

HOUSE BILL 269

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Harry Garcia and Jason C. Harper

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO DRIVER'S LICENSES; REQUIRING THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT TO USE REPORTS FROM THE FEDERAL COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE IN ISSUING, RENEWING, UPGRADING, DOWNGRADING AND TRANSFERRING COMMERCIAL DRIVER'S LICENSES OR COMMERCIAL LEARNER'S PERMITS; PROVIDING CONTENT TO BE INCLUDED ON COMMERCIAL LEARNER'S PERMITS AND COMMERCIAL DRIVER'S LICENSES.

.223111.3SAAIC February 22, 2023 (2:41pm)

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

SECTION 1. A new section of the New Mexico Commercial Driver's License Act is enacted to read:

"[NEW MATERIAL] COMMERCIAL DRIVER'S LICENSE, COMMERCIAL LEARNER'S PERMIT AND COMMERCIAL DRIVER'S PERMIT ELIGIBILITY-- DIVISION TO RECEIVE RECORDS FROM THE FEDERAL COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE--COMMERCIAL DRIVER'S LICENSE DOWNGRADE PROCEDURES.--

A. As used in this section:

(1) "commercial driver's license downgrade" means the division's removal of the commercial driver's license or commercial driver's permit privilege from a driver's license;

(2) "commercial driver's license drug and alcohol clearinghouse" means the federal motor carrier safety administration database that requires employers and service agents to report information to and to query regarding drivers who are subject to United States department of transportation controlled substance and alcohol testing regulations;

(3) "qualified" means the passage of the drug or alcohol test; and

(4) "not qualified" means a failure or refusal of the drug or alcohol test.

B. The division shall request all commercial driver's drug test results from the commercial driver's license drug and alcohol clearinghouse that determine whether the

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commercial driver is qualified or not qualified as required by the federal motor carrier safety administration. Pursuant to this section, if a commercial driver's drug or alcohol test results indicate that the commercial driver is prohibited from operating a commercial motor vehicle, the division shall refuse a request for:

- (1) issuance or renewal of a commercial learner's permit or a commercial driver's license;
- (2) an upgrade of a commercial learner's permit to a commercial driver's license; and
- (3) transfer of an out-of-state commercial driver's license to this state.

C. The division shall request commercial driver's license drug and alcohol clearinghouse records of an applicant for a commercial driver's license at the time of HTRC→issuance←HTRC HTRC→application←HTRC . Pursuant to this subsection, if the records indicate that the commercial driver's license applicant is prohibited from operating a commercial motor vehicle, the division shall refuse to:

- (1) renew the commercial driver's license or H endorsement;
- (2) advance a commercial driver's permit;
- (3) issue an upgrade of the commercial driver's license to include an H endorsement; and
- (4) issue, renew, transfer or upgrade a

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non-domiciled commercial driver's permit or commercial driver's license.

D. The division shall downgrade a commercial driver's license or commercial driver's permit to a class D noncommercial license upon receiving a commercial driver's license drug and alcohol clearinghouse record that indicates that a commercial driver's license or commercial driver's permit holder is prohibited from operating a commercial motor vehicle. HTRC→~~The division shall complete and record on the commercial driver's license information system driver record within sixty days of the division's receipt of the record.~~←HTRC
HTRC→The division shall complete the downgrade and enter it on the commercial driver's license information system driver record within sixty days of the division's receipt of the drug and alcohol clearinghouse record.←HTRC

E. The division shall amend a driver's eligibility to operate a commercial motor vehicle if the division finds that a condition resulting in a restriction on a commercial driver's license or a commercial learner's permit no longer exists or was erroneous. Pursuant to this subsection, the division shall:

(1) terminate the commercial driver's license downgrade process without removing the commercial driver's license or commercial learner's permit privilege from the driver's license if the division finds that the commercial

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driver's license or commercial learner's permit holder is no longer prohibited from operating a commercial motor vehicle;

(2) allow reinstatement of a commercial driver's license or commercial learner's permit privilege to the driver's license of a downgraded driver record upon notification from the federal motor carrier safety administration that the driver is no longer prohibited from operating a commercial motor vehicle; or

(3) reinstate a commercial driver's license or commercial learner's permit privilege to the driver's license, expunge a commercial driver's license downgrade from the commercial driver's license information system driver record and, if applicable, expunge from the motor vehicle record any reference to prohibited status upon notice from the federal motor carrier safety administration that the driver was erroneously identified as prohibited from operating a commercial motor vehicle."

SECTION 2. Section 65-3-14 NMSA 1978 (being Laws 2007, Chapter 151, Section 1, as amended) is amended to read:

"65-3-14. DRUG AND ALCOHOL TESTING PROGRAM--REPORT OF POSITIVE TEST.--

A. A motor carrier shall have an in-house drug and alcohol testing program that meets the requirements of 49 C.F.R. part 382 or be a member of a consortium, as defined in 49 C.F.R. part 382.107, that provides testing that meets the

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requirements of 49 C.F.R. part 382.

B. A person or entity specified in 49 C.F.R. part 382.103, who is not explicitly excepted by New Mexico law, is subject to the provisions of this section and shall report positive test results or a refusal to submit to a test pursuant to provisions in this section. A refusal to submit to a pre-employment test shall not be considered a violation of this section.

C. When a person or entity specified in 49 C.F.R. part 382.103 determines that a positive test result is valid, the person or entity shall report the findings to the motor vehicle division of the taxation and revenue department. The motor vehicle division shall enter the report of a positive test result or refusal to submit to a test on the reported person's motor vehicle record so that it can be contained in the commercial driver's license information system pursuant to the New Mexico Commercial Driver's License Act.

D. The division shall keep the report of a positive test result or the refusal to submit to a test in the motor vehicle record of the driver for five years from the time the report was received by the motor vehicle division.

E. The division shall seek reports from the federal commercial driver's license drug and alcohol clearinghouse for actions relating to commercial driver's licenses or commercial driver's permits."

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SECTION 3. Section 66-5-64 NMSA 1978 (being Laws 1989, Chapter 14, Section 13, as amended) is amended to read:

"66-5-64. COMMERCIAL DRIVER'S LICENSE AND COMMERCIAL LEARNER'S PERMIT--CONTENT.--The commercial driver's license shall be marked "commercial driver's license" or "CDL". [~~It~~] The commercial learner's permit shall be marked "commercial learner's permit" or "CLP", and shall state: "This permit is invalid unless accompanied by a New Mexico driver's license.". A commercial driver's license or commercial learner's permit shall include, but not be limited to, the following information:

- A. the person's name and current New Mexico physical [~~or mailing~~] address;
- B. the person's full face or front-view color photograph;
- C. a physical description of the person, including sex, height, weight and eye color;
- D. the person's date of birth;
- E. the person's signature;
- F. the class or type of commercial motor vehicle that the person is authorized to drive, together with any endorsements or restrictions;
- G. the name of this state; and
- H. the dates between which the license or permit is valid."

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SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

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