

1 HOUSE BILL 486

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 David M. Gallegos

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10 AN ACT

11 RELATING TO MOTOR VEHICLES; AMENDING THE FACTORS THAT CAUSE
12 PERMANENT DISQUALIFICATION FROM OBTAINING A COMMERCIAL DRIVER'S
13 LICENCE.

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

16 SECTION 1. Section 66-5-68 NMSA 1978 (being Laws 1989,
17 Chapter 14, Section 17, as amended) is amended to read:

18 "66-5-68. DISQUALIFICATION.--

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

23 B. The department shall disqualify a person who
24 holds a commercial driver's license or who is required to hold
25 a commercial driver's license from driving a commercial motor

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1 vehicle for a period of not less than one year, which shall run
2 concurrently with any revocation or suspension action for the
3 same offense, if the person:

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

7 (2) is twenty-one years of age or more and
8 submits to chemical testing pursuant to the Implied Consent Act
9 and the test results indicate an alcohol concentration of eight
10 one hundredths or more;

11 (3) submits to chemical testing pursuant to
12 the Implied Consent Act and the test results indicate an
13 alcohol concentration of four one hundredths or more if the
14 person is driving a commercial motor vehicle;

15 (4) is less than twenty-one years of age and
16 submits to chemical testing pursuant to the Implied Consent Act
17 and the test results indicate an alcohol concentration of two
18 one hundredths or more; or

19 (5) is convicted of a violation of:

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

24 (b) leaving the scene of an accident
25 involving a commercial motor vehicle driven by the person in

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1 violation of Section 66-7-201 NMSA 1978 or an ordinance of a
2 municipality of this state or the law of another state;

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

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

9 (e) causing a fatality in the unlawful
10 operation of a motor vehicle pursuant to Section 66-8-101 NMSA
11 1978.

12 C. The department shall disqualify a person from
13 driving a commercial motor vehicle for a period of not less
14 than three years if any of the violations specified in
15 Subsection B of this section occur while transporting a
16 hazardous material required to be placarded.

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

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1 committed after July 1, 1989.

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

8 F. The department shall disqualify a person from
9 driving a commercial motor vehicle for a period of not less
10 than sixty days if convicted of two serious traffic violations
11 or one hundred twenty days if convicted of three serious
12 traffic violations, if the violations were committed while
13 driving a [~~commercial~~] motor vehicle, arising from separate
14 incidents occurring within a three-year period.

15 G. The department shall disqualify a person from
16 driving a commercial motor vehicle for a period of:

17 (1) not less than one hundred eighty days nor
18 more than two years if the person is convicted of a first
19 violation of an out-of-service order while transporting
20 hazardous materials required to be placarded pursuant to the
21 federal Hazardous Materials Transportation Act or while
22 operating a motor vehicle designed to transport more than
23 fifteen passengers, including the driver;

24 (2) not more than one year if the person is
25 convicted of a first violation of an out-of-service order; or

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1 (3) not less than three years nor more than
2 five years if, during any ten-year period, the person is
3 convicted of any subsequent violations of out-of-service
4 orders, in separate incidents, while transporting hazardous
5 materials required to be placarded pursuant to that act or
6 while operating a motor vehicle designed to transport more than
7 fifteen passengers, including the driver.

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

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

13 (2) the second conviction results in
14 revocation, disqualification, cancellation or suspension of the
15 person's commercial driver's license or noncommercial motor
16 vehicle driving privileges for sixty days.

17 I. The department shall disqualify a person from
18 driving a commercial motor vehicle for one hundred twenty days,
19 in addition to any other period of disqualification, if:

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

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

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

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

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

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

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

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

25 M. When disqualifying, suspending, revoking or

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1 canceling a commercial driver's license, the department shall
2 treat a conviction received in another state in the same manner
3 as if it was received in this state.

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

8 O. The federal transportation security
9 administration of the department of homeland security shall
10 provide for an appeal of a disqualification for a commercial
11 driver's license hazardous materials endorsement on the basis
12 of a background check, and the department shall provide to a
13 hazardous materials applicant a copy of the procedures
14 established by the transportation security administration, on
15 request, at the time of application.

16 P. New Mexico shall conform to the federal
17 transportation security administration of the department of
18 homeland security rules and shall "look back" or review a
19 maximum of seven years for a background check."

20 SECTION 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2013.