

HOUSE BILL No. 2681

By Committee on Transportation

Requested by Zach Denney on behalf of the Department of Revenue

2-5

1 AN ACT concerning motor carriers; relating to the Kansas uniform
2 commercial drivers' license act; updating the definition of commercial
3 motor vehicle to include gross vehicle weight and defining leaving the
4 scene of an accident therein; amending K.S.A. 8-2,128 and repealing
5 the existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 8-2,128 is hereby amended to read as follows: 8-
9 2,128. As used in this act:

10 (a) "Alcohol" means any substance containing any form of alcohol
11 including, but not limited to, ethanol, methanol, propanol and isopropanol;

12 (b) "alcohol concentration" means:

13 (1) The number of grams of alcohol per 100 milliliters of blood; or

14 (2) the number of grams of alcohol per 210 liters of breath;

15 (c) "commercial driver's license" means a commercial license issued
16 pursuant to K.S.A. 8-234b, and amendments thereto;

17 (d) "commercial driver license system" means the information system
18 established pursuant to the commercial motor vehicle safety act of 1986 to
19 serve as a clearinghouse for locating information related to the licensing
20 and identification of commercial motor vehicle drivers;

21 (e) "instruction permit" means a permit issued pursuant to K.S.A. 8-
22 294, and amendments thereto;

23 (f) "commercial motor vehicle" means a motor vehicle designed or
24 used to transport passengers or property, if:

25 (1) The vehicle has a gross vehicle weight rating *or gross vehicle*
26 *weight* of 26,001 or more pounds or such lesser rating, as determined by
27 rules and regulations adopted by the secretary, but shall not be more
28 restrictive than the federal regulation;

29 (2) the vehicle is designed to transport 16 or more passengers,
30 including the driver; or

31 (3) the vehicle is transporting hazardous materials and is required to
32 be placarded in accordance with 49 C.F.R. § 172, subpart F;

33 (g) "controlled substance" means any substance so classified under
34 K.S.A. 21-5701, and amendments thereto;

35 (h) "conviction" means an unvacated adjudication of guilt or a

1 determination that a person has violated or failed to comply with the law
2 and in a court of original jurisdiction or an administrative proceeding, an
3 unvacated forfeiture of bail or collateral deposited to secure the person's
4 appearance in court, a plea of guilty or nolo contendere accepted by the
5 court, the payment of a fine or court cost, or violation of a condition of
6 release without bail, regardless of whether the penalty is rebated,
7 suspended or probated;

8 (i) "disqualification" means any of the following:

9 (1) The suspension, revocation, or cancellation of a commercial
10 driver's license by the state or jurisdiction of issuance;

11 (2) any withdrawal of a person's privileges to drive a commercial
12 motor vehicle by a state or other jurisdiction as the result of a violation of
13 state or local law relating to motor vehicle traffic control, other than
14 parking, vehicle weight or vehicle defect violations;

15 (3) a determination by the federal motor carrier safety administration
16 that a person is not qualified to operate a commercial motor vehicle under
17 49 C.F.R. § 391;

18 (j) "drive" means to drive, operate or be in physical control of a motor
19 vehicle in any place open to the general public for purposes of vehicular
20 traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-
21 2,145, and amendments thereto, "drive" includes operation or physical
22 control of a motor vehicle anywhere in the state;

23 (k) "driver" means any person who drives, operates or is in physical
24 control of a commercial motor vehicle, in any place open to the general
25 public for purposes of vehicular traffic, or who is required to hold a
26 commercial driver's license;

27 (l) "driver's license" means any driver's license or any other license or
28 permit to operate a motor vehicle issued under, or granted by, the laws of
29 this state, including:

30 (1) Any temporary license or instruction;

31 (2) the privilege of any person to drive a motor vehicle whether or not
32 such person holds a valid license; or

33 (3) any nonresident's operating privilege;

34 (m) "employer" means any person, including the United States, a
35 state or a political subdivision of a state, who owns or leases a commercial
36 motor vehicle or assigns a person to drive a commercial motor vehicle;

37 (n) "endorsement" means an authorization to an individual's
38 commercial driver's license required to permit the individual to operate
39 certain types of commercial motor vehicles;

40 (o) "felony" means any offense under state or federal law that is
41 punishable by death or imprisonment for a term exceeding one year;

42 (p) "gross vehicle weight rating" means the value specified by the
43 manufacturer as the maximum loaded weight of a single or a combination

1 (articulated) vehicle. The gross vehicle weight rating of a combination
2 (articulated) vehicle (commonly referred to as the "gross combination
3 weight rating") is the gross vehicle weight rating of the power unit plus the
4 gross vehicle weight rating of the towed unit or units;

5 (q) "hazardous materials" means any material that has been
6 designated as hazardous under 49 U.S.C. § 5103 and is required to be
7 placarded under subpart F of 49 C.F.R. part 172 or any quantity of a
8 material listed as a select agent or toxin in 42 C.F.R. part 73;

9 (r) "*Leaving the scene of an accident*" means any violation of K.S.A.
10 8-1602 or 8-1604, and amendments thereto, or any comparable offense in
11 any other jurisdiction.

12 (s) "motor vehicle" means every vehicle ~~which~~ that is self-propelled,
13 and every vehicle ~~which~~ that is propelled by electric power obtained from
14 overhead trolley wires but not operated upon rails, except vehicles moved
15 solely by human power and motorized wheel chairs;

16 ~~(s)~~(t) "out-of-service order" means a temporary prohibition against
17 driving a commercial motor vehicle, ~~which~~ that is imposed when a driver
18 has any measured or detected alcohol concentration while on duty, or
19 operating, or in physical control of a commercial motor vehicle or a
20 declaration by an authorized enforcement officer of a federal, state,
21 Canadian, Mexican or local jurisdiction that a driver, a commercial motor
22 vehicle or a motor carrier operation, is out-of-service pursuant to 49 C.F.R.
23 part 386.72, 392.5, 395.13, 396.9 or such compatible laws, or the North
24 American out-of-service criteria;

25 ~~(t)~~(u) "residence" means the place ~~which~~ that is adopted by a person
26 as the person's place of habitation and to ~~which~~ where, whenever the
27 person is absent, the person has the intention of returning. When a person
28 eats at one place and sleeps at another, the place where the person sleeps
29 shall be considered the person's residence;

30 ~~(u)~~(v) "secretary" means the secretary of the Kansas department of
31 revenue;

32 ~~(v)~~(w) "serious traffic violation" means:

33 (1) Excessive speeding, ~~is~~ defined as 15 miles per hour or more over
34 the posted speed limit;

35 (2) reckless driving, as defined under K.S.A. 8-1566, and
36 amendments thereto;

37 (3) a violation of any state or local law relating to motor vehicle
38 traffic control, other than a parking violation, arising in connection with an
39 accident or collision resulting in death to any person;

40 (4) changing lanes of traffic illegally or erratically, as defined under
41 K.S.A. 8-1548, and amendments thereto;

42 (5) following another vehicle too closely, as defined under K.S.A. 8-
43 1523, and amendments thereto;

1 (6) a violation of ~~subsection (a)~~ of K.S.A. 8-2,132(a), and
 2 amendments thereto; or
 3 (7) any other violation of a state or local law relating to motor vehicle
 4 traffic control, other than a parking violation, ~~which~~ *that* the secretary
 5 determines by rule and regulation to be serious;
 6 ~~(w)~~(x) "state" means a state of the United States and the District of
 7 Columbia;
 8 ~~(x)~~(y) "state of domicile" means that state where a person has such
 9 person's true, fixed and permanent home and principal residence and to
 10 ~~which~~ *where* such person has the intention of returning whenever such
 11 person is absent;
 12 ~~(y)~~(z) "tank vehicle" means a tank vehicle, as defined in 49 C.F.R. §
 13 383.5, as in effect on the date of this act or such later version as adopted by
 14 rules and regulations of the secretary pursuant to K.S.A. 8-2,140, and
 15 amendments thereto;
 16 ~~(z)~~(aa) "United States" means the 50 states and the District of
 17 Columbia;
 18 ~~(aa)~~(bb) "division" means the division of vehicles of the Kansas
 19 department of revenue;
 20 ~~(bb)~~(cc) "director" means the director of the division of vehicles of
 21 the Kansas department of revenue;
 22 ~~(ee)~~(dd) "foreign country" means any jurisdiction other than the
 23 United States;
 24 ~~(dd)~~(ee) "nonresident commercial driver's license" means a license
 25 issued pursuant to K.S.A. 8-2,148, and amendments thereto;
 26 ~~(ee)~~(ff) "fatality" means the death of a person as a result of a motor
 27 vehicle accident;
 28 ~~(ff)~~(gg) "noncommercial motor vehicle" means a motor vehicle or
 29 combination of motor vehicles not defined by the term commercial motor
 30 vehicle in subsection (f); *and*
 31 ~~(gg)~~(hh) "school bus" means a commercial motor vehicle used to
 32 transport preprimary, primary or secondary school students from home to
 33 school, from school to home or to and from school-sponsored events.
 34 School bus does not include a bus used as a common carrier.
 35 Sec. 2. K.S.A. 8-2,128 is hereby repealed.
 36 Sec. 3. This act shall take effect and be in force from and after its
 37 publication in the statute book.