

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 5**

BY SENATORS TRUMP AND SYPOLT

[Originating in the Committee on the Judiciary;

reported on February 24, 2017]

1 A BILL to amend and reenact §17E-1-9 and §17E-1-13 of the Code of West Virginia, 1931, as  
2 amended, all relating to disqualification from holding commercial driver's license for certain  
3 convictions of driving a motor vehicle under the influence of alcohol or a controlled  
4 substance; clarifying that person committing disqualifying offense prior to possessing  
5 commercial driver's license is eligible for commercial driver's license once period of  
6 revocation and safety and treatment program have been completed; expanding range of  
7 offenses eligible for reinstatement after ten years and completion of safety and treatment  
8 program; providing that a person who committed certain offenses more than ten years  
9 before the initial issuance of a commercial driver's license by any state shall be deemed  
10 to have served the period of disqualification from holding a commercial driver's license if  
11 certain conditions are met; and setting forth conditions to be met.

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

1 That §17E-1-9 and §17E-1-13 of the Code of West Virginia, 1931, as amended, be  
2 amended and reenacted, all to read as follows:

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

**§17E-1-9. Commercial driver's license qualification standards.**

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

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

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

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

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

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

22 (e) A commercial driver's license or commercial driver's instruction permit may not be  
23 issued to a person while the person is subject to a disqualification from driving a commercial motor  
24 vehicle, when the person does not possess a valid or current medical certification status or while  
25 the person's driver's license is suspended, revoked or canceled in any state. A commercial  
26 driver's license may not be issued by any other state unless the person first surrenders all such  
27 licenses to the division: Provided, That a person who became subject to a disqualification from  
28 driving a commercial motor vehicle prior to possessing a commercial driver's license is not  
29 disqualified from possessing a commercial driver's license or commercial driver's license  
30 instruction permit so long as the mandatory revocation period specified in subdivision (3),  
31 subsection (a), section thirteen of this article has elapsed, and the individual has completed the  
32 Safety and Treatment Program or other appropriate program prescribed by the division as  
33 required by subdivision (2) of said subsection.

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

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

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

43 (3) Only to a person who is at least eighteen years of age and has held a graduated Class  
44 E, Class E or Class D license for at least two years.

45 (4) The applicant for a commercial driver's instruction permit shall also be otherwise  
46 qualified to hold a 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 ten 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 (8), inclusive, subsection (b) of this section is not  
15 eligible for reinstatement.

16           (3) Any person who committed a disqualifying offense contained in paragraph (B) or (E),  
17 subdivision (1), subsection (b) of this section prior to obtaining a commercial driver's license, and  
18 who committed the disqualifying offense more than ten years before he or she applied for a  
19 commercial driver's license and who has completed the Safety and Treatment Program or other  
20 appropriate program prescribed by the division, shall be considered to have served the period of  
21 disqualification and shall be eligible to obtain a commercial driver's license so long as all other  
22 eligibility requirements contained in sections nine and ten of this article are satisfied.

23           ~~(3)~~ (4) Any disqualification imposed by this section is in addition to any action to suspend,  
24 revoke or cancel the driver's license or driving privileges if suspension, revocation or cancellation  
25 is required under another provision of this code.

26           ~~(4)~~ (5) The provisions of this section apply to any person operating a commercial motor  
27 vehicle and to any person holding a commercial driver's license.

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

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

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

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

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

41           (D) For a second conviction or for refusal to submit to any designated secondary chemical

42 test in a separate incident of any combination of offenses in this subsection while operating a  
43 commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for  
44 life.

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

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

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

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

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

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

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

67 (B) For the first conviction or refusal to submit to any designated secondary chemical test

68 while operating a noncommercial motor vehicle, a commercial driver's license holder  
69 is disqualified from operating a commercial motor vehicle for one year.

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

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

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

82 (4) Leaving the scene of an accident;

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

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

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

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

93 (E) For a second conviction in a separate incident of any combination of offenses in this

94 subsection while operating a noncommercial motor vehicle, a commercial driver's license holder  
95 is disqualified from operating a commercial motor vehicle for life.

96 (5) Using a motor vehicle in the commission of any felony as defined in section three,  
97 article one of this chapter except that the commission of any felony involving the manufacture,  
98 distribution or dispensing of a controlled substance or possession with intent to manufacture,  
99 distribute or dispense a controlled substance falls under the provisions of subdivision (8) of this  
100 subsection;

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

145 (A) For a second conviction of any combination of offenses in this subsection in a separate

146 incident within a three-year period while operating a commercial motor vehicle, a driver  
147 is disqualified from operating a commercial motor vehicle for a period of sixty days.

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

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

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

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

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

169 (B) For a second conviction of any combination of offenses in this section in a separate  
170 incident within a three-year period while operating a noncommercial motor vehicle, if the  
171 conviction results in the suspension, revocation or cancellation of the commercial driver's license

172 holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified  
173 from operating a commercial motor vehicle for a period of sixty days.

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

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

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

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

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

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

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

198 if the conviction results in the suspension, revocation or cancellation of the commercial driver's  
199 license holder's privilege to operate any motor vehicle, a commercial driver's license holder  
200 is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

201 (4) Following the vehicle ahead too closely;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

269 (9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant  
270 to section fourteen-a of this article or similar law of this or any other jurisdiction or 49 C. F. R  
271 §392.80.

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

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

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

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

287 (A) For the first conviction, a driver is disqualified from operating a commercial motor  
288 vehicle for a period of sixty 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 one  
291 hundred twenty days; 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 (2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required  
296 to stop in accordance with the provisions of section one, article twelve, chapter seventeen-c of  
297 this code;

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

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

302 hundred twenty days; and

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

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

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

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

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

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

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

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

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

327 (5) Failing to obey a traffic control device or the directions of an enforcement official at the



328 crossing in accordance with the provisions of section one, article twelve, chapter seventeen-c of  
329 this code;

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

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

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

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

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

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

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

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

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

352 (A) For the first conviction of violating an out-of-service order while operating a commercial  
353 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one hundred

354 eighty days.

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

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

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

364 (A) For the first conviction of violating an out of service order while operating a commercial  
365 motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one hundred  
366 eighty days.

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

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

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

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

380 expunged, deferred or be subject to any diversion program.

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

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

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

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

405 (l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a

406 commercial motor vehicle if the driver is not physically qualified to operate a commercial motor  
407 vehicle or does not possess a valid medical certification status.

408 (m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify  
409 a driver's privilege to operate a commercial motor vehicle if the division determines that the  
410 licensee has falsified any information or certifications required under the provisions of 49 C. F. R.  
411 383 Subpart J or 49 C. F. R. §383.71(a) for sixty days in addition to any other penalty prescribed  
412 by this code.