

**No. 152. An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles and amending miscellaneous motor vehicle laws.**

(S.282)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 23 V.S.A. § 4103(4)(B)(iii) is amended to read:

(iii) ~~military~~ equipment owned or operated by the United States Department of Defense, including the National Guard, and operated by noncivilian personnel or by National Guard military technicians (civilians who are required to wear military uniforms) and active duty U.S. Coast Guard personnel;

Sec. 2. 23 V.S.A. § 4110(a)(6)(C) is amended to read:

(C) the applicant is not subject to any disqualification under 49 C.F.R. ~~part 385.51~~ section 383.51, or any license suspension, revocation, or cancellation under state law; and

Sec. 3. 23 V.S.A. § 4111(a) and (f) are amended to read:

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include, but not be limited to, the following information:

\* \* \*

(2) The person's color photograph or imaged likeness. A person issued a license under this subsection ~~that contains an imaged likeness may renew his~~

~~or her license by mail. Except that a renewal must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years~~ may renew the license not earlier than six months prior to its expiration date. In such case, the prior license document shall be surrendered. The renewed license shall be effective from the date of issuance to the end of the period for which it is renewed.

\* \* \*

(f) When applying for renewal of a commercial driver license, the applicant shall complete the application form required by section 4110 of this title, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed. In addition, the applicant must successfully complete the security threat assessment required by 49 C.F.R. part 1572. Within 15 days of an adverse initial or final determination of threat assessment being served by the United States Transportation Security Administration, the applicant's hazardous materials endorsement shall be revoked or denied.

Sec. 4. 23 V.S.A. § 4112 is amended to read:

§ 4112. RECORDS; NOTIFICATION

(a) After suspending, revoking, or disqualifying a person from holding a commercial driver license, the commissioner shall update his or her records to

reflect that action within 10 days. After suspending, revoking, or disqualifying a nonresident commercial driver's privileges, the commissioner shall notify the licensing authority of the state which issued the commercial driver license or commercial driver certificate within 10 days.

(b) When the commissioner receives a request for an operating record of a person currently or previously licensed in Vermont, the commissioner shall provide the information within 30 days.

Sec. 5. 23 V.S.A. § 4113 is amended to read:

§ 4113. NOTIFICATION OF TRAFFIC CONVICTIONS

When a person who holds a commercial driver license issued by another state is convicted in this state of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in any type of vehicle, the commissioner shall notify the driver licensing authority in the licensing state of the conviction within ~~30~~ 10 days.

Sec. 6. 23 V.S.A. § 4116(d) and (k) are amended to read:

(d) A person shall be disqualified from driving a commercial motor vehicle for a period of 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period. A disqualification for 120 days shall be issued to be consecutive with any previous disqualification.

(k) A person shall be disqualified for a term concurrent with any disqualification or suspension issued by the administrator of the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. ~~part~~ section 383.52.

Sec. 7. 23 V.S.A. § 4119 is amended to read:

§ 4119. COMPLIANCE WITH OUT-OF-SERVICE ORDER;

DISQUALIFICATION FROM OPERATION OF VEHICLE

(a) No person shall operate a commercial motor vehicle in violation of an out-of-service order.

(b) Any person convicted for violating an out-of-service order shall be disqualified as follows except as provided in subsection ~~(b)~~(c) of this section:

(1) A person shall be disqualified from driving a commercial motor vehicle for a period of ~~90~~ 180 days if convicted of a first violation of an out-of-service order.

(2) A person shall be disqualified for a period of ~~one year~~ two years if convicted of a second violation of an out-of-service order during any ten-year period, arising from separate incidents.

(3) A person shall be disqualified for a period of three years if convicted of a third or subsequent violation of an out-of-service order during any ten-year period, arising from separate incidents.

~~(b)~~(c) Any person convicted for violating an out-of-service order while transporting hazardous materials or while operating a commercial motor

vehicle designed or used to transport ~~15~~ 16 or more passengers, including the driver, shall be disqualified as follows:

(1) A person shall be disqualified for a period of 180 days if convicted of a first violation of an out-of-service order.

(2) A person shall be disqualified for a period of three years if convicted of a second or subsequent violation of an out-of-service order during any ten-year period, arising from separate incidents.

Sec. 8. 23 V.S.A. § 4120(a) and (b) are amended to read:

(a) Notwithstanding any other provision of law to the contrary, any driver who violates or fails to comply with an out-of-service order is subject to a penalty of ~~\$1,500.00~~ for a first conviction or for a second or subsequent conviction at the applicable minimum level set forth in 49 C.F.R. section 383.53(b)(1), in addition to disqualification under this chapter.

(b) Any employer who violates an out-of-service order, or who knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, is subject to a penalty of ~~\$4,000.00~~ for a first conviction or for a second or subsequent conviction at the applicable minimum level set forth in 49 C.F.R. section 383.53(b)(2).

Sec. 9. 23 V.S.A. § 102(a) is amended to read:

(a) The commissioner shall:

\* \* \*

(9) Issue nondriver identification cards; and

(10) Maintain commercial driver records and driver identification data in accordance with the provisions of 49 C.F.R section 384.231(d).

Sec. 10. 5 V.S.A. § 2001(d) and (f) are amended to read:

(d) Notwithstanding any other provision of this chapter or other law whether general, special, or local, violations of any rules promulgated pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

(f) The regulations promulgated by the ~~Materials Transportation Bureau of the Pipeline and Hazardous Materials Safety Administration, United States Department of Transportation contained in Parts 170–189~~ 100–199 of Title 49 of the Code of Federal Regulations revised as of ~~December 31, 1976~~ October 1, 2007, and any amendment or addition to these regulations, and the regulations promulgated by the ~~Bureau of Federal Motor Carrier Safety, Federal Highway Administration, United States Department of Transportation contained in Parts 390–397 of Title 49 of the Code of Federal Regulations, revised as of October 1, 1976~~ 2008, and any amendment or addition to these regulations and any provisions of any other regulations regarding the transportation of hazardous materials adopted by a federal agency may be adopted by the secretary of transportation.

Sec. 11. 5 V.S.A. § 2101(d) and (e) are amended to read:

(d) Notwithstanding any other provision of this chapter or other law whether general, special, or local, violations of any rules adopted pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

(e) The regulations promulgated by the Federal Motor Carrier Safety Administration, United States Department of Transportation contained in parts 40, 350, 360, 365, 372, 381–383, ~~386–388~~ 385–388, 390–397, and 399 of Title 49 of the Code of Federal Regulations, revised as of October 1, ~~2002~~ 2008, and any amendment or addition to these regulations may be adopted by the secretary of transportation.

Sec. 12. 23 V.S.A. § 114(a)(21) is amended to read:

(21) Records not otherwise specified ~~4.00~~ 6.00 per page

Sec. 13. 23 V.S.A. §§ 453 and 459 are amended to read:

§ 453. FEES AND NUMBER PLATES

\* \* \*

(g) The commissioner of motor vehicles shall not issue a dealer's certificate of registration to a new or used car dealer, unless the dealer has provided the commissioner with a surety bond, letter of credit, or certificate of deposit issued by an entity authorized to transact business in the same state.

The amount of such surety bond, letter of credit, or certificate of deposit shall be between ~~\$5,000.00~~ \$20,000.00 and ~~\$15,000.00,~~ \$35,000.00 based on the number of new or used units sold in the previous year; such schedule is to be determined by the commissioner of motor vehicles. In the case of a certificate of deposit, it shall be issued in the name of the dealer and assigned to the commissioner or his or her designee. The bond, letter of credit, or certificate of deposit shall serve as indemnification for any monetary loss suffered by the state or by a purchaser of a motor vehicle by reason of the dealer's failure to remit to the commissioner any fees collected by the dealer under the provisions of chapters 7 and 21 of this title or by a dealer's failure to remit to the commissioner any tax collected by the dealer under chapter 219 of Title 32. This state or the motor vehicle owner who suffers such loss or damage shall have the right to claim against the surety upon the bond or against the letter of credit or certificate of deposit. The bond, letter of credit, or certificate of deposit shall remain in effect for the pending registration year and one year thereafter. The liability of any such surety or claim against the letter of credit or certificate of deposit shall be limited to the amount of the fees or tax collected by the dealer under chapters 7 and 21 of this title or chapter 219 of Title 32 and not remitted to the commissioner.

## § 459. NOTICE TO COMMISSIONER

(a) Upon issuing a number plate with temporary validation stickers, temporary number plate, or decal to a purchaser for attachment to a motor vehicle, a dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee, deposited with him or her by the purchaser, together with notice of such issue and such other information as the commissioner may require.

(b) If a number plate with temporary validation stickers, temporary registration plate, or decal is not issued by a dealer in connection with the sale or exchange of a motor vehicle, the dealer may accept, from the purchaser, a properly executed registration, tax and title application, and the required fees for transmission to the commissioner. The dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee together with such other information as the commissioner may require.

Sec. 14. 23 V.S.A. § 1129(a) is amended to read:

(a) The operator of a motor vehicle involved in an accident whereby a person is injured or whereby there is total damage to all property to the extent of ~~\$1,000.00~~ \$3,000.00 or more shall make a written report concerning the accident to the commissioner of motor vehicles on forms furnished by the commissioner. The written report shall be mailed to the commissioner within

72 hours after the accident. The commissioner may require further facts concerning the accident to be provided upon forms furnished by him or her.

Sec. 15. 23 V.S.A. § 1222(c) is amended to read:

(c) Notwithstanding the provisions of subsection (a) of this section, an exhibition vehicle of model year 1940 or before, registered as prescribed in section 373 of this title or a trailer registered as prescribed in subdivision 371(a)(1)(A) of this title shall be exempt from inspection; provided, however, the vehicle must be equipped as originally manufactured, must be in good mechanical condition, and must meet the applicable standards of the inspection manual.

Sec. 16. 23 V.S.A. § 2017(b) is amended to read:

(b) The commissioner shall maintain at his or her central office a record of all certificates of title issued by him or her:

(1) ~~Under~~ for vehicles 15 years old and newer under a distinctive title number assigned to the vehicle;

(2) ~~Under~~ under the identification number of the vehicle;

(3) ~~Alphabetically~~ alphabetically, under the name of the owner; and, in the discretion of the commissioner, by any other method he or she determines.  
The original records may be maintained on microfilm or electronic imaging.  
~~and, in the discretion of the commissioner, by any other method he or she~~

~~determines. The original records may be maintained on microfilm or electronic imaging.~~

Sec. 17. REPEAL

23 V.S.A. § 735 (motorcycle rider training program advisory committee) and chapter 20 of Title 23 (interstate compact for motor vehicle safety equipment) are repealed.

Sec. 18. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

\* \* \*

(c) The commissioner may issue number plates to be used for a period of two or more years. One validating sticker shall be issued by the department of motor vehicles upon payment of the registration fee for the second and each succeeding year the plate is used. ~~No~~ Except as otherwise provided in subsection (d) of this section, no plate is valid for the second and succeeding years unless the sticker is affixed to the rear plate in the manner prescribed by the commissioner.

(d) When a registration is renewed electronically, a receipt shall be available for printing. The receipt shall serve as a temporary registration. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire ten days after the date of the transaction.

Sec. 19. 23 V.S.A. § 1251 is amended to read:

§ 1251. SIRENS AND COLORED SIGNAL LAMPS

~~No~~ A motor vehicle shall not be operated upon a highway of this state equipped with a siren or signal lamp colored other than amber unless a permit authorizing ~~such~~ this equipment, issued by the commissioner of motor vehicles, is carried in the vehicle. A permit may be transferred following the same procedure and subject to the same time limits as set forth in section 321 of this title. The commissioner may adopt additional rules as may be required to govern the acquisition of permits and the use pertaining to sirens and colored signal lamps.

Sec. 19a. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and part 5 of Title 20, the following definitions shall apply:

\* \* \*

(18) “Motorcycle” shall mean any motor driven vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding ~~mopeds~~ motor-driven cycles, golf carts, track driven vehicles, tractors, electric personal assistive mobility

devices, and vehicles on which the operator and passengers ride within an enclosed cab, except that a vehicle which is fully enclosed, has three wheels in contact with the ground, weighs less than 1,500 pounds, has the capacity to maintain posted highway speed limits, and which uses electricity as its primary motive power shall be registered as a motorcycle but the operator of such vehicle shall not be required to have a motorcycle endorsement nor to comply with the provisions of section 1256 of this title (motorcycles-headgear) in the operation of such a vehicle.

\* \* \*

(45) ~~“Moped”~~ “Motor-driven cycle” means ~~a motor driven cycle~~ any vehicle equipped with two or three wheels, ~~foot pedals to permit muscular propulsion,~~ a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, ~~mopeds~~ motor-driven cycles shall be subject to the purchase and use tax imposed under chapter 219 of Title 32 rather than to a general sales tax. An electric personal assistive mobility device is not a ~~moped~~ motor-driven cycle.

\* \* \*

Sec. 19b. 23 V.S.A. § 364a is amended to read:

§ 364a. ~~MOPEDS~~ MOTOR-DRIVEN CYCLES: REGISTRATION;  
FINANCIAL RESPONSIBILITY

(a) The annual fee for registration of a ~~moped~~ motor-driven cycle shall be \$20.00.

(b) ~~Moped~~ Motor-driven cycle operators shall be subject to the provisions of section 801 of this title, which requires, in certain cases, that proof of financial responsibility to be filed with the commissioner after an accident.

Sec. 19c. 23 V.S.A. § 453(d) is amended to read:

(d) If a dealer is engaged only in the manufacturing, buying, selling, or exchanging of motorcycles or ~~mopeds~~ motor-driven cycles, the registration fee shall be \$45.00, which shall include three sets of number plates. The commissioner may, in his or her discretion, furnish further sets of plates at a fee of \$10.00 for each set.

Sec. 19d. 23 V.S.A. § 476 is amended to read:

§ 476. MOTOR VEHICLE WARRANTY FEE

A motor vehicle warranty fee of \$5.00 is imposed on the registration of each new motor vehicle in this state not including trailers, tractors, motorized highway building equipment, road-making appliances, snowmobiles,

motorcycles, ~~mopeds~~ motor-driven cycles, or trucks with a gross vehicle weight over 12,000 pounds.

Sec. 19e. 23 V.S.A. § 601(e) is amended to read:

(e) A ~~moped~~ motor-driven cycle may be operated only by a licensed driver at least 16 years of age.

Sec. 19f. 23 V.S.A. § 1114 is amended to read:

§ 1114. RIDING ON MOTORCYCLES AND ~~MOPEDS~~ MOTOR-DRIVEN CYCLES

(a) A person operating a motorcycle or ~~moped~~ motor-driven cycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle or ~~moped~~ motor-driven cycle unless such motorcycle or ~~moped~~ motor-driven cycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle or ~~moped~~ motor-driven cycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle or ~~moped~~ motor-driven cycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle or ~~moped~~ motor-driven cycle.

(c) No person shall operate a motorcycle or ~~moped~~ motor-driven cycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or ~~moped~~ motor-driven cycle or the view of the operator.

Sec. 19g. 23 V.S.A. § 1115 is amended to read:

§ 1115. —OPERATING MOTORCYCLES AND ~~MOPEDS~~

MOTOR-DRIVEN CYCLES ON ROADWAYS LANED FOR  
TRAFFIC

(a) All motorcycles or ~~mopeds~~ motor-driven cycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle or ~~moped~~ motor-driven cycle of the full use of a lane.

(b) The operator of a motorcycle or ~~moped~~ motor-driven cycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle or ~~moped~~ motor-driven cycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) No motorcycle or ~~moped~~ motor-driven cycle may be operated in the same lane with, and along side of or closer than ten feet ahead of, or ten feet behind another motorcycle, ~~moped~~ motor-driven cycle, or other motor vehicle.

\* \* \*

Sec. 19h. 23 V.S.A. § 1116 is amended to read:

§ 1116. —CLINGING TO OTHER VEHICLES

No person riding a motorcycle or ~~moped~~ motor-driven cycle shall attach himself or herself or the motorcycle or ~~moped~~ motor-driven cycle to any other vehicle on a roadway.

Sec. 19i. 23 V.S.A. § 1117 is amended to read:

§ 1117. —FOOTRESTS AND HANDLEBARS

(a) Any motorcycle or ~~moped~~ motor-driven cycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(b) No person shall operate any motorcycle or ~~moped~~ motor-driven cycle with handlebars more than 15 inches in height above that portion of the seat occupied by the operator.

Sec. 19j. 23 V.S.A. § 1243(a) is amended as follows:

(a) A motor vehicle, except a motorcycle and ~~moped~~ motor-driven cycle, in use or at rest on a highway, unless otherwise provided, during the period from 30 minutes after sunset to 30 minutes before sunrise, shall also be equipped with at least two lighted head lamps of substantially the same intensity and with reflectors and lenses of a design approved by the commissioner of motor vehicles, and with a lighted tail or rear lamp of a design so approved. A motorcycle or ~~moped~~ motor-driven cycle may be operated during the period

mentioned if equipped with at least one lighted head lamp and at least one lighted tail or rear lamp, both of a design approved by the commissioner of motor vehicles. A side car attached to such motorcycle or ~~moped~~ motor-driven cycle shall be equipped with a light on the right side of such side car visible from the front thereof. A person shall not operate a motor vehicle during the period mentioned unless it is equipped as defined in this section.

Sec. 19k. 23 V.S.A. § 2012 is amended to read:

§ 2012. EXEMPTED VEHICLES

No certificate of title need be obtained for:

\* \* \*

(8) A ~~moped~~ motor-driven cycle;

\* \* \*

Sec. 19l. 9 V.S.A. § 4171(6) is amended to read:

(6) “Motor vehicle” means a passenger motor vehicle which is purchased or leased, or registered in the state of Vermont and shall not include tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, ~~mopeds~~ motor-driven cycles, or the living portion of recreation vehicles, or trucks with a gross vehicle weight over 12,000 pounds.

Sec. 20. EFFECTIVE DATES

(a) Sec. 3 (renewal) shall take effect on July 1, 2011.

(b) This section and Sec. 19 (siren and signal lamp permit transfer) shall take effect on passage.

(c) Secs. 1–2 and Secs. 4–18 shall take effect on July 1, 2010.

(d) Secs. 19a–19l shall take effect on September 1, 2010.

Approved: June 1, 2010