

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2112  
(Transportation Committee)  
(At the request of the Department of Transportation)

AN ACT to create and enact three new subsections to section 39-06.2-02 and section 39-06.2-08.1 of the North Dakota Century Code, relating to commercial driver's licenses; and to amend and reenact subsection 25 of section 39-06.2-02, subdivision b of subsection 4 of section 39-06.2-07, and subsections 1 and 5 of section 39-06.2-08 of the North Dakota Century Code, relating to commercial driver's licenses.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** Three new subsections to section 39-06.2-02 of the North Dakota Century Code are created and enacted as follows:

"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.

"Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.

"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, 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;
- 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.

**SECTION 2. AMENDMENT.** Subsection 25 of section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

25. "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 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;
  - e. Driving a commercial motor vehicle without a commercial driver's license 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 on the date the citation was issued, is not guilty of this offense; or
  - f. Driving a commercial motor vehicle without the proper class of commercial driver's license or endorsement, or both, 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.

**SECTION 3.** Section 39-06.2-08.1 of the North Dakota Century Code is created and enacted as follows:

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

1. The director may issue a commercial driver's instruction 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 permit or commercial driver's license must 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 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 permit or commercial driver's license must 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 4. AMENDMENT.** Subdivision b of subsection 4 of section 39-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

- b. The commercial driver's instruction permit may not be issued for a period to exceed six months. 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 letter of authority is used after an allowable number of permits have been issued. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, 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.

**SECTION 5. AMENDMENT.** Subsections 1 and 5 of section 39-06.2-08 of the North Dakota Century Code are amended and reenacted as follows:

1. The application for a commercial driver's license or commercial driver's instruction 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 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(a)~~383.71;
  - g. Any other information required by the director; and
  - h. A consent to release driving record information.
5. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, ~~or~~ cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2112.

Senate Vote:    Yeas 47            Nays 0            Absent 0

House Vote:    Yeas 93            Nays 0            Absent 1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State