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HOUSE BILL 785

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Miguel P. Garcia

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

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1 license.

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

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

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

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

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

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

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

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

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- 1 (1) "H" - authorizes driving a vehicle
2 transporting hazardous material;
3 (2) "L" - restricts the driver to vehicles not
4 equipped with airbrakes;
5 (3) "T" - authorizes driving a vehicle towing
6 more than one trailer;
7 (4) "P" - authorizes driving vehicles, other
8 than school buses, carrying passengers;
9 (5) "N" - authorizes driving tank vehicles;
10 (6) "X" - represents a combination of the
11 hazardous material ("H") and tank vehicle ("N") endorsements;
12 (7) "S" - authorizes driving a school bus; and
13 (8) "K" - restricts the driver to driving a
14 commercial motor vehicle in intrastate commerce only.

15 E. The department shall require an applicant
16 requesting a hazardous material ("H") endorsement to be subject
17 to a background check pursuant to the federal Uniting and
18 Strengthening America by Providing Appropriate Tools Required
19 to Intercept and Obstruct Terrorism Act of 2001. Information
20 received pursuant to a background check required by the federal
21 department of homeland security shall be kept confidential and
22 shall be released only to the subject of the background check
23 or the department of homeland security. Fees charged for the
24 background check shall be borne by the taxation and revenue
25 department or the employer."

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

3 "66-5-66. APPLICANT RECORD INFORMATION-- INFORMATION
4 EXCHANGE. --

5 A. Before issuing a commercial driver's license,
6 the [~~division~~] department shall obtain pertinent driving record
7 information from each state where the applicant has been
8 licensed, through a multistate [~~data-base~~] database, or from
9 each state.

10 B. The [~~taxation and revenue~~] department [~~shall~~
11 ~~have~~] has the authority to exchange commercial driver's license
12 information as it deems necessary to carry out the provisions
13 of the New Mexico Commercial Driver's License Act, except that
14 the results of a background check conducted pursuant to federal
15 department of homeland security requirements shall be:

16 (1) confidential and not disseminated except
17 to the subject of the background check or the department of
18 homeland security;

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

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

25 Section 3. Section 66-5-68 NMSA 1978 (being Laws 1989,

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1 Chapter 14, Section 17, as amended) is amended to read:

2 "66-5-68. DISQUALIFICATION. --

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

7 B. The department shall disqualify a person from
8 driving a commercial motor vehicle for a period of not less
9 than one year if the person:

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

13 (2) is convicted of a violation of:

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

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

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

24 (d) driving a commercial motor vehicle
25 after the driver's commercial driver's license is revoked,

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1 suspended, disqualified or canceled for violations while
2 operating a commercial motor vehicle; or

3 (e) causing a fatality in the unlawful
4 operation of a motor vehicle pursuant to Section 66-8-101 NMSA
5 1978.

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

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

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

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1 manufacture, distribute or dispense a controlled substance.

2 F. The department shall disqualify a person from
3 driving a commercial motor vehicle for a period of not less
4 than sixty days if convicted of two serious traffic violations
5 or one hundred twenty days if convicted of three serious
6 traffic violations, if the violations were committed while
7 driving a commercial motor vehicle, arising from separate
8 incidents occurring within a three-year period.

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

25 H. The department shall disqualify a person from

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1 driving a commercial motor vehicle for sixty days if:

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

5 (2) the second conviction results in
6 revocation, cancellation or suspension of the person's
7 commercial driver's license or noncommercial motor vehicle
8 driving privileges for sixty days.

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

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

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

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

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

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

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

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

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

17 M The department shall post and enforce any
18 disqualification sent by the federal motor carrier safety
19 administration to the [~~division~~] department that indicates that
20 a commercial motor vehicle driver poses an imminent hazard.

21 N. The department shall promulgate rules to provide
22 for an appeal of a disqualification for a commercial driver's
23 license on the basis of a background check received by the
24 federal department of homeland security.

25 0. A background check pursuant to a federal

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1 requirement shall "look back" or review a maximum of seven
2 years prior to the check, and only information from that seven-
3 year period shall be the basis for a disqualification."

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