

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 263

FISCAL
NOTE

BY SENATORS ROBERTS, WOODRUM, AND MARONEY

[Introduced January 13, 2022; referred
to the Committee on Transportation and
Infrastructure; and then to the Committee on Finance]

1 A BILL to amend §17E-1-9 of the Code of West Virginia, 1931, as amended; and to amend said
 2 code by adding thereto a new section, designated §17E-1-9a, all relating to testing and
 3 qualifying for a Commercial Driver's License; granting the power to the commissioner of
 4 motor vehicles to authorize third parties, public and private, to administer skills testing;
 5 authorizing the commission to set limits on fees charged for testing of applicants; and
 6 providing a limitation on the liability of driver examiners.

Be it enacted by the Legislature of West Virginia:

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

22 (e) (c) 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) (d) 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 21 years of age or older, who is alert and unimpaired and who occupies a seat
42 beside the individual for the purpose of giving instruction or testing.

43 (3) Only to a person who is at least 18 years of age and has held a graduated Class E,
44 Class E or Class D license for at least one year.

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-1-9a. Driver examiners for commercial driver's license; third-party testing; fees for
driver examiners; limitation of liability.**

1 (a) Third-party testing. — The commissioner may authorize a person, including an agency,
2 institution, or department of this or another state, an agency or instrumentality of local
3 government, or an employer, private individual, or corporation, or other business entity, to
4 administer the skills test specified by §17E-1-9 of this code so long as:

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

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

8 (b) Fees for third-party examiners. — The commissioner shall, by legislative rule, establish
9 limits on the fees that a third-party examiner may charge an applicant for administration of the
10 skills test, subject to the following provisions:

11 (1) The fee for the test shall be the same for each administration of the skills test to an
12 applicant without regard to prior tests of the applicant; and

13 (2) The commissioner may allow third-party examiners to charge a fee when an applicant
14 fails to appear for a scheduled appointment for the skills test.

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

NOTE: The purpose of this bill is to consolidate provisions relating to the administration of skills tests to applicants for Commercial Driver's Licenses and to authorize the DMV to limit the fees charged by third-party driver examiners. This bill also broadens the list of persons or entities who may be authorized to administer skills tests.

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