
PART THREE — TRAFFIC CODE

ARTICLE 315 Commercial Driver's License

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CROSS REFERENCES

See sectional histories for similar State law.

315.01 Definitions.

Notwithstanding any other provision of this Traffic Code, the following definitions apply to this article:

- (a) "Alcohol" means:
 - (1) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;
 - (2) Beer, ale, port or stout and other similar fermented beverages (including sake or similar products) of any name or description containing one half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (3) Distilled spirits or that substance known as ethyl alcohol, ethanol or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced); or
 - (4) Wine of not less than one half of one percent (0.5 %) of alcohol by volume.
- (b) "Alcohol concentration" means:
 - (1) The number of grams of alcohol per 100 milliliters of blood; or
 - (2) The number of grams of alcohol per 210 liters of breath; or
 - (3) The number of grams of alcohol per sixty-seven milliliters of urine; or
 - (4) The number of grams of alcohol per eighty-six milliliters of serum.
- (c) "Commercial driver license" means a license issued in accordance with the requirements of West Virginia Code Article 17E-1 to an individual which authorizes the individual to drive a class of commercial motor vehicle.
- (d) "Commercial driver instruction permit" means a permit issued pursuant to West Virginia Code 17E-1-9(d).
- (e) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:
 - (1) If the vehicle has a gross combination vehicle weight rating of 26,001 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds;
 - (2) If the vehicle has a gross vehicle weight rating of more than 26,001 pounds or more;
 - (3) If the vehicle is designed to transport sixteen or more passengers, including the driver; or
 - (4) If the vehicle is of any size transporting hazardous materials as defined in this section.

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- (f) “Conviction” means an unvacated adjudication of guilt; a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal or proceeding; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; a plea of guilty or nolo contendere accepted by the court or the payment of a fine or court cost, or violation of a condition of release without bail regardless of whether or not the penalty is rebated, suspended, or probated.
- (g) “Disqualification” means any of the following three actions:
- (1) The suspension, revocation or cancellation of a driver's license by the state or jurisdiction of issuance.
 - (2) Any withdrawal of a person's privilege to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control other than parking or vehicle weight except as to violations committed by a special permittee on the coal resource transportation system or vehicle defect violations.
 - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. Part §391 (2004).
- (h) “Drive” means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of Section 115.06 “drive” includes operation or physical control of a motor vehicle anywhere in this Municipality.
- (i) “Driver” means any person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver license.
- (j) “Driver license” means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle of a specific class.
- (k) “Employee” means any operator of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors (while in the course of operating a commercial motor vehicle) who are either directly employed by or under lease to drive a commercial motor vehicle for an employer.
- (l) “Employer” means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
- (m) “Farm vehicle” includes a motor vehicle or combination vehicle registered to the farm owner or entity operating the farm and used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, creameries, railway shipping points and cold storage plants and in the transportation of agricultural or horticultural supplies and machinery to such farms or orchards to be used thereon.
- (n) “Farmer” includes owner, tenant, lessee, occupant or person in control of the premises used substantially for agricultural or horticultural pursuits, who is at least eighteen years of age with two years licensed driving experience.
- (o) “Farmer vehicle driver” means the person employed and designated by the farmer to drive a farm vehicle as long as driving is not his sole or principal function on the farm, who is at least eighteen years of age with two years licensed driving experience.
- (p) “Motor vehicle” means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon

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- rails.
- (q) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle as a result of a determination by a law-enforcement officer, an authorized enforcement officer of a federal, state, Canadian, Mexican, county or local jurisdiction including any special agent of the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. §§386.72, 392.5, 395.13, 396.9 or compatible laws or the North American uniform out-of-service criteria that an imminent hazard exists.
- (r) "Violation of an out-of-service order" means:
- (1) The operation of a commercial motor vehicle during the period the driver was placed out of service; or
 - (2) The operation of a commercial motor vehicle by a driver after the vehicle was placed out of service and before the required repairs are made. (WV Code 17E-1-3. Ord. 2013-01, passed 02-11-2013.)

315.02 Limitation on number of driver's licenses.

No person who drives a commercial motor vehicle shall have more than one driver license at one time except during the ten-day period beginning on the date the person is issued a driver's license. (WV Code 17E-1-4. Ord. 2013-01, passed 02-11-2013.)

315.03 Employer responsibilities.

- (a) Each employer must require the applicant to provide the information specified in West Virginia Code 17E-1-5.
- (b) No employer may knowingly allow, permit, require or authorize a driver to drive a commercial motor vehicle during any period:
- (1) In which the driver has a driver's license suspended, revoked or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle; or
 - (2) In which the driver has more than one driver's license at one time.
 - (3) During any period in which the driver, or the commercial motor vehicle he or she is driving or the motor carrier operation, is subject to an out-of-service order; or
 - (4) In violation of federal, state or local law or regulation pertaining to railroad highway grade crossings; or
 - (5) During any period the driver is in violation of any provision of 49 C.F.R., Part §382 related to controlled substances and alcohol use and testing. (WV Code 17E-1-6. Ord. 2013-01, passed 02-11-2013.)

315.04 Commercial driver's license required.

- (a) Except when driving under a commercial driver's instruction permit accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle unless the person holds a commercial driver's license and applicable endorsements valid for the vehicle they are driving.
- (b) No person shall drive a commercial motor vehicle while their driving privilege is suspended, revoked, canceled, expired, subject to a disqualification, or in violation of an out-of-service order.
- (c) Drivers of a commercial motor vehicle shall have a commercial driver's license in their possession at all times while driving. (WV Code 17E-1-7. Ord. 2013-01, passed 02-11-2013.)

315.05 Exemptions.

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- (a) Farmers. Bona fide farmers or farm vehicle drivers, as defined, operating a vehicle otherwise covered by the commercial driver's license requirements, may be exempted from the provisions of this article only if the vehicle used is:
 - (1) Driven by a farmer or farm vehicle driver;
 - (2) Used only to transport either agricultural products, farm machinery, farm supplies, to or from a farm;
 - (3) Not used in the operation of a common or contract motor carrier; and
 - (4) Used within 150 miles of the qualifying farm. Farmers who wish to be exempted from the commercial driver's license requirements must apply to the Division of Motor Vehicles for a certificate of exemption.
- (b) Military personnel. Active duty military personnel operating vehicles being used for military purposes are exempted from the provisions of this article in accordance with the provisions of 49 CFR § 383.3 (c)(2006).
- (c) Firefighting and rescue equipment. Operators of vehicles authorized to hold an authorized emergency vehicle permit for use of red signal lights only are exempt from the provisions of this article while the authorized emergency vehicle permit is in force. Vehicles in this class include, but are not limited to, firefighters and rescue equipment:
 - (1) Owned and operated by state, county and municipal fire departments.
 - (2) Owned and operated by state, county and municipal civil defense organizations.
 - (3) Owned and operated by a manufacturer engaged in a type of business that requires fire fighter equipment to protect the safety of their plants and its employees.
 - (4) Owned and operated by volunteer fire departments.
- (d) Operators of off-road construction and mining equipment. Operators of equipment which, by its design, appearance and function, is not intended for use on a public road, including, without limitation, motorscrapers, backhoes, motorgraders, compactors, excavators, tractors, trenches and bulldozers, are exempt from the provisions of this article; provided, that the exemption recognized by this subsection shall not be construed to permit the operation of such equipment on any public road except such operation as may be required for a crossing of such road; provided, however, that no such equipment may be operated on a public road for a distance exceeding five hundred feet from the place where such equipment entered upon the public road.
- (e) Exempt vehicles. The Federal Motor Carrier Safety Improvement Act of 1999 exempts vehicles used exclusively for personal use such as recreation vehicles and rental trucks used only to transport the driver's personal or household property. (WV Code 17E-1-8. Ord. 2013-01, passed 02-11-2013.)

315.06 Drivers prohibited from operating with any alcohol in system.

- (a) In addition to any other penalties provided by the West Virginia Code or these Codified Ordinances, any person who drives, operates or is in physical control of a commercial motor vehicle while having an alcohol concentration in his or her blood, breath or urine of four hundredths of one percent (0.04%) or more, by weight, shall be imprisoned for not less than twenty-four hours nor more than thirty days, and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). A person convicted of a second or any subsequent offense under the provisions of this subsection shall be imprisoned for a period of thirty days, and the court may, in its discretion, impose a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000).
- (b) A person who violates the provisions of subsection (a) of this section shall be treated in the same manner set forth in West Virginia Code 17C-19-3, as if he or she had been

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- arrested for driving under the influence of alcohol or of any controlled substance.
- (c) In addition to any other penalties provided by the West Virginia Code or these Codified Ordinances, a person who drives, operates or is in physical control of a commercial motor vehicle having any measurable alcohol in such person's system or who refuses to take a preliminary breath test to determine such person's blood alcohol content as provided by West Virginia Code 17E-1-15 shall be placed out of service for twenty-four hours by the arresting law-enforcement officer. (WV Code 17E-1-14. Ord. 2013-01, passed 02-11-2013.)

315.99 Penalty.

Unless another penalty is provided in this article, whoever violates any provision of this article shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), or imprisoned for not more than thirty days, or both except that for the second violation of Section 115.04, the offender shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000) or imprisoned not more than thirty days, or both. For the third or any subsequent conviction for violation of Section 315.04, the offender shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500), or imprisoned for not more than thirty days, or both. (WV Code 17E-1-25. Ord. 2013-01, passed 02-11-2013.)