for the period of time specified;

275 (1) Failing to slow down and check that the tracks are clear of an approaching train, if not  
276 required to stop in accordance with the provisions of §17C-12-3 of this code;

277 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
278 vehicle for a period of 60 days;

279 (B) For a second conviction of any combination of offenses in this subsection within a  
280 three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days;  
281 and

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

285 (2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required  
286 to stop in accordance with the provisions of §17C-12-1 of this code;

287 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
288 vehicle for a period of 60 days;

289 (B) For a second conviction of any combination of offenses in this subsection within a  
290 three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days;  
291 and

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

295 (3) Failing to stop before driving onto the crossing, if required to stop in accordance with  
296 the provisions of §17C-12-3 of this code;

297 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
298 vehicle for a period of 60 days;

299 (B) For a second conviction of any combination of offenses in this subsection within a  
300 three-year period, the driver is disqualified from operating a commercial motor vehicle for 120  
301 days; and

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

305 (4) Failing to have sufficient space to drive completely through the crossing without  
306 stopping in accordance with the provisions of §17C-12-3 of this code;

307 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
308 vehicle for a period of 60 days;

309 (B) For a second conviction of any combination of offenses in this subsection within a  
310 three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days;  
311 and

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

315 (5) Failing to obey a traffic control device or the directions of an enforcement official at the  
316 crossing in accordance with the provisions of §17C-12-1 of this code;

317 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
318 vehicle for a period of 60 days;

319 (B) For a second conviction of any combination of offenses in this subsection within a  
320 three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days;  
321 and

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

325 (6) Failing to negotiate a crossing because of insufficient undercarriage clearance in  
326 accordance with the provisions of §17C-12-3 of this code.

327 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
328 vehicle for a period of 60 days;

329 (B) For a second conviction of any combination of offenses in this subsection within a  
330 three-year period, a driver is disqualified from operating a commercial motor vehicle for 120 days;  
331 and

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

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

337 (1) If convicted of violating a driver or vehicle out-of-service order while transporting  
338 nonhazardous materials;

339 (A) For the first conviction of violating an out-of-service order while operating a commercial  
340 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

341 (B) For a second conviction in a separate incident within a 10-year period for violating an  
342 out-of-service order while operating a commercial motor vehicle, a driver is disqualified from  
343 operating a commercial motor vehicle for two years.

344 (C) For a third or subsequent conviction in a separate incident within a 10-year period for  
345 violating an out-of-service order while operating a commercial motor vehicle, a driver is  
346 disqualified from operating a commercial motor vehicle for three years.

347 (2) If convicted of violating a driver or vehicle out-of-service order while transporting  
348 hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004) or  
349 while operating a vehicle designed to transport 16 or more passengers including the driver;



350 (A) For the first conviction of violating an out-of-service order while operating a commercial  
351 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for 180 days.

352 (B) For a second conviction in a separate incident within a ten-year period for violating an  
353 out-of-service order while operating a commercial motor vehicle, a driver is disqualified from  
354 operating a commercial motor vehicle for three years.

355 (C) For a third or subsequent conviction in a separate incident within a 10-year period for  
356 violating an out-of-service order while operating a commercial motor vehicle, a driver is  
357 disqualified from operating a commercial motor vehicle for three years.

358 (f) After disqualifying, suspending, revoking, or canceling a commercial driver's license,  
359 the division shall update its records to reflect that action within 10 days.

360 (g) In accordance with the provisions of 49 U. S. C. §313119(a)(19)(2004), and 49 C. F.  
361 R. §384.226 (2004), notwithstanding the provisions of §61-11-25 of this code, no record of  
362 conviction, revocation, suspension, or disqualification related to any type of motor vehicle traffic  
363 control offense, other than a parking violation, of a commercial driver's license holder or a person  
364 operating a commercial motor vehicle may be masked, expunged, deferred, or be subject to any  
365 diversion program.

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

371 (i) In accordance with the provisions of 49 C. F. R. §391.15(b), a driver is disqualified from  
372 operating a commercial motor vehicle for the duration of any suspension, revocation, or  
373 cancellation of his or her driver's license or privilege to operate a motor vehicle by this state or by  
374 any other state or jurisdiction until the driver complies with the terms and conditions for  
375 reinstatement set by this state or by another state or jurisdiction.

376 (j) In accordance with the provisions of 49 C. F. R. §353.52 (2006), the division shall  
377 immediately disqualify a driver's privilege to operate a commercial motor vehicle upon a notice  
378 from the assistant administrator of the Federal Motor Carrier Safety Administration that the driver  
379 poses an imminent hazard. Any disqualification period imposed under the provisions of this  
380 subsection shall be served concurrently with any other period of disqualification if applicable.

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

390 (l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a  
391 commercial motor vehicle if the driver is not physically qualified to operate a commercial motor  
392 vehicle or does not possess a valid medical certification status.

393 (m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify  
394 a driver's privilege to operate a commercial motor vehicle if the division determines that the  
395 licensee has falsified any information or certifications required under the provisions of 49 C. F. R.  
396 383 Subpart J or 49 C. F. R. §383.71(a) for 60 days in addition to any other penalty prescribed  
397 by this code.

398 (n) Lifetime Disqualification Without Reinstatement.—

399 (1) Controlled substance violations — An individual who uses a commercial motor vehicle  
400 in committing a felony involving manufacturing, distributing, or dispensing a controlled substance,  
401 or involving possession with intent to manufacture, distribute, or dispense a controlled substance

402 is disqualified from operating a commercial motor vehicle for life and is not eligible for  
403 reinstatement.

404 (2) Human trafficking violations — An individual who uses a commercial motor vehicle in  
405 committing a felony involving an act or practice described in paragraph (9) of section 103 of the  
406 Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)) is disqualified from operating a  
407 commercial motor vehicle for life and is not eligible for reinstatement.

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

*Bob Capito*  
.....  
Chairman, House Committee

*Mark Rayburn*  
.....  
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Steve Harris*  
.....  
Clerk of the House of Delegates

*Jee Kim*  
.....  
Clerk of the Senate

*Legu Hanshaw*  
.....  
Speaker of the House of Delegates

*Mitt B. Ennis*  
.....  
President of the Senate

FILED  
2020 MAR 25 P 4: 32  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within *is approved* this the *25th*  
day of *March* 2020.

*James Owens*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2020

Time 11:27am