

SECOND REGULAR SESSION

HOUSE BILL NO. 2251

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ST. ONGE.

Read 1st time February 21, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4079L.01I

AN ACT

To repeal sections 302.700, 302.735, and 302.755, RSMo, and to enact in lieu thereof three new sections relating to commercial driver's licenses, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 302.700, 302.735, and 302.755, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 302.700, 302.735, and 302.755, to read as follows:

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial Driver's License Act".

2. When used in sections 302.700 to 302.780, the following words and phrases mean:

(1) "Alcohol", any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;

(2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters of blood or the number of grams of alcohol per two hundred ten liters of breath or the number of grams of alcohol per sixty-seven milliliters of urine;

(3) "Commercial driver's instruction permit", a permit issued pursuant to section 302.720;

(4) "Commercial driver's license", a license issued by this state to an individual which authorizes the individual to operate a commercial motor vehicle;

(5) "Commercial driver's license information system", the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570)

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 to serve as a clearinghouse for locating information related to the licensing and identification of
16 commercial motor vehicle drivers;

17 (6) "Commercial motor vehicle", a motor vehicle designed or used to transport
18 passengers or property:

19 (a) If the vehicle has a gross combination weight rating of twenty-six thousand one or
20 more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand
21 one pounds or more;

22 (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more
23 pounds or such lesser rating as determined by federal regulation;

24 (c) If the vehicle is designed to transport sixteen or more passengers, including the
25 driver; or

26 (d) If the vehicle is transporting hazardous materials and is required to be placarded
27 under the Hazardous Materials Transportation Act (46 U.S.C. 1801 et seq.);

28 (7) "Controlled substance", any substance so classified under Section 102(6) of the
29 Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules
30 I through V of 21 C.F.R. part 1308, as they may be revised from time to time;

31 (8) "Conviction", an unvacated adjudication of guilt, including pleas of guilt and nolo
32 contendere, or a determination that a person has violated or failed to comply with the law in a
33 court of original jurisdiction or an authorized administrative proceeding, an unvacated forfeiture
34 of bail or collateral deposited to secure the person's appearance in court, the payment of a fine
35 or court cost, or violation of a condition of release without bail, regardless of whether the penalty
36 is rebated, suspended or prorated **including an offense for failure to appear or pay**;

37 (9) "Director", the director of revenue or his authorized representative;

38 (10) "Disqualification", any of the following three actions:

39 (a) The suspension, revocation, or cancellation of a commercial driver's license;

40 (b) Any withdrawal of a person's privileges to drive a commercial motor vehicle by a
41 state as the result of a violation of federal, state, county, municipal, or local law relating to motor
42 vehicle traffic control or violations committed through the operation of motor vehicles, other
43 than parking, vehicle weight, or vehicle defect violations;

44 (c) A determination by the Federal Motor Carrier Safety Administration that a person
45 is not qualified to operate a commercial motor vehicle under 49 C.F.R. Part 383.52 or Part 391;

46 (11) "Drive", to drive, operate or be in physical control of a commercial motor vehicle;

47 (12) "Driver", any person who drives, operates, or is in physical control of a motor
48 vehicle, or who is required to hold a commercial driver's license;

49 (13) "Driving under the influence of alcohol", the commission of any one or more of the
50 following acts:

51 (a) Driving a commercial motor vehicle with the alcohol concentration of four
52 one-hundredths of a percent or more as prescribed by the secretary or such other alcohol
53 concentration as may be later determined by the secretary by regulation;

54 (b) Driving a commercial or noncommercial motor vehicle while intoxicated in violation
55 of any federal or state law, or in violation of a county or municipal ordinance;

56 (c) Driving a commercial or noncommercial motor vehicle with excessive blood alcohol
57 content in violation of any federal or state law, or in violation of a county or municipal
58 ordinance;

59 (d) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section
60 302.750, any federal or state law, or a county or municipal ordinance; or

61 (e) Having any state, county or municipal alcohol-related enforcement contact, as defined
62 in subsection 3 of section 302.525; provided that any suspension or revocation pursuant to
63 section 302.505, committed in a noncommercial motor vehicle by an individual twenty-one years
64 of age or older shall have been committed by the person with an alcohol concentration of at least
65 eight-hundredths of one percent or more, or in the case of an individual who is less than
66 twenty-one years of age, shall have been committed by the person with an alcohol concentration
67 of at least two-hundredths of one percent or more, and if committed in a commercial motor
68 vehicle, a concentration of four-hundredths of one percent or more;

69 (14) "Driving under the influence of a controlled substance", the commission of any one
70 or more of the following acts in a commercial or noncommercial motor vehicle:

71 (a) Driving a commercial or noncommercial motor vehicle while under the influence of
72 any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C.
73 802(6)), including any substance listed in schedules I through V of 21 C.F.R. Part 1308, as they
74 may be revised from time to time;

75 (b) Driving a commercial or noncommercial motor vehicle while in a drugged condition
76 in violation of any federal or state law or in violation of a county or municipal ordinance; or

77 (c) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section
78 302.750, any federal or state law, or a county or municipal ordinance;

79 (15) "Employer", any person, including the United States, a state, or a political
80 subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to
81 operate such a vehicle;

82 (16) "Farm vehicle", a commercial motor vehicle controlled and operated by a farmer
83 used exclusively for the transportation of agricultural products, farm machinery, farm supplies,
84 or a combination of these, **to or from the farm**, within one hundred fifty miles of the farm, other
85 than one which requires placarding for hazardous materials as defined in this section, or used in
86 the operation of a common or contract motor carrier, except that a farm vehicle shall not be a

87 commercial motor vehicle when the total combined gross weight rating does not exceed
88 twenty-six thousand one pounds when transporting fertilizers as defined in subdivision (21) of
89 this subsection;

90 (17) "Fatality", the death of a person as a result of a motor vehicle accident;

91 (18) "Felony", any offense under state or federal law that is punishable by death or
92 imprisonment for a term exceeding one year;

93 (19) "Gross combination weight rating" or "GCWR", the value specified by the
94 manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a
95 value specified by the manufacturer, GCWR will be determined by adding the GVWR of the
96 power unit and the total weight of the towed unit and any load thereon;

97 (20) "Gross vehicle weight rating" or "GVWR", the value specified by the manufacturer
98 as the loaded weight of a single vehicle;

99 (21) "Hazardous materials", [hazardous materials as specified in Section 103 of the
100 Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). Fertilizers, including but not
101 limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel
102 or special fuel, shall not be considered hazardous materials when transported by a farm vehicle
103 provided all other provisions of this definition are followed] **any material that has been**
104 **designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under**
105 **subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or**
106 **toxin in 42 C.F.R. Part 73;**

107 (22) "Imminent hazard", the existence of a condition that presents a substantial
108 likelihood that death, serious illness, severe personal injury, or a substantial endangerment to
109 health, property, or the environment may occur before the reasonably foreseeable completion
110 date of a formal proceeding begins to lessen the risk of that death, illness, injury, or
111 endangerment;

112 (23) "Issuance", the initial licensure, license transfers, license renewals, and license
113 upgrades;

114 (24) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks;

115 (25) "Noncommercial motor vehicle", a motor vehicle or combination of motor vehicles
116 not defined by the term "commercial motor vehicle" in this section;

117 (26) "Out of service", a temporary prohibition against the operation of a commercial
118 motor vehicle by a particular driver, or the operation of a particular commercial motor vehicle,
119 or the operation of a particular motor carrier;

120 (27) "Out-of-service order", a declaration by the Federal Highway Administration, or any
121 authorized enforcement officer of a federal, state, Commonwealth of Puerto Rico, Canadian,

122 Mexican or any local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier
123 operation, is out of service;

124 (28) "School bus", a commercial motor vehicle used to transport preprimary, primary,
125 or secondary school students from home to school, from school to home, or to and from
126 school-sponsored events. School bus does not include a bus used as a common carrier as defined
127 by the Secretary;

128 (29) "Secretary", the Secretary of Transportation of the United States;

129 (30) "Serious traffic violation", driving a commercial motor vehicle in such a manner
130 that the driver receives a conviction for the following offenses or driving a noncommercial motor
131 vehicle when the driver receives a conviction for the following offenses and the conviction
132 results in the suspension or revocation of the driver's license or noncommercial motor vehicle
133 driving privilege:

134 (a) Excessive speeding, as defined by the Secretary by regulation;

135 (b) Careless, reckless or imprudent driving which includes, but shall not be limited to,
136 any violation of section 304.016, RSMo, any violation of section 304.010, RSMo, or any other
137 violation of federal or state law, or any county or municipal ordinance while driving a
138 commercial motor vehicle in a willful or wanton disregard for the safety of persons or property,
139 or improper or erratic traffic lane changes, or following the vehicle ahead too closely, but shall
140 not include careless and imprudent driving by excessive speed;

141 (c) A violation of any federal or state law or county or municipal ordinance regulating
142 the operation of motor vehicles arising out of an accident or collision which resulted in death to
143 any person, other than a parking violation;

144 (d) Driving a commercial motor vehicle without obtaining a commercial driver's license
145 in violation of any federal or state or county or municipal ordinance;

146 (e) Driving a commercial motor vehicle without a commercial driver's license in the
147 driver's possession in violation of any federal or state or county or municipal ordinance. Any
148 individual who provides proof to the court which has jurisdiction over the issued citation that the
149 individual held a valid commercial driver's license on the date that the citation was issued shall
150 not be guilty of this offense;

151 (f) Driving a commercial motor vehicle without the proper commercial driver's license
152 class or endorsement for the specific vehicle group being operated or for the passengers or type
153 of cargo being transported in violation of any federal or state law or county or municipal
154 ordinance; or

155 (g) Any other violation of a federal or state law or county or municipal ordinance
156 regulating the operation of motor vehicles, other than a parking violation, as prescribed by the
157 secretary by regulation;

158 (31) "State", a state, territory or possession of the United States, the District of
159 Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada;

160 (32) "United States", the fifty states and the District of Columbia.

302.735. 1. An application shall not be taken from a nonresident after September 30,
2 2005. The application for a commercial driver's license shall include, but not be limited to, the
3 applicant's legal name, mailing and residence address, if different, a physical description of the
4 person, including sex, height, weight and eye color, the person's Social Security number, date
5 of birth and any other information deemed appropriate by the director. The application shall also
6 require, beginning September 30, 2005, the applicant to provide the names of all states where
7 the applicant has been previously licensed to drive any type of motor vehicle during the
8 preceding ten years.

9 2. A commercial driver's license shall expire on the applicant's birthday in the sixth year
10 after issuance, unless the license must be issued for a shorter period due to other requirements
11 of law or for transition or staggering of work as determined by the director, and must be renewed
12 on or before the date of expiration. When a person changes such person's name an application
13 for a duplicate license shall be made to the director of revenue. When a person changes such
14 person's mailing address or residence the applicant shall notify the director of revenue of said
15 change, however, no application for a duplicate license is required. A commercial license issued
16 pursuant to this section to an applicant less than twenty-one years of age and seventy years of age
17 and older shall expire on the applicant's birthday in the third year after issuance, unless the
18 license must be issued for a shorter period as determined by the director.

19 3. A commercial driver's license containing a hazardous materials endorsement issued
20 to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a
21 period exceeding five years from the approval date of the security threat assessment as
22 determined by the Transportation Security Administration.

23 4. The director shall issue an annual commercial driver's license containing a school bus
24 endorsement to an applicant who is seventy years of age or older. The fee for such license shall
25 be seven dollars and fifty cents.

26 5. A commercial driver's license containing a hazardous materials endorsement issued
27 to an applicant who is seventy years of age or older shall not be issued for a period exceeding
28 three years. The director shall not require such drivers to obtain a security threat assessment
29 more frequently than such assessment is required by the Transportation Security Administration
30 under the Uniting and Strengthening America by Providing Appropriate Tools Required to
31 Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

(1) The state shall immediately revoke a hazardous materials endorsement upon receipt of an Initial Determination of Threat Assessment and Immediate Revocation from the Transportation Security Administration as defined by 49 C.F.R. 1572.13(a).

(2) The state shall revoke or deny a hazardous materials endorsement within fifteen days of receipt of a Final Determination of Threat Assessment from the Transportation Security Administration as required by 49 C.F.R. 1572.13(a).

6. The fee for a commercial driver's license or renewal commercial driver's license issued for a period greater than three years shall be forty dollars.

7. The fee for a commercial driver's license or renewal commercial driver's license issued for a period of three years or less shall be twenty dollars.

8. The fee for a duplicate commercial driver's license shall be twenty dollars.

9. In order for the director to properly transition driver's license requirements under the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and make adjustments for any fees, including driver examination fees that are incurred by the driver as a result of the initial issuance of a transitional license required to comply with such acts.

10. Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.

11. Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.

12. Beginning July 1, 2005, the director shall not issue a commercial driver's license under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. If lawful presence is granted for a temporary period, no commercial driver's license shall be issued. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any commercial driver's license issued under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

67 13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections 1
68 and 5 of this section to the contrary, the director may issue a nonresident commercial driver's
69 license to a resident of a foreign jurisdiction if the United States Secretary of Transportation has
70 determined that the commercial motor vehicle testing and licensing standards in the foreign
71 jurisdiction do not meet the testing standards established in 49 C.F.R. Part 383.

72 (2) Any applicant for a nonresident commercial driver's license must present evidence
73 satisfactory to the director that the applicant currently has employment with an employer in this
74 state. The nonresident applicant must meet the same testing, driver record requirements,
75 conditions, and is subject to the same disqualification and conviction reporting requirements
76 applicable to resident commercial drivers.

77 (3) The nonresident commercial driver's license will expire on the same date that the
78 documents establishing lawful presence for employment expire. The word "nonresident" shall
79 appear on the face of the nonresident commercial driver's license. Any applicant for a Missouri
80 nonresident commercial driver's license must first surrender any nonresident commercial driver's
81 license issued by another state.

82 (4) The nonresident commercial driver's license applicant must pay the same fees as
83 required for the issuance of a resident commercial driver's license.

84 14. Foreign jurisdiction for purposes of issuing a nonresident commercial driver's license
85 under this section shall not include any of the fifty states of the United States or Canada or
86 Mexico.

 302.755. 1. A person is disqualified from driving a commercial motor vehicle for a
2 period of not less than one year if convicted of a first violation of:

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

4 (2) Driving a commercial motor vehicle which causes a fatality through the negligent
5 operation of the commercial motor vehicle, including but not limited to the crimes of vehicular
6 manslaughter, homicide by motor vehicle, and negligent homicide;

7 (3) Driving a commercial motor vehicle while revoked pursuant to section 302.727;

8 (4) Leaving the scene of an accident involving a commercial or noncommercial motor
9 vehicle operated by the person;

10 (5) Using a commercial or noncommercial motor vehicle in the commission of any
11 felony, as defined in section 302.700, except a felony as provided in subsection 4 of this section.

12 2. If any of the violations described in subsection 1 of this section occur while
13 transporting a hazardous material the person is disqualified for a period of not less than three
14 years.

15 3. Any person is disqualified from operating a commercial motor vehicle for life if
16 convicted of two or more violations of any of the offenses specified in subsection 1 of this

17 section, or any combination of those offenses, arising from two or more separate incidents. The
18 director may issue rules and regulations, in accordance with guidelines established by the
19 secretary, under which a disqualification for life under this section may be reduced to a period
20 of not less than ten years.

21 4. Any person is disqualified from driving a commercial motor vehicle for life who uses
22 a commercial or noncommercial motor vehicle in the commission of any felony involving the
23 manufacture, distribution, or dispensing of a controlled substance, or possession with intent to
24 manufacture, distribute, or dispense a controlled substance.

25 5. Any person is disqualified from operating a commercial motor vehicle for a period
26 of not less than sixty days if convicted of two serious traffic violations or one hundred twenty
27 days if convicted of three serious traffic violations, arising from separate incidents occurring
28 within a three-year period.

29 6. Any person found to be operating a commercial motor vehicle while having any
30 measurable alcohol concentration shall immediately be issued a continuous twenty-four-hour
31 out-of-service order by a law enforcement officer in this state.

32 7. Any person who is convicted of operating a commercial motor vehicle beginning at
33 the time of issuance of the out-of-service order until its expiration is guilty of a class A
34 misdemeanor.

35 8. Any person convicted for the first time of driving while out of service shall be
36 disqualified from driving a commercial motor vehicle [for a period of ninety days] **in the**
37 **manner prescribed in 49 C.F.R. Part 383, or as amended by the secretary.**

38 9. Any person convicted of driving while out of service on a second occasion during any
39 ten-year period, involving separate incidents, shall be disqualified [for a period of one year] **in**
40 **the manner prescribed in 49 C.F.R. Part 383, or as amended by the secretary.**

41 10. Any person convicted of driving while out of service on a third or subsequent
42 occasion during any ten-year period, involving separate incidents, shall be disqualified for a
43 period of three years.

44 11. Any person convicted of a first violation of an out-of-service order while transporting
45 hazardous materials or while operating a motor vehicle designed to transport sixteen or more
46 passengers, including the driver, is disqualified for a period of one hundred eighty days.

47 12. Any person convicted of any subsequent violation of an out-of-service order in a
48 separate incident within ten years after a previous violation, while transporting hazardous
49 materials or while operating a motor vehicle designed to transport fifteen passengers, including
50 the driver, is disqualified for a period of three years.

51 13. Any person convicted of any other offense as specified by regulations promulgated
52 by the Secretary of Transportation shall be disqualified in accordance with such regulations.

53 14. After suspending, revoking, canceling or disqualifying a driver, the director shall
54 update records to reflect such action and notify a nonresident's licensing authority and the
55 commercial driver's license information system within ten days in the manner prescribed in 49
56 C.F.R. Part 384, or as amended by the Secretary.

57 15. Any person disqualified from operating a commercial motor vehicle pursuant to
58 subsection 1, 2, 3 or 4 of this section shall have such commercial driver's license canceled, and
59 upon conclusion of the period of disqualification shall take the written and driving tests and meet
60 all other requirements of sections 302.700 to 302.780. Such disqualification and cancellation
61 shall not be withdrawn by the director until such person reapplies for a commercial driver's
62 license in this or any other state after meeting all requirements of sections 302.700 to 302.780.

63 16. The director shall disqualify a driver upon receipt of notification that the Secretary
64 has determined a driver to be an imminent hazard pursuant to 49 C.F.R., Part 383.52. Due
65 process of a disqualification determined by the Secretary pursuant to this section shall be held
66 in accordance with regulations promulgated by the Secretary. The period of disqualification
67 determined by the Secretary pursuant to this section shall be served concurrently to any other
68 period of disqualification which may be imposed by the director pursuant to this section. Both
69 disqualifications shall appear on the driving record of the driver.

70 **17. The director shall disqualify a commercial license holder or operator of a**
71 **commercial vehicle, from operation of any commercial motor vehicle, upon receipt of a**
72 **conviction for an offense of failure to appear or pay and such disqualification shall remain**
73 **in effect until the director receives notice that the person has complied with the**
74 **requirement to appear or pay.**

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