Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2112
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-06.1-10 of the North Dakota Century Code, relating to the disqualification of foreign commercial drivers; to amend and reenact section 39-06.2-02 and subsection 1 of section 39-06.2-06 of the North Dakota Century Code, relating to the definitions relating to commercial driver's licenses and to exceptions for commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

2. "Alcohol concentration" means:

   a. The number of grams of alcohol per one hundred milliliters of blood;

   b. The number of grams of alcohol per two hundred ten liters of breath; or

   c. The number of grams of alcohol per sixty-seven milliliters of urine.

3. "Commercial learner's permit" means a permit issued under subsection 4 of section 39-06.2-07.

4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.

5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:

   a. If the gross combination weight rating or gross combination weight is twenty-six thousand one pounds [11793.86 kilograms] or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross vehicle weight of more than ten thousand pounds [4536 kilograms], whichever is greater;

   b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds [11793.40 kilograms], whichever is greater;

   c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or

d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.

8. "Conviction" means an unvacated adjudication of guilt, or a determination that an individual has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the individual's appearance in court, 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.

9. "Covered farm vehicle" means a straight truck or articulated vehicle:

a. Registered in a state with a licensed plate or other designation issued by the state of registration which allows law enforcement officials to identify it as a farm vehicle;

b. Operated by the owner or operator of a farm or ranch or an employee or family member of a owner or operator of a farm or ranch;

c. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and

d. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions a, b, and c of this subsection by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.

e. Meeting the requirements of subdivisions a, b, c, and d of this subsection:

(1) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of twenty-six thousand one pounds [11793.86 kilograms] or less may utilize the exemptions in 40 CFR 390.39 anywhere in the United States; or

(2) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, or more than twenty-six thousand one pounds [11793.86 kilograms] may utilize the exemptions in 40 CFR 390.39 anywhere in the state of registration or across the state lines within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

10. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.

~~10.~~11. "Downgrade" means:

a. A state allows the driver to change the driver's self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;

b. A state allows the driver to change the driver's self-certification to intrastate only, if the driver qualifies under the state's physical qualification requirements for intrastate only;

c. A state allows the driver to change the driver's certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification; or

d. A state removes the commercial driver's license privilege from the driver's license.

~~11.~~12. "Drive" means to drive, operate, or be in physical control of a motor vehicle.

~~12.~~13. "Driver" means an individual who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.

~~13.~~14. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.

~~14.~~15. "Drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and includes any controlled substance.

~~15.~~16. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.

~~16.~~17. "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 an individual to drive a commercial motor vehicle.

~~17.~~18. "Fatality" means the death of an individual as a result of a motor vehicle accident.

~~18.~~19. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.

20. "Foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States or a citizen of a foreign country who operates a commercial motor vehicle in the United States.

~~19.~~21. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

~~20.~~22. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle. The gross vehicle weight rating of a combination or articulated vehicle, commonly referred to as the "gross combination weight rating", is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.

~~21.~~23. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

~~22.~~24. "Imminent hazard" means the existence of a condition ~~that presents a substantial~~of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood ~~that death,~~of serious ~~illness, severe personal~~ injury~~,~~ or death if not discontinued immediately or a condition relating to hazardous materials which presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

~~23.~~25. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the federal communications commission in 47 CFR 20.3. The term does not include two-way and citizens band radio services.

~~24.~~26. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.

~~25.~~27. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.

~~26.~~28. "Nondomiciled commercial driver's license" means a commercial driver's license or a commercial learner's permit issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).

~~27.~~29. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

~~28.~~30. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;

b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of an individual or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;

c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;

d. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial learner's permit;

e. Driving a commercial motor vehicle without a commercial driver's license or commercial learner's permit in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license or commercial learner's permit on the date the citation was issued, is not guilty of this offense;

f. Driving a commercial motor vehicle without the proper class of commercial driver's license, endorsement, or commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported;

g. Violating a state or local law or ordinance prohibiting texting while driving; or

h. Violating a state law or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a commercial motor vehicle.

~~29.~~31. "State" means a state of the United States or the District of Columbia.

~~30.~~32. "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within one or more tanks having an individual rated capacity of more than one hundred nineteen gallons [450.46 liters] and an aggregate rated capacity of one thousand gallons [3785.41 liters] or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons [3785.41 liters] or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

~~31.~~33. "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes short message service, e-mailing, instant messaging, a command or request to access a worldwide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include:

a. Pressing a single button to initiate or terminate a voice communication using a mobile telephone;

b. Inputting, selecting, or reading information on a global positioning system or navigation system; or

c. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smartphones, citizens' band radios, or music players, for a purpose that is not otherwise prohibited in 49 CFR part 383.

~~32.~~34. "Third-party skills test examiner" means an individual employed by a third-party tester who is authorized by the state to administer the skills tests in 49 CFR part 383, subparts G and H.

~~33.~~35. "Third-party tester" means a person, including another state, a motor carrier, a private driver training facility or other private institution, or a political subdivision authorized by the state to employ skills test examiners to administer the skills tests in 49 CFR part 383, subparts G and H.

~~34.~~36. "United States" means the fifty states and the District of Columbia.

~~35.~~37. "Use a hand-held mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seatbelt that is installed under 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

SECTION 2. AMENDMENT. Subsection 1 of section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Except when driving under a commercial learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, an individual may not drive a commercial motor vehicle on the highways of this state unless the individual holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the individual is driving. This subsection does not apply:

   a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.

   b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.

   c. When the vehicle is being driven for military purposes, subject to any limitations imposed by 49 CFR part 383.3(c).

   d. When the vehicle being driven is a covered farm vehicle as defined in this chapter.

SECTION 3. A new subsection to section 39-06.2-10 of the North Dakota Century Code is created and enacted as follows:

A foreign commercial driver is subject to disqualification under this section.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2112.

Senate Vote:	Yeas 46	Nays 0	Absent 1
House Vote:	Yeas 83	Nays 0	Absent 11

Secretary of the Senate

Received by the Governor at 8:45 A.M. on March 12, 2015.

Approved at 10:03 A.M. on March 13, 2015.

Governor

Filed in this office this 13th day of March, 2015,

at 151 o'clock P M.

Secretary of State