

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES; PROVIDING PROCEDURES FOR CONFIDENTIALITY OF BACKGROUND CHECKS CONDUCTED PURSUANT TO FEDERAL DEPARTMENT OF HOMELAND SECURITY REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-65 NMSA 1978 (being Laws 1989, Chapter 14, Section 14, as amended) is amended to read:

"66-5-65. CLASSIFICATIONS--ENDORSEMENTS--RESTRICTIONS.--

A. Commercial driver's licenses may be issued with the classifications, endorsements and restrictions enumerated in Subsections B, C and D of this section. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

B. The following classifications shall apply to commercial driver's licenses:

(1) class A - any combination of vehicles with a gross combination weight rating of more than twenty-six thousand pounds, if the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;

(2) class B - any single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds and any such vehicle towing a vehicle with a gross vehicle weight rating of ten thousand pounds or less; and

(3) class C - any single vehicle or combination of vehicles that does not meet either the definition of Paragraph (1) or (2) of this subsection but is:

(a) designed to transport sixteen or more passengers, including the driver; or

(b) used in the transportation of hazardous materials, which requires the vehicle to be placarded under applicable law.

C. The secretary, by regulation, may provide for classifications in addition to those set forth in Subsection B of this section.

D. The following endorsements and restrictions shall apply to commercial driver's licenses:

(1) "H" - authorizes driving a vehicle transporting hazardous material;

(2) "L" - restricts the driver to vehicles not equipped with airbrakes;

(3) "T" - authorizes driving a vehicle towing more than one trailer;

(4) "P" - authorizes driving vehicles, other than school buses, carrying passengers;

- (5) "N" - authorizes driving tank vehicles;
 - (6) "X" - represents a combination of the hazardous material ("H") and tank vehicle ("N") endorsements;
 - (7) "S" - authorizes driving a school bus;
- and
- (8) "K" - restricts the driver to driving a commercial motor vehicle in intrastate commerce only.

E. The department shall require an applicant requesting a hazardous material ("H") endorsement to be subject to a background check pursuant to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001. Information received pursuant to a background check required by the federal transportation security administration of the department of homeland security shall be kept confidential and shall be released only to the subject of the background check and the division. Fees charged for the background check shall be borne by the subject of the background check or by the employer."

Section 2. Section 66-5-66 NMSA 1978 (being Laws 1989, Chapter 14, Section 15) is amended to read:

"66-5-66. APPLICANT RECORD INFORMATION--INFORMATION EXCHANGE.--

A. Before issuing a commercial driver's license, the department shall obtain pertinent driving record

information from each state where the applicant has been licensed, through a multistate database, or from each state.

B. The department has the authority to exchange commercial driver's license information as it deems necessary to carry out the provisions of the New Mexico Commercial Driver's License Act, except that the results of a background check conducted pursuant to federal department of homeland security requirements shall be:

(1) confidential and not disseminated except to the subject of the background check and the division;

(2) used only for the purpose authorized by this section; and

(3) subject to protest, appeal or consideration of mitigating circumstances if used as a basis to disqualify a driver who held a commercial driver's license under rules promulgated by the transportation security administration of the department of homeland security."

Section 3. Section 66-5-68 NMSA 1978 (being Laws 1989, Chapter 14, Section 17, as amended) is amended to read:

"66-5-68. DISQUALIFICATION.--

A. The department shall disqualify a person from driving a commercial motor vehicle for at least thirty days if the federal motor carrier safety administration reports to the division that the person poses an imminent hazard.

B. The department shall disqualify a person from

driving a commercial motor vehicle for a period of not less than one year if the person:

(1) refuses to submit to a chemical test when requested pursuant to the provisions of the Implied Consent Act; or

(2) is convicted of a violation of:

(a) driving a commercial motor vehicle while under the influence of intoxicating liquor or drugs in violation of Section 66-8-102 NMSA 1978, an ordinance of a municipality of this state or the law of another state;

(b) leaving the scene of an accident involving a commercial motor vehicle driven by the person in violation of Section 66-7-201 NMSA 1978 or an ordinance of a municipality of this state or the law of another state;

(c) using a commercial motor vehicle in the commission of a felony;

(d) driving a commercial motor vehicle after the driver's commercial driver's license is revoked, suspended, disqualified or canceled for violations while operating a commercial motor vehicle; or

(e) causing a fatality in the unlawful operation of a motor vehicle pursuant to Section 66-8-101 NMSA 1978.

C. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less

than three years if any of the violations specified in Subsection B of this section occur while transporting a hazardous material required to be placarded.

D. The department shall disqualify a person from driving a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in Subsection B of this section, or any combination of those offenses, arising from two or more separate incidents, but the secretary may issue regulations establishing guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to a period of not less than ten years. This subsection applies only to those offenses committed after July 1, 1989.

E. The department shall disqualify a person from driving a commercial motor vehicle for life if the person uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or the possession with intent to manufacture, distribute or dispense a controlled substance.

F. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, if the violations were committed while driving a commercial motor vehicle, arising from separate

incidents occurring within a three-year period.

G. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than one hundred eighty days nor more than two years if the person is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded pursuant to the federal Hazardous Materials Transportation Act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than three years nor more than five years if, during any ten-year period, the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded pursuant to that act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver.

H. The department shall disqualify a person from driving a commercial motor vehicle for sixty days if:

(1) the person has been convicted of two serious traffic violations in separate incidents within a three-year period; and

(2) the second conviction results in revocation, cancellation or suspension of the person's commercial driver's license or noncommercial motor vehicle

driving privileges for sixty days.

I. The department shall disqualify a person from driving a commercial motor vehicle for one hundred twenty days if:

(1) the person has been convicted of more than two serious traffic violations within a three-year period; and

(2) the third or a subsequent conviction results in the revocation, cancellation or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges.

J. When a person is disqualified from driving a commercial motor vehicle, any commercial driver's license held by that person is invalidated without separate proceeding of any kind and the driver is not eligible to apply for a commercial driver's license until the period of time for which the driver was disqualified has elapsed.

K. The department shall disqualify a person from driving a commercial motor vehicle for not less than:

(1) sixty days if the person is convicted of a first violation of a railroad-highway grade crossing violation;

(2) one hundred twenty days if, during any three-year period, the person is convicted of a second railroad-highway grade crossing violation in a separate

incident; and

(3) one year if, during any three-year period, the person is convicted of a third or subsequent railroad-highway grade crossing violation in a separate incident.

L. After disqualifying, suspending, revoking or canceling a commercial driver's license, the department shall, within ten days, update its records to reflect that action. After disqualifying, suspending, revoking or canceling a nonresident commercial driver's privileges, the department shall, within ten days, notify the licensing authority of the state that issued the commercial driver's license.

M. The department shall post and enforce any disqualification sent by the federal motor carrier safety administration to the department that indicates that a commercial motor vehicle driver poses an imminent hazard.

N. The transportation security administration of the department of homeland security shall provide for an appeal of a disqualification for a commercial driver's license hazardous materials endorsement on the basis of a background check, and the department shall provide to a hazardous materials applicant a copy of the procedures established by the transportation security administration, on request, at the time of application.

O. New Mexico shall conform to the federal

transportation security administration of the department of
homeland security rules and shall "look back" or review a
maximum of seven years for a background check."

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