

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 110**

BY SENATORS TRUMP AND GAUNCH

[Introduced January 13, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §17E-1-13 of the Code of West Virginia, 1931, as amended, relating  
2 to disqualification of a commercial driver's license for a conviction of driving a motor  
3 vehicle under the influence of alcohol or a controlled substance; and providing that an  
4 offense committed before January 1, 1990, or before the initial issuance of a commercial  
5 instructional permit by any state may not be considered an offense in determining a lifetime  
6 disqualification.

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

1 That §17E-1-13 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-1-13. 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 subsection (b,) subdivisions (4) and (6) of this  
10 section is eligible for reinstatement of privileges to operate a commercial motor vehicle after ten  
11 years and after completion of the Safety and Treatment Program or other appropriate program  
12 prescribed by the division. Any person whose lifetime disqualification has been amended under  
13 the provisions of this subdivision and who is subsequently convicted of a disqualifying offense  
14 described in subsection (b), subdivisions (1) through (8) of this section, is not eligible for  
15 reinstatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75 (4) Leaving the scene of an accident;

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

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

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

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

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

89 (5) Using a motor vehicle in the commission of any felony as defined in section three,  
90 article one of this chapter except that the commission of any felony involving the manufacture,  
91 distribution or dispensing of a controlled substance or possession with intent to manufacture,  
92 distribute or dispense a controlled substance falls under the provisions of subdivision eight of this  
93 subsection;

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

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

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

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

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

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

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

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

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

119 (7) Causing a fatality through the negligent operation of a commercial motor vehicle,

120 including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent  
121 homicide as defined in section five, article three, chapter seventeen-b, and section one, article  
122 five, chapter seventeen-c of this code;

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

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

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

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

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

136 (1) Speeding excessively involving any speed of fifteen 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 sixty 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 sixty 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 one  
149 hundred twenty 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 one hundred twenty  
155 days.

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

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

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

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

171 (D) For a third or subsequent conviction of any combination of offenses in this subsection



172 in a separate incident within a three-year period while operating a noncommercial motor vehicle,  
173 if the conviction results in the suspension, revocation or cancellation of the commercial driver's  
174 license holder's privilege to operate any motor vehicle, a commercial driver's license holder  
175 is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

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

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

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

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

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

194 (4) Following the vehicle ahead too closely;

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

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

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

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

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

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

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

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

224 vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one  
225 hundred twenty days.

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

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

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

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

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

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

247 (B) For a third or subsequent conviction of any combination of the offenses in this  
248 subsection in a separate incident in a three-year period while operating a commercial motor  
249 vehicle, a commercial driver's license holder is disqualified from operating a commercial motor

250 vehicle for a period of one hundred twenty days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

327 (C) For a third or subsequent conviction of any combination of offenses in this subsection

328 within a three-year period, a driver is disqualified from operating a commercial motor vehicle for  
329 one year.

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

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

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

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

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

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

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

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

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

353 (2) If convicted of violating a driver or vehicle out-of-service order while transporting

354 hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F (2004) or  
355 while operating a vehicle designed to transport sixteen or more passengers including the driver;

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

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

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

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

367 (g) In accordance with the provisions of 49 U.S.C. §313119(a)(19)(2004), and 49 C.F.R.  
368 §384.226 (2004), notwithstanding the provisions of section twenty-five, article eleven, chapter  
369 sixty-one of this code, no record of conviction, revocation, suspension or disqualification related  
370 to any type of motor vehicle traffic control offense, other than a parking violation, of a commercial  
371 driver's license holder or a person operating a commercial motor vehicle may be masked,  
372 expunged, deferred or be subject to any diversion program.

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

378 (i) In accordance with the provisions of 49 C.F.R. §391.15(b), a driver is disqualified from  
379 operating a commercial motor vehicle for the duration of any suspension, revocation or



380 cancellation of his or her driver's license or privilege to operate a motor vehicle by this state or by  
381 any other state or jurisdiction until the driver complies with the terms and conditions for  
382 reinstatement set by this state or by another state or jurisdiction.

383 (j) In accordance with the provisions of 49 C.F.R. 353.52 (2006), the division shall  
384 immediately disqualify a driver's privilege to operate a commercial motor vehicle upon a notice  
385 from the Assistant Administrator of the Federal Motor Carrier Safety Administration that the driver  
386 poses an imminent hazard. Any disqualification period imposed under the provisions of this  
387 subsection shall be served concurrently with any other period of disqualification if applicable.

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

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

401 (m) In accordance with the provisions of 49 C.F.R. §383.73(g), the division shall disqualify  
402 a driver's privilege to operate a commercial motor vehicle if the division determines that the  
403 licensee has falsified any information or certifications required under the provisions of 49 C.F.R.  
404 383 Subpart J or 49 C.F.R. §383.71a for sixty days in addition to any other penalty prescribed by  
405 this code.

406 (n) Notwithstanding any other provision of law, an offense described in subsection (b) (1)  
407 (B) and (E) of this section, committed by an individual in a noncommercial motor vehicle may not  
408 be considered an offense for the purposes of disqualification if the offense occurred before: (1)  
409 January 1, 1990; or (2) the initial issuance to the individual of a commercial instructional permit  
410 by any state.

NOTE: The purpose of this bill is to provide that an offense and conviction of driving a motor vehicle under the influence of alcohol or a controlled substance committed before January 1, 1990, or before the initial issuance of a commercial instructional permit by any state may not be considered an offense for lifetime disqualification of a commercial driver's license.

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