

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2046
(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsection 7 of section 39-06-04, section 39-06.2-02, subsection 1 of section 39-06.2-06, and sections 39-06.2-07, 39-06.2-08, 39-06.2-08.1, 39-06.2-09, 39-06.2-09.1, 39-06.2-10, 39-06.2-10.5, 39-06.2-12, and 39-06.2-16 of the North Dakota Century Code, relating to commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 39-06-04 of the North Dakota Century Code is amended and reenacted as follows:

7. The director may issue a commercial ~~driver's instruction~~learner's permit under section 39-06.2-07.

SECTION 2. AMENDMENT. Section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
 - a. The number of grams of alcohol per one hundred milliliters of blood;
 - b. The number of grams of alcohol per two hundred ten liters of breath; or
 - c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial ~~driver's instruction~~learner's permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
 - a. If the gross combination weight rating or gross combination weight is twenty-six thousand one pounds [~~11794~~11793.86 kilograms] or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross vehicle weight of more than ten thousand pounds [4536 kilograms], whichever is greater;

- b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds [11793.40 kilograms] ~~or such lesser rating as determined by federal regulation, whichever is greater;~~
 - c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
 - d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
8. "Conviction" means an unvacated adjudication of guilt, or a determination that ~~a person~~ an individual has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the ~~person's~~ individual's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
9. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
10. "Downgrade" means:
- a. A state allows the driver to change the driver's self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;
 - b. A state allows the driver to change the driver's self-certification to intrastate only, if the driver qualifies under the state's physical qualification requirements for intrastate only;
 - c. A state allows the driver to change the driver's certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification; or
 - d. A state removes the commercial driver's license privilege from the driver's license.
11. "Drive" means to drive, operate, or be in physical control of a motor vehicle.
12. "Driver" means ~~any person~~ an individual who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
13. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
14. "Drug" means any drug or substance or combination of drugs or substances which renders a ~~person~~ an individual incapable of safely driving, and includes any controlled substance.
15. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
16. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns ~~a person~~ an individual to drive a commercial motor vehicle.
17. "Fatality" means the death of ~~a person~~ an individual as a result of a motor vehicle accident.

18. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
19. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
20. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (or articulated) vehicle. The gross vehicle weight rating of a combination (or articulated) vehicle, (commonly referred to as the "gross combination weight rating"), is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
21. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
22. "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
23. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the federal communications commission in 47 CFR 20.3. The term does not include two-way and citizens band radio services.
24. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.
- 24-25. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 25-26. ~~"Nonresident~~Nondomiciled commercial driver's license" means a commercial driver's license or a commercial learner's permit issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).
- 26-27. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- 27-28. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
 - a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
 - b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of ~~persons~~an individual or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;
 - c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - d. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial learner's permit;
 - e. Driving a commercial motor vehicle without a commercial driver's license or commercial learner's permit in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's

license or commercial learner's permit on the date the citation was issued, is not guilty of this offense;

- f. Driving a commercial motor vehicle without the proper class of commercial driver's license or endorsement, or both commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported; or
- g. Violating a state or local law or ordinance prohibiting texting while driving; or
- h. Violating a state law or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a commercial motor vehicle.

~~28-29.~~ "State" means a state of the United States or the District of Columbia.

30. "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within one or more tanks having an individual rated capacity of more than one hundred nineteen gallons [450.46 liters] and an aggregate rated capacity of one thousand gallons [3785.41 liters] or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons [3785.41 liters] or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

~~29-31.~~ "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes short message service, e-mailing, instant messaging, a command or request to access a worldwide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include:

- a. Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call using voice commands to initiate or receive a telephone call~~Pressing a single button to initiate or terminate a voice communication using a mobile telephone;~~
- b. Inputting, selecting, or reading information on a global positioning system or navigation system; or
- c. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smartphones, citizens' band radios, or music players, for a purpose that is not otherwise prohibited in 49 CFR part 383.

32. "Third-party skills test examiner" means an individual employed by a third-party tester who is authorized by the state to administer the skills tests in 49 CFR part 383, subparts G and H.

33. "Third-party tester" means a person, including another state, a motor carrier, a private driver training facility or other private institution, or a political subdivision authorized by the state to employ skills test examiners to administer the skills tests in 49 CFR part 383, subparts G and H.

~~30-34.~~ "United States" means the fifty states and the District of Columbia.

35. "Use a hand-held mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position.

restrained by a seatbelt that is installed under 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

SECTION 3. AMENDMENT. Subsection 1 of section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Except when driving under a commercial driver's ~~instruction~~learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, ~~no person~~an individual may not drive a commercial motor vehicle on the highways of this state unless the ~~person~~individual holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the ~~person~~individual is driving. This subsection does not apply:
 - a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.
 - b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.
 - c. When the vehicle is being driven for military purposes, subject to any limitations imposed by 49 CFR part 383.3(c).

SECTION 4. AMENDMENT. Section 39-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-07. Commercial driver's license qualification standards.

1. ~~Testing.~~
 - a. ~~General. No person~~An individual may not be issued a commercial driver's license unless that ~~person~~individual is a resident of this state and; has passed a knowledge and skills test, including a skills test administered by another state, for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 CFR part 383, subparts G and H; and has satisfied all other requirements of state and federal law, including the Commercial Motor Vehicle Safety Act in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the director. The applicant ~~must~~shall pay a fee of five dollars for each of the tests.
 - ~~2. Third-party testing. The director may authorize a person, including an agency of this or another state, an employer, a private driver's training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section, provided~~third-party testing, if:
 - (1)a. The test is the same as that which would otherwise be administered by ~~the~~this state; and
 - (2)b. The third party has entered into an agreement with this state which complies with requirements of 49 CFR part 383.75.
- ~~2.3. Waiver of skills test. The director may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR part 383.77.~~
- ~~3.4. Limitations on issuance of license. A commercial driver's license, or commercial driver's instruction~~learner's permit, may not be issued to a ~~person~~an individual while the ~~person~~individual is subject to a disqualification from driving a commercial motor vehicle, or while the ~~person's~~individual's driver's license is suspended, revoked, or canceled in any state; ~~nor may a~~A commercial driver's license may not be issued to a ~~person~~an individual who has a commercial driver's license issued by any other state unless the ~~person~~individual first

surrenders ~~all such licenses~~that license. The director shall notify the issuing state of the surrender of the license.

4. ~~Commercial driver's instruction permit.~~

- a. A commercial driver's ~~instruction~~learner's permit may be issued to an individual who holds a valid class D driver's ~~operator's~~ license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. The commercial driver's ~~instruction~~learner's permit may not be issued for a period to exceed ~~six months~~one hundred eighty days. Only one renewal or reissuance may be granted within a two-year period. The director may issue a letter of authority that authorizes the applicant to drive to a driver's license office, complete the road test, and return home. The director ~~may issue the~~ letter of authority ~~is used after an~~ if all allowable ~~number of~~ permits have been issued. The holder of a ~~commercial driver's instruction permit~~ may, unless otherwise disqualified, may drive a commercial motor vehicle only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. A holder of a permit is not eligible for a license until that individual has had the permit issued for at least fourteen days.

SECTION 5. AMENDMENT. Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial ~~driver's instruction~~learner's permit must include the following:
 - a. The full name and current mailing address of the applicant;
 - b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a ~~nonresident~~non-domiciled commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and
 - h. A consent to release driving record information.
2. The application must be accompanied by an application fee of fifteen dollars. The application must contain any other information as the director may require to improve identity security. The director may require an applicant for a commercial license or commercial ~~instruction~~learner's permit to provide a social security card and proof of residence address.
3. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made as provided in section 39-06-18.
4. An individual who has been a resident of this state for thirty days may not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

5. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

SECTION 6. AMENDMENT. Section 39-06.2-08.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08.1. Commercial driver's license medical certification requirements.

1. The director may issue a commercial ~~driver's instruction~~learner's permit or commercial driver's license to a North Dakota resident who meets the medical qualification and certification requirements pursuant to the limitations of 49 CFR parts 383 and 391.
2. Every individual who makes application for a commercial ~~driver's instruction~~learner's permit or commercial driver's license ~~must~~shall certify that the individual meets the qualification requirements contained in 49 CFR part 391 or certify that the individual's commercial transportation is entirely in intrastate commerce and is not subject to 49 CFR part 391.
3. The application will contain the following categories to comply with the commercial driver's certification requirements:
 - a. Interstate and subject to 49 CFR part 391.
 - b. Interstate, but operating exclusively in transportation or operations excepted under 49 CFR part 390.3(f), 391.2, 391.68, or 398.3.
 - c. Intrastate and subject to state driver's qualification requirements.
 - d. Intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification requirements.
4. Every individual who makes application for or holds a commercial ~~driver's instruction~~learner's permit or commercial driver's license ~~must~~shall submit a copy of the individual's medical certificate to the director unless the commercial transportation is not subject to 49 CFR part 391.
5. The director will downgrade or remove the commercial driving privilege from the license if the medical certificate expires and the driver does not change the driver's certification if the driver is no longer subject to 49 CFR part 391.
6. If the driver provides a current medical certification, the director shall upgrade without retesting the license of a driver which was downgraded under this section.

SECTION 7. AMENDMENT. Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. ~~#The license~~ must include the following information:
 - a. The name and residential address of the ~~person~~individual;
 - b. The ~~person's~~individual's color photograph;
 - c. A physical description of the ~~person~~individual, including sex, height, and eye color;
 - d. Date of birth;

- e. A distinguishing number assigned to the ~~person~~individual;
 - f. The ~~person's~~individual's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the ~~person~~individual is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.
2. The director may issue a ~~nonresidentnondomiciled~~ commercial driver's license pursuant to the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "~~nonresidentnondomiciled~~" in accordance with ~~49 CFR 383.153(b)~~49 CFR 383.153(c).
 3. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions; ~~the~~. 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. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to ~~a person who is the operator of a farm vehicle, provided such if the~~ vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm; and is not used in the operations of a common or contract carrier.
 - a. ClassificationsThe classifications of commercial driver's licenses are:
 - (1) ~~ClassA~~ class A license. ~~Any~~This license allows the operation of any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], ~~providedif~~ the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
 - (2) ~~ClassA~~ class B license. ~~Any~~This license allows the operation of a single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and any suchthis vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
 - (3) ~~ClassA~~ class C license. ~~Any~~This license allows the operation of a single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any suchthis vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.
 - b. Endorsements and restrictions include:
 - (1) "H" ~~-that~~ authorizes the driver to drive a vehicle transporting hazardous materials.
 - (2) "T" ~~-that~~ authorizes driving double and triple trailers.
 - (3) "P" ~~-that~~ authorizes driving vehicles carrying passengers.

- (4) "N" ~~-that~~ authorizes driving tank vehicles.
 - (5) "X" ~~-that authorizes driving~~ combinations of tank vehicles and hazardous material vehicles.
 - (6) "S" ~~-that~~ authorizes driving a schoolbus.
- c. Other restrictions may be placed upon a commercial driver's license, ~~as provided in~~ under section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.
4. Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the ~~person~~ individual has been licensed.
 5. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the ~~person~~ individual.
 6. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
 7. ~~Every person~~ An individual applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, ~~providing and provide~~ provide updated information and required certifications. ~~If the~~ For an applicant wishes to retain a hazardous materials endorsement, the applicant must take and pass the written test for a hazardous materials endorsement ~~must be taken and passed~~.

SECTION 8. AMENDMENT. Section 39-06.2-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09.1. ~~Nonresident~~ Nondomiciled commercial license.

1. The department may issue a ~~nonresident~~ nondomiciled commercial driver's license to an applicant who does not present a social security card as required by section 39-06.2-08 but who otherwise meets the requirements for a ~~nonresident~~ nondomiciled commercial driver's license. A license issued under this subsection is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended. The department shall renew without a skills or knowledge test a ~~nonresident~~ nondomiciled commercial license that has been expired for a duration not longer than one year.
2. The fee for a ~~nonresident~~ nondomiciled commercial driver's license is twenty dollars.

SECTION 9. AMENDMENT. Section 39-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10. Disqualification and cancellation.

1. ~~Disqualification offenses. Any person~~ An individual is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:
 - a. Driving a commercial motor vehicle under the influence of alcohol or drugs;
 - b. Leaving the scene of an accident involving a commercial motor vehicle driven by the ~~person~~ individual in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-09;
 - c. Using a commercial motor vehicle in the commission of any felony as defined in this chapter;

- d. Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle; or
- e. Driving or being in actual physical control of a commercial motor vehicle while the alcohol concentration of the ~~person's~~individual's blood, breath, or urine is four one-hundredths of one percent or more by weight.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the ~~person~~individual is disqualified for a period of not less than three years.

- 2. An individual is disqualified for a period of not less than sixty days for providing false information to the department related to the issuance of a commercial permit or commercial license or for a period of not less than one year if convicted of fraud related to the issuance of a commercial driver's permit or license.
- 3. ~~A person~~An individual is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, ~~78~~, ~~910~~, or ~~4112~~, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed while operating a commercial motor vehicle after July 1, 1989, may be considered in applying this subsection. Only offenses committed while operating a noncommercial motor vehicle after August 1, 2003, may be considered in applying this subsection.
- ~~3-4.~~ The director may adopt rules under section 39-06.2-14, establishing guidelines, including conditions, under which a disqualification for life under subsections ~~23~~, ~~89~~, ~~4011~~, and ~~4213~~ may be reduced to a period of not less than ten years.
- ~~4-5.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- ~~5-6.~~ ~~A person~~An individual is disqualified 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, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.
- ~~6-7.~~ Disqualification for railroad-highway grade crossing violation:
 - a. A driver who is convicted of driving a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to any one of the following six offenses at a railroad-highway grade crossing is disqualified for the period of time specified in subdivision b:
 - (1) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
 - (2) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
 - (3) For drivers who are always required to stop, failing to stop before driving onto the crossing;
 - (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
 - (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; and

(6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

b. Duration of disqualification for a railroad-highway grade crossing violation:

(1) ~~First violation.~~ A driver is disqualified for not less than sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(2) ~~Second violation.~~ A driver is disqualified for not less than one hundred twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.

(3) ~~Third or subsequent violation.~~ A driver is disqualified for not less than one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

- ~~7-8.~~ For a first conviction of driving while under the influence of alcohol or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- ~~8-9.~~ For a second or subsequent conviction of driving while under the influence or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- ~~9-10.~~ For a first conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- ~~10-11.~~ For a second or subsequent conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- ~~11-12.~~ For a first conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- ~~12-13.~~ For a second or subsequent conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- ~~13-14.~~ For a conviction for using a vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance while operating a commercial motor vehicle or a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- ~~14-15.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of any combination of two serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
- ~~15-16.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for a period of not less than one hundred twenty days if convicted of any combination of three or more serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and any of the convictions results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.

~~16-17.~~ ~~Notice and hearing.~~ ~~Prior to~~Before suspending, revoking, or disqualifying a driver under this section, the director must provide the driver with notice of opportunity for hearing, in accordance with section 39-06-33, and the hearing requested must be held in accordance with section 39-06-33.

~~17-18.~~ After suspending, revoking, disqualifying, or canceling a commercial driver's license, the director shall update the director's records to reflect that action within ten days. After suspending, revoking, or canceling a ~~nonresidentnondomiciled~~ commercial driver's privileges, the director shall notify the licensing authority of the state that issued the commercial driver's license or commercial driver's ~~instruction~~learner's permit within ten days.

SECTION 10. AMENDMENT. Section 39-06.2-10.5 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10.5. Revocation of privilege to drive commercial motor vehicle upon refusal to submit to testing.

If a person refuses to submit to testing under section 39-06.2-10.2, the law enforcement officer shall immediately take possession of the person's driver's license and issue to that person a temporary driver's permit. The director, upon the receipt of that person's driver's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary driver's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1 or, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully detained, and that the person had refused to submit to the screening test under section 39-06.2-10.2, shall revoke that person's commercial driver's license or permit to drive and any ~~nonresidentnondomiciled~~ commercial driver's privilege for the appropriate period under section 39-06.2-10, or if the person is a resident without a commercial driver's license or permit, the director shall deny to the person the issuance of a commercial driver's license or permit for the appropriate period under section 39-06.2-10 after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's driver's license the director shall give credit for time in which the person was without a driver's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary driver's permit.

SECTION 11. AMENDMENT. Section 39-06.2-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-12. Notification of traffic convictions.

Within ten days after receiving a report of the conviction of any ~~nonresidentnondomiciled~~ holder of a commercial driver's license for any violation of state or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the director shall notify the driver's licensing authority in the licensing state of the conviction.

SECTION 12. AMENDMENT. Section 39-06.2-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-16. Reciprocity.

1. Notwithstanding any other provision of law, ~~a person~~an individual may drive a commercial motor vehicle in this state if the ~~person~~individual has a valid commercial driver's license or commercial driver's ~~license~~instruction~~learner's~~ permit issued by any state, or province or territory of Canada, or licencia federal de conductor issued by Mexico in accordance with the minimum federal standards for the issuance of a commercial motor vehicle driver's license, if

the ~~person's~~individual's license or permit is not suspended, revoked, or canceled, and if the ~~person~~individual is not disqualified from driving a commercial motor vehicle.

2. The director must give all out-of-state convictions full faith and credit if the driver is licensed by this state at the time of the conviction or becomes licensed by this state at a later time and treat them for sanctioning purposes under this chapter as if they occurred in this state. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2046.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 52 Nays 40 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State