

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 10

BY SENATOR TRUMP

[Introduced February 8, 2017; referred
to the Committee on Transportation and Infrastructure;
then to the Committee on Government Organization]

1 A BILL to amend and reenact §17E-1-3 of the Code of West Virginia, 1931, as amended, relating
 2 generally to commercial driver’s licenses; changing definition of “commercial motor
 3 vehicle”; and removing requirement for commercial driver’s license when a towing vehicle
 4 is below a certain gross vehicle weight rating.

Be it enacted by the Legislature of West Virginia:

1 That §17E-1-3 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted 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
 2 article:

3 (1) "Alcohol" means:

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

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

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

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

13 (2) "Alcohol concentration" means:

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

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

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

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

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

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

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

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

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

31 (A) If the vehicle has a gross combination vehicle weight rating of twenty-six thousand one
32 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating of more than ten
33 thousand pounds, but not when the towing vehicle is designed for use as a stand-alone vehicle
34 for highway transportation of passengers and cargo and has a gross vehicle weight rating of ten
35 thousand pounds or less;

36 (B) If the vehicle has a gross vehicle weight rating of twenty-six thousand one pounds or
37 more;

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

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

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

43 (9) "Controlled substance" means any substance classified under the provisions of chapter

44 sixty-a of this code, the Uniform Controlled Substances Act, and includes all substances listed on
45 Schedules I through V, inclusive, of article two of said chapter, as revised. The term "controlled
46 substance" also has the meaning such term has under 21 U.S.C. §802.6 and includes all
47 substances listed on Schedules I through V of 21 C.F.R. §1308 as they may be amended by the
48 United States Department of Justice.

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

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

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

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

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

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

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

69 (14) "Driver" means a person who drives, operates or is in physical control of a commercial

70 motor vehicle in any place open to the general public for purposes of vehicular traffic or who is
71 required to hold a commercial driver's license.

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

74 (16) "Electronic device" includes, but is not limited to, a cellular telephone, personal digital
75 assistant, pager or any other device used to input, write, send, receive, or read text.

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

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

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

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

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

94 (22) "Farmer vehicle driver" means the person employed and designated by the "farmer"
95 to drive a "farm vehicle" as long as driving is not his or her sole or principal function on the farm

96 and who is at least eighteen years of age with two years licensed driving experience.

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

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

103 (25) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer
104 as the loaded weight of a single vehicle. In the absence of a value specified by the manufacturer,
105 the GVWR will be determined by the total weight of the vehicle and load, if any.

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

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

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

121 (29) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which

122 is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

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

125 (31) "Out-of-service order" means a declaration by an authorized enforcement officer of a
126 federal, state, Canadian, Mexican, county or local jurisdiction including any special agent of the
127 Federal Motor Carrier Safety Administration that a driver, a commercial motor vehicle, or a motor
128 carrier operation is out of service pursuant to 49 C.F.R. ' §386.72, 392.5, 395.13, 396.9 or
129 compatible laws or the North American uniform out-of-service criteria that an imminent hazard
130 exists.

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

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

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

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

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

141 (34) "Serious traffic violation" means conviction for any of the following offenses when
142 operating a commercial motor vehicle:

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

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

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

150 (D) Following the vehicle ahead too closely;

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

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

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

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

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

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

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

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

171 (37) "Suspension, revocation or cancellation" of a driver's license or a commercial driver's
172 license means the privilege to operate any type of motor vehicle on the roads and highways of
173 this state is withdrawn.

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

179 (39) "Texting" means manually entering alphanumeric text into or reading text from an
180 electronic device.

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

184 (B) Texting does not include:

185 (i) Reading, selecting or entering a telephone number, an extension number or voicemail
186 retrieval codes and commands into an electronic device for the purpose of initiating or receiving
187 a phone call or using voice commands to initiate or receive a telephone call;

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

190 (iii) Using a device capable of performing multiple functions including, but not limited to,
191 fleet management systems, dispatching devices, smart phones, citizen band radios or music
192 players for a purpose that is not otherwise prohibited by this section

193 (40) "Transportation Security Administration" means the United States Department of
194 Homeland Security Transportation Security Administration.

195 (41) "United States" means the fifty states and the District of Columbia.

196 (42) "Valid or Certified Medical Certification Status" means that an applicant or driver has
197 a current medical evaluation or determination by a licensed physician that the applicant or driver
198 meets the minimum federal motor carrier safety administration physical qualifications within the
199 prescribed time frames pursuant to 49 CFR Part §391. Not-certified means that an applicant or

200 driver does not have a current medical evaluation or has not been certified by a licensed physician
201 as meeting the minimum federal motor carrier safety administration physical qualifications
202 pursuant to 49 CFR Part § 391.

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

NOTE: The purpose of this bill is to eliminate the requirement of a CDL license when certain light-weight vehicles, such as pickup trucks, are used to tow trailers in a combination that would otherwise put the combined GVWR of the vehicles over the CDL threshold limit.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.