

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2741

103RD GENERAL ASSEMBLY

6089H.03P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 302.735, RSMo, and to enact in lieu thereof four 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Section A. Section 302.735, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 302.733, 302.735, 302.738, and 302.739, to read as follows:

302.733. 1. An operator of a commercial motor vehicle shall be able to read and speak the English language sufficiently to:

- (1) Converse with the general public;**
- (2) Understand highway traffic signs and signals in the English language;**
- (3) Respond to official inquiries; and**
- (4) Make entries on reports and records.**

Such requirements shall be interpreted consistently with the applicable federal motor carrier safety regulations.

2. A person commits the offense of operating a commercial motor vehicle without sufficient English language proficiency if he or she:

- (1) Operates a commercial vehicle; and**
- (2) Fails to demonstrate proficiency in the English language as required under subsection 1 of this section.**

3. The offense of operating a commercial motor vehicle without sufficient English language proficiency is a class D misdemeanor for a first offense, a class B

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.

17 **misdemeanor for a second offense, and a class D felony for a third or subsequent**
18 **offense.**

19 **4. A driver found to be in violation of the language proficiency requirements of**
20 **this section shall be prohibited from operating a commercial motor vehicle within this**
21 **state until such a time that the driver is able to meet the requirements of subsection 1 of**
22 **this section.**

23 **5. Any operator of a commercial motor vehicle found to be in violation of this**
24 **section shall, in addition to the penalties provided under subsections 3 and 4 of this**
25 **section, be subject to a fine of one thousand dollars.**

26 **6. A commercial motor carrier whose driver is found to be in violation of this**
27 **section shall be subject to a fine of three thousand dollars for each violation.**

28 **7. A commercial motor carrier shall be notified of the location of any**
29 **commercial motor vehicle involved in a violation of this section and, upon payment of a**
30 **fine in full and presentation of a driver who meets all of the requirements to operate a**
31 **commercial motor vehicle in this state, shall take possession of the vehicle. If the**
32 **commercial motor carrier is unable to either pay such fine or present such driver within**
33 **twelve hours after notification, the owner of any cargo being transported by the**
34 **commercial motor vehicle shall be notified and allowed to arrange for the transfer of the**
35 **cargo to another vehicle. Neither the state or the owner of such cargo shall be liable for**
36 **any reasonable action to transfer such cargo.**

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,
3 the applicant's legal name, mailing and residence address, if different, a physical description
4 of the person, including sex, height, weight and eye color, the person's Social Security
5 number, date of birth and any other information deemed appropriate by the director. The
6 application shall also require, beginning September 30, 2005, the applicant to provide the
7 names of all states where the applicant has been previously licensed to drive any type of
8 motor vehicle during the preceding ten years.

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

18 third year after issuance, unless the license must be issued for a shorter period as determined
19 by the director.

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

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

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

33 (1) The state shall immediately revoke a hazardous materials endorsement upon
34 receipt of an initial determination of threat assessment and immediate revocation from the
35 Transportation Security Administration as defined by 49 CFR 1572.13(a).

36 (2) The state shall revoke or deny a hazardous materials endorsement within fifteen
37 days of receipt of a final determination of threat assessment from the Transportation Security
38 Administration as required by CFR 1572.13(a).

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

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

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

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

51 10. Within thirty days after moving to this state, the holder of a commercial driver's
52 license shall apply for a commercial driver's license in this state. The applicant shall meet all
53 other requirements of sections 302.700 to 302.780, except that the director may waive the
54 driving test for a commercial driver's license as required in section 302.720 if the applicant

55 for a commercial driver's license has a valid commercial driver's license from a state which
56 has requirements for issuance of such license comparable to those in this state.

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

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

69 13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections
70 1 and 5 of this section to the contrary, the director may issue a nondomiciled commercial
71 driver's license or commercial driver's instruction permit to a resident of a foreign jurisdiction
72 if the United States Secretary of Transportation has determined that the commercial motor
73 vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing
74 standards established in 49 CFR 383.

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

81 (3) The nondomiciled commercial driver's license will expire on the same date that
82 the documents establishing lawful presence for employment expire. The word
83 "nondomiciled" shall appear on the face of the nondomiciled commercial driver's license.
84 Any applicant for a Missouri nondomiciled commercial driver's license or commercial
85 driver's instruction permit must first surrender any nondomiciled commercial driver's license
86 issued by another state.

87 (4) The nondomiciled commercial driver's license applicant must pay the same fees as
88 required for the issuance of a resident commercial driver's license or commercial driver's
89 instruction permit.

90 **(5) A person holding a nondomiciled commercial driver's license or**
91 **nondomiciled commercial driver's instruction permit within this state shall also**

92 possess a valid work visa or provide proof of citizenship to validate his or her identity
93 while operating a commercial motor vehicle. Proof of citizenship shall be demonstrated
94 through presentation of a birth certificate, naturalization certificate, or valid passport.

95 (6) A commercial motor carrier whose driver is found to be in violation of
96 subdivision (5) of this subsection shall be subject to a fine in the amount of three
97 thousand dollars for each violation.

98 (7) A driver found to be in violation of subdivision (5) of this subsection shall be
99 prohibited from operating a commercial motor vehicle within this state until such a time
100 that the driver is able to meet the requirements of such subdivision. Any driver found to
101 be operating a motor vehicle within this state while under such prohibition shall be
102 guilty of a class B misdemeanor and upon conviction shall be subject to a fine not to
103 exceed one thousand dollars or by imprisonment for not more than ninety days, or by
104 both such fine and imprisonment.

105 (8) The commercial motor carrier shall be notified of the location of any
106 commercial motor vehicle involved in a violation of subdivision (5) of this subsection
107 and, upon payment of the fine in full and presentation of a driver who meets all
108 requirements to operate a commercial motor vehicle within this state, shall take
109 possession of the vehicle. If the commercial motor carrier is unable to either pay such
110 fine or present such driver within twelve hours after notification, the owner of any cargo
111 being transported by the commercial motor vehicle shall be notified and allowed to
112 arrange for the transfer of the cargo to another vehicle. Neither the state or the owner
113 of such cargo shall be liable for any reasonable action to transfer such cargo.

114 (9) Nothing in this subsection shall be construed to require state or local law
115 enforcement officers to independently determine immigration status beyond verification
116 of compliance with applicable federal commercial motor vehicle regulations.

117 14. Foreign jurisdiction for purposes of issuing a nondomiciled commercial driver's
118 license or commercial driver's instruction permit under this section shall not include any of
119 the fifty states of the United States or Canada or Mexico.

2 **302.738. 1. Any person operating a commercial motor vehicle within this state**
3 **shall be authorized under applicable federal law to engage in employment as a**
4 **commercial motor vehicle operator within the United States.**

5 **2. A person commits the offense of unlawful commercial motor vehicle operation**
6 **if he or she operates a commercial motor vehicle within this state while not authorized**
7 **under applicable federal law to engage in employment as a commercial motor vehicle**
8 **operator within the United States.**

8 **3. The offense of unlawful commercial motor vehicle operation is a class D**
9 **misdemeanor for a first offense, a class B misdemeanor for a second offense, and a class**
10 **D felony for a third or subsequent offense.**

11 **4. Notwithstanding the provisions of subsection 3 of this section, any violation of**
12 **this section that is discovered after a major violation of traffic law shall be punishable as**
13 **a class D felony. For purposes of this subsection, "major violation of traffic law" means**
14 **a violation of traffic law that presents predictable harm or is inherently dangerous.**
15 **Such violations shall include, but not be limited to, driving while in an intoxicated**
16 **condition, under the influence of controlled substances or drugs, or with an excessive**
17 **blood alcohol content; exceeding the speed limit by more than nineteen miles per hour;**
18 **performing a u-turn on a designated one-way street; any violation occurring within a**
19 **construction zone or school zone; and driving in the wrong direction on a highway.**

20 **5. Upon a violation of this section, the operator shall be placed out of service**
21 **until compliance with federal law is demonstrated.**

22 **6. Nothing in this section shall be construed to require state or local law**
23 **enforcement officers to independently determine immigration status beyond verification**
24 **of compliance with applicable federal commercial motor vehicle regulations.**

302.739. 1. Any commercial motor carrier operating within this state shall have
2 **an affirmative duty to ensure that each driver operating under its authority within this**
3 **state is authorized under applicable federal law to engage in employment as a**
4 **commercial motor vehicle operator within the United States.**

5 **2. A commercial motor carrier that permits or dispatches a driver to operate a**
6 **commercial motor vehicle within this state in violation of section 302.738 shall be subject**
7 **to a civil penalty of not less than fifteen thousand dollars per violation.**

8 **3. If a violation of subsection 2 of this section results in serious physical injury to**
9 **another person, the commercial motor carrier shall be subject to a civil penalty of not**
10 **less than twenty-five thousand dollars per violation.**

11 **4. If a violation of subsection 2 of this section results in the death of another**
12 **person, the commercial motor carrier shall be subject to a civil penalty of not less than**
13 **fifty thousand dollars per violation.**

14 **5. Upon a second violation within a five-year period, the appropriate state**
15 **agency may suspend the commercial motor carrier's authority to operate within this**
16 **state for a period not to exceed one year.**

17 **6. Upon a third violation within a five-year period, the commercial motor**
18 **carrier's authority to operate within this state may be revoked.**

19 **7. A commercial motor carrier that has been assessed a fine or prohibition under**
20 **this section shall remain liable for such fine or prohibition regardless of any change in**

21 **business name, structure, ownership, or formation of a new entity. Any successor entity**
22 **with substantial continuity of ownership, management, officers, directors, or operations**
23 **with the violating carrier shall be jointly and severally liable for the unpaid fine and**
24 **subject to the same prohibitions and out-of-service requirements. The department of**
25 **transportation shall not issue, renew, or transfer any commercial vehicle registration,**
26 **authority, or license to any such successor entity until all fines are paid in full and**
27 **compliance with this section is achieved. For purposes of this subsection, "commercial**
28 **motor carrier" includes any entity using the same or affiliated United States**
29 **Department of Transportation number or motor carrier number as the violating carrier.**
30 **8. Nothing in this section shall be construed to require state or local law**
31 **enforcement officers to independently determine immigration status beyond verification**
32 **of compliance with applicable federal commercial motor vehicle regulations.**

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