

FIRST REGULAR SESSION

SENATE BILL NO. 411

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1800S.01I

AN ACT

To repeal sections 302.720, 302.735, 302.740, 302.755, and 304.820, RSMo, and section 302.700 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1402 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 470 merged with conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480 merged with conference committee substitute for house committee substitute for senate bill no. 568, ninety-sixth general assembly, second regular session, and to enact in lieu thereof six new sections relating to the operation of commercial motor vehicles.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 302.720, 302.735, 302.740, 302.755, and 304.820, 2 RSMo, and section 302.700 as enacted by conference committee substitute for 3 senate substitute for senate committee substitute for house committee substitute 4 for house bill no. 1402 merged with conference committee substitute for house 5 committee substitute for senate substitute for senate committee substitute for 6 senate bill no. 470 merged with conference committee substitute for house 7 committee substitute no. 2 for senate committee substitute for senate bill no. 480 8 merged with conference committee substitute for house committee substitute for 9 senate bill no. 568, ninety-sixth general assembly, second regular session, are 10 repealed and six new sections enacted in lieu thereof, to be known as sections 11 302.700, 302.720, 302.735, 302.740, 302.755, and 304.820, to read as follows:

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 Commercial Driver's License Act".

3 2. When used in sections 302.700 to 302.780, the following words and
4 phrases mean:

5 (1) "Alcohol", any substance containing any form of alcohol, including, but
6 not limited to, ethanol, methanol, propanol and isopropanol;

7 (2) "Alcohol concentration", the number of grams of alcohol per one
8 hundred milliliters of blood or the number of grams of alcohol per two hundred
9 ten liters of breath or the number of grams of alcohol per sixty-seven milliliters
10 of urine;

11 (3) **"CDL driver", a person holding a commercial driver's license**
12 **or a person required to hold a CDL;**

13 (4) "CDLIS driver record", the electronic record of the individual
14 commercial driver's status and history stored by the state of record as part of the
15 Commercial Driver's License Information System (CDLIS) established under 49
16 U.S.C. Section 31309, et seq.;

17 [(4)] (5) "CDLIS motor vehicle record (CDLIS MVR)", a report generated
18 from the CDLIS driver record which meets the requirements for access to CDLIS
19 information and is provided by states to users authorized in 49 CFR Part 384,
20 subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. Sections
21 2721 to 2725, et seq.;

22 [(5)] (6) "Commercial driver's instruction permit", a **commercial**
23 **learner's permit issued [pursuant to section 302.720] to an individual by a**
24 **state or other jurisdiction of domicile, in accordance with the**
25 **standards contained in 49 CFR 383, which when carried with a valid**
26 **driver's license issued by the same state or jurisdiction, authorizes the**
27 **individual to operate a class of a commercial motor vehicle when**
28 **accompanied by a holder of a valid commercial driver's license for**
29 **purposes of behind-the-wheel training. When issued to a commercial**
30 **driver's license holder, a commercial learner's permit serves as**
31 **authorization for accompanied behind-the-wheel training in a**
32 **commercial motor vehicle for which the holder's current commercial**
33 **driver's license is not valid;**

34 [(6)] (7) "Commercial driver's license" or **"(CDL)"**, a license issued by
35 this state [to an individual] **or other jurisdiction of domicile, in**
36 **accordance with 49 CFR 383, which authorizes the individual to operate a**
37 **class of a commercial motor vehicle;**

38 [(7)] (8) "Commercial driver's license downgrade", occurs when:

39 (a) A driver changes the self-certification to interstate, but operates
40 exclusively in transportation or operation excepted from 49 CFR Part 391, as
41 provided in 49 CFR Part 390.3(f), 391.2, 391.68, or 398.3;

42 (b) A driver changes the self-certification to intrastate only, if the driver
43 qualifies under the state's physical qualification requirements for intrastate only;

44 (c) A driver changes the self-certification to intrastate, but operating
45 exclusively in transportation or operations excepted from all or part of the state
46 driver qualification requirements; or

47 (d) The state removes the commercial driver's license privilege from the
48 driver's license;

49 ~~[(8)]~~ **(9)** "Commercial driver's license information system (CDLIS)", the
50 information system established pursuant to the Commercial Motor Vehicle Safety
51 Act of 1986 (Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating
52 information related to the licensing and identification of commercial motor vehicle
53 drivers;

54 ~~[(9)]~~ **(10)** "Commercial motor vehicle", a motor vehicle [designed or used]
55 **or combination of motor vehicles used in commerce** to transport
56 passengers or property;

57 (a) If the vehicle has a gross combination weight rating of twenty-six
58 thousand one or more pounds inclusive of a towed unit which has a gross vehicle
59 weight rating of ten thousand one pounds or more;

60 (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand
61 one or more pounds or such lesser rating as determined by federal regulation;

62 (c) If the vehicle is designed to transport sixteen or more passengers,
63 including the driver; or

64 (d) If the vehicle is transporting hazardous materials and is required to
65 be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801,
66 et seq.);

67 ~~[(10)]~~ **(11)** "Controlled substance", any substance so classified under
68 Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes
69 all substances listed in schedules I through V of 21 CFR Part 1308, as they may
70 be revised from time to time;

71 ~~[(11)]~~ **(12)** "Conviction", an unvacated adjudication of guilt, including
72 pleas of guilt and nolo contendere, or a determination that a person has violated
73 or failed to comply with the law in a court of original jurisdiction or an authorized
74 administrative proceeding, an unvacated forfeiture of bail or collateral deposited
75 to secure the person's appearance in court, the payment of a fine or court cost, or

76 violation of a condition of release without bail, regardless of whether the penalty
77 is rebated, suspended or prorated, including an offense for failure to appear or
78 pay;

79 [(12)] (13) "Director", the director of revenue or his authorized
80 representative;

81 [(13)] (14) "Disqualification", any of the following three actions:

82 (a) The suspension, revocation, or cancellation of a commercial driver's
83 license **or commercial driver's instruction permit**;

84 (b) Any withdrawal of a person's privileges to drive a commercial motor
85 vehicle by a state, Canada, or Mexico as the result of a violation of federal, state,
86 county, municipal, or local law relating to motor vehicle traffic control or
87 violations committed through the operation of motor vehicles, other than parking,
88 vehicle weight, or vehicle defect violations;

89 (c) A determination by the Federal Motor Carrier Safety Administration
90 that a person is not qualified to operate a commercial motor vehicle under 49
91 CFR Part 383.52 or Part 391;

92 [(14)] (15) "Drive", to drive, operate or be in physical control of a
93 commercial motor vehicle;

94 [(15)] (16) "Driver", any person who drives, operates, or is in physical
95 control of a motor vehicle, or who is required to hold a commercial driver's
96 license;

97 [(16)] (17) "Driver applicant", an individual who applies to obtain,
98 transfer, upgrade, or renew a commercial driver's license **or commercial**
99 **driver's instruction permit** in this state;

100 [(17)] (18) "Driving under the influence of alcohol", the commission of
101 any one or more of the following acts:

102 (a) Driving a commercial motor vehicle with the alcohol concentration of
103 four one-hundredths of a percent or more as prescribed by the secretary or such
104 other alcohol concentration as may be later determined by the secretary by
105 regulation;

106 (b) Driving a commercial or noncommercial motor vehicle while
107 intoxicated in violation of any federal or state law, or in violation of a county or
108 municipal ordinance;

109 (c) Driving a commercial or noncommercial motor vehicle with excessive
110 blood alcohol content in violation of any federal or state law, or in violation of a
111 county or municipal ordinance;

112 (d) Refusing to submit to a chemical test in violation of section 577.041,

113 section 302.750, any federal or state law, or a county or municipal ordinance; or
114 (e) Having any state, county or municipal alcohol-related enforcement
115 contact, as defined in subsection 3 of section 302.525; provided that any
116 suspension or revocation pursuant to section 302.505, committed in a
117 noncommercial motor vehicle by an individual twenty-one years of age or older
118 shall have been committed by the person with an alcohol concentration of at least
119 eight-hundredths of one percent or more, or in the case of an individual who is
120 less than twenty-one years of age, shall have been committed by the person with
121 an alcohol concentration of at least two-hundredths of one percent or more, and
122 if committed in a commercial motor vehicle, a concentration of four-hundredths
123 of one percent or more;

124 [(18)] **(19)** "Driving under the influence of a controlled substance", the
125 commission of any one or more of the following acts in a commercial or
126 noncommercial motor vehicle:

127 (a) Driving a commercial or noncommercial motor vehicle while under the
128 influence of any substance so classified under Section 102(6) of the Controlled
129 Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I
130 through V of 21 CFR Part 1308, as they may be revised from time to time;

131 (b) Driving a commercial or noncommercial motor vehicle while in a
132 drugged condition in violation of any federal or state law or in violation of a
133 county or municipal ordinance; or

134 (c) Refusing to submit to a chemical test in violation of section 577.041,
135 section 302.750, any federal or state law, or a county or municipal ordinance;

136 **(20) "Electronic device", includes, but is not limited to, a cellular**
137 **telephone; personal digital assistant; pager; computer; or any other**
138 **device used to input, write, send, receive, or read text;**

139 [(19)] **(21)** "Employer", any person, including the United States, a state,
140 or a political subdivision of a state, who owns or leases a commercial motor
141 vehicle or assigns a driver to operate such a vehicle;

142 [(20)] **(22)** "Endorsement", an authorization on an individual's
143 commercial driver's license [permitting] **or commercial learner's permit**
144 **required to permit** the individual to operate certain types of commercial motor
145 vehicles;

146 [(21)] **(23)** "Farm vehicle", a commercial motor vehicle controlled and
147 operated by a farmer used exclusively for the transportation of agricultural
148 products, farm machinery, farm supplies, or a combination of these, within one
149 hundred fifty miles of the farm, other than one which requires placarding for

150 hazardous materials as defined in this section, or used in the operation of a
151 common or contract motor carrier, except that a farm vehicle shall not be a
152 commercial motor vehicle when the total combined gross weight rating does not
153 exceed twenty-six thousand one pounds when transporting fertilizers as defined
154 in subdivision [(27)] **(29)** of this subsection;

155 [(22)] **(24)** "Fatality", the death of a person as a result of a motor vehicle
156 accident;

157 [(23)] **(25)** "Felony", any offense under state or federal law that is
158 punishable by death or imprisonment for a term exceeding one year;

159 [(24)] **(26)** "Foreign", outside the fifty states of the United States and the
160 District of Columbia;

161 [(25)] **(27)** "Gross combination weight rating" or "GCWR", the value
162 specified by the manufacturer as the loaded weight of a combination (articulated)
163 vehicle. In the absence of a value specified by the manufacturer, GCWR will be
164 determined by adding the GVWR of the power unit and the total weight of the
165 towed unit and any load thereon;

166 [(26)] **(28)** "Gross vehicle weight rating" or "GVWR", the value specified
167 by the manufacturer as the loaded weight of a single vehicle;

168 [(27)] **(29)** "Hazardous materials", any material that has been designated
169 as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart
170 F of CFR Part 172 or any quantity of a material listed as a select agent or toxin
171 in 42 CFR Part 73. Fertilizers, including but not limited to ammonium nitrate,
172 phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel,
173 shall not be considered hazardous materials when transported by a farm vehicle
174 provided all other provisions of this definition are followed;

175 [(28)] **(30)** "Imminent hazard", the existence of a condition that presents
176 a substantial likelihood that death, serious illness, severe personal injury, or a
177 substantial endangerment to health, property, or the environment may occur
178 before the reasonably foreseeable completion date of a formal proceeding begins
179 to lessen the risk of that death, illness, injury, or endangerment;

180 [(29)] **(31)** "Issuance", the initial licensure, license transfers, license
181 renewals, and license upgrades;

182 [(30)] **(32)** "Manual transmission", also known as a stick shift,
183 stick, straight drive or standard transmission, a transmission utilizing
184 a driver-operated clutch that is activated by a pedal or lever and a
185 gear-shift mechanism operated either by hand or foot. All other
186 transmissions, whether semi-automatic or automatic, will be considered

187 **automatic for the purposes of the standardized restriction code;**

188 **(33)** "Medical examiner", a person who is licensed, certified, or registered,
189 in accordance with applicable state laws and regulations, to perform physical
190 examinations. The term includes, but is not limited to, doctors of medicine,
191 doctors of osteopathy, physician assistants, advanced practice nurses, and doctors
192 of chiropractic;

193 **[(31)] (34)** "Medical variance", when a driver has received one of the
194 following that allows the driver to be issued a medical certificate:

195 (a) An exemption letter permitting operation of a commercial motor
196 vehicle under 49 CFR Part 381, Subpart C or 49 CFR Part 391.64;

197 (b) A skill performance evaluation certificate permitting operation of a
198 commercial motor vehicle under 49 CFR Part 391.49;

199 **[(32)] (35) "Mobile telephone", a mobile communication device**
200 **that falls under or uses any commercial mobile radio service, as defined**
201 **in regulations of the Federal Communications Commission, 47 CFR 20.3.**
202 **It does not include two-way or Citizens Band Radio services;**

203 **(36)** "Motor vehicle", any self-propelled vehicle not operated exclusively
204 upon tracks;

205 **[(33)] (37)** "Noncommercial motor vehicle", a motor vehicle or
206 combination of motor vehicles not defined by the term "commercial motor vehicle"
207 in this section;

208 **[(34)] "Out of service"] (38) "Out-of-service"**, a temporary prohibition
209 against the operation of a commercial motor vehicle by a particular driver, or the
210 operation of a particular commercial motor vehicle, or the operation of a
211 particular motor carrier;

212 **[(35)] (39)** "Out-of-service order", a declaration by an authorized
213 enforcement officer of a federal, state, Canadian, Mexican or any local
214 jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier
215 operation, is out of service under 49 CFR Part 386.72, 392.5, 392.9a, 395.13, or
216 396.9, or comparable laws, or the North American Standard Out-of-Service
217 Criteria;

218 **[(36)] (40)** "School bus", a commercial motor vehicle used to transport
219 preprimary, primary, or secondary school students from home to school, from
220 school to home, or to and from school-sponsored events. School bus does not
221 include a bus used as a common carrier as defined by the Secretary;

222 **[(37)] (41)** "Secretary", the Secretary of Transportation of the United
223 States;

224 [(38)] **(42)** "Serious traffic violation", driving a commercial motor vehicle
225 in such a manner that the driver receives a conviction for the following offenses
226 or driving a noncommercial motor vehicle when the driver receives a conviction
227 for the following offenses and the conviction results in the suspension or
228 revocation of the driver's license or noncommercial motor vehicle driving
229 privilege:

230 (a) Excessive speeding, as defined by the Secretary by regulation;

231 (b) Careless, reckless or imprudent driving which includes, but shall not
232 be limited to, any violation of section 304.016, any violation of section 304.010,
233 or any other violation of federal or state law, or any county or municipal
234 ordinance while driving a commercial motor vehicle in a willful or wanton
235 disregard for the safety of persons or property, or improper or erratic traffic lane
236 changes, or following the vehicle ahead too closely, but shall not include careless
237 and imprudent driving by excessive speed;

238 (c) A violation of any federal or state law or county or municipal ordinance
239 regulating the operation of motor vehicles arising out of an accident or collision
240 which resulted in death to any person, other than a parking violation;

241 (d) Driving a commercial motor vehicle without obtaining a commercial
242 driver's license in violation of any federal or state or county or municipal
243 ordinance;

244 (e) Driving a commercial motor vehicle without a commercial driver's
245 license in the driver's possession in violation of any federal or state or county or
246 municipal ordinance. Any individual who provides proof to the court which has
247 jurisdiction over the issued citation that the individual held a valid commercial
248 driver's license on the date that the citation was issued shall not be guilty of this
249 offense;

250 (f) Driving a commercial motor vehicle without the proper commercial
251 driver's license class or endorsement for the specific vehicle group being operated
252 or for the passengers or type of cargo being transported in violation of any federal
253 or state law or county or municipal ordinance; [or]

254 (g) **Violating a state or local law or ordinance on motor vehicle**
255 **traffic control prohibiting texting while driving a commercial motor**
256 **vehicle;**

257 (h) **Violating a state or local law or ordinance on motor vehicle**
258 **traffic control restricting or prohibiting the use of a hand-held mobile**
259 **telephone while driving a commercial motor vehicle; or**

260 (i) Any other violation of a federal or state law or county or municipal

261 ordinance regulating the operation of motor vehicles, other than a parking
262 violation, as prescribed by the secretary by regulation;

263 **[(39)] (43) "State", a state of the United States, including the District**
264 **of Columbia;**

265 **[(40)] (44) "Tank vehicle", any commercial motor vehicle that is**
266 **designed to transport any liquid or gaseous materials within a tank or**
267 **tanks having an individual rated capacity of more than one hundred**
268 **nineteen gallons and an aggregate rated capacity of one thousand**
269 **gallons or more that is either permanently or temporarily attached to**
270 **the vehicle or the chassis. A commercial motor vehicle transporting an**
271 **empty storage container tank, not designed for transportation, with a**
272 **rated capacity of one thousand gallons or more that is temporarily**
273 **attached to a flatbed trailer is not considered a tank vehicle;**

274 **(45) "Texting", manually entering alphanumeric text into, or**
275 **reading text from, an electronic device. This action includes, but is not**
276 **limited to, short message service, emailing, instant messaging, a**
277 **command or request to access a World Wide Web page, pressing more**
278 **than a single button to initiate or terminate a voice communication**
279 **using a mobile telephone, or engaging in any other form of electronic**
280 **text retrieval or entry, for present or future communication. Texting**
281 **does not include:**

282 **(a) Inputting, selecting, or reading information on a global**
283 **positioning system or navigation system; or**

284 **(b) Pressing a single button to initiate or terminate a voice**
285 **communication using a mobile telephone; or**

286 **(c) Using a device capable of performing multiple functions (e.g.,**
287 **fleet management systems, dispatching devices, smart phones, citizens**
288 **band radios, music players, etc.) for a purpose that is not otherwise**
289 **prohibited in this subdivision;**

290 **(46) "United States", the fifty states and the District of Columbia.**

302.720. 1. Except when operating under an instruction permit as
2 described in this section, no person may drive a commercial motor vehicle unless
3 the person has been issued a commercial driver's license with applicable
4 endorsements valid for the type of vehicle being operated as specified in sections
5 302.700 to 302.780. A commercial driver's instruction permit shall allow the
6 holder of a valid license to operate a commercial motor vehicle when accompanied
7 by the holder of a commercial driver's license valid for the vehicle being operated

8 and who occupies a seat beside the individual, or reasonably near the individual
9 in the case of buses, for the purpose of giving instruction in driving the
10 commercial motor vehicle. A commercial driver's instruction permit shall be valid
11 for the vehicle being operated for a period of not more than six months, and shall
12 not be issued until the permit holder has met all other requirements of sections
13 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise
14 disqualified, may be granted one six-month renewal within a one-year
15 period. The fee for such permit or renewal shall be five dollars. In the
16 alternative, a commercial driver's instruction permit shall be issued for a
17 thirty-day period to allow the holder of a valid driver's license to operate a
18 commercial motor vehicle if the applicant has completed all other requirements
19 except the driving test. The permit may be renewed for one additional thirty-day
20 period and the fee for the permit and for renewal shall be five dollars.

21 2. No person may be issued a commercial driver's license until he has
22 passed written and driving tests for the operation of a commercial motor vehicle
23 which complies with the minimum federal standards established by the Secretary
24 and has satisfied all other requirements of the Commercial Motor Vehicle Safety
25 Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements
26 imposed by state law. **All applicants for a commercial driver's license**
27 **shall have maintained the appropriate class of commercial driver's**
28 **instruction permit issued by this state or any other state for a**
29 **minimum of fourteen calendar days prior to the date of completing**
30 **skills testing.** Applicants for a hazardous materials endorsement must also
31 meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law
32 107-56) as specified and required by regulations promulgated by the
33 Secretary. Nothing contained in this subsection shall be construed as prohibiting
34 the director from establishing alternate testing formats for those who are
35 functionally illiterate; provided, however, that any such alternate test must
36 comply with the minimum requirements of the Commercial Motor Vehicle Safety
37 Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

38 (1) The written and driving tests shall be held at such times and in such
39 places as the superintendent may designate. A twenty-five dollar examination
40 fee shall be paid by the applicant upon completion of any written or driving test,
41 except the examination fee shall be waived for applicants seventy years of age or
42 older renewing a license with a school bus endorsement. The director shall
43 delegate the power to conduct the examinations required under sections 302.700
44 to 302.780 to any member of the highway patrol or any person employed by the

45 highway patrol qualified to give driving examinations. The written test shall only
46 be administered in the English language. No translators shall be allowed for
47 applicants taking the test.

48 (2) The director shall adopt and promulgate rules and regulations
49 governing the certification of third-party testers by the department of
50 revenue. Such rules and regulations shall substantially comply with the
51 requirements of 49 CFR Part 383, Section 383.75. A certification to conduct
52 third-party testing shall be valid for one year, and the department shall charge
53 a fee of one hundred dollars to issue or renew the certification of any third-party
54 tester.

55 (3) Beginning August 28, 2006, the director shall only issue or renew
56 third-party tester certification to community colleges established under chapter
57 178 or to private companies who own, lease, or maintain their own fleet and
58 administer in-house testing to their employees, or to school districts and their
59 agents that administer in-house testing to the school district's or agent's
60 employees. Any third-party tester who violates any of the rules and regulations
61 adopted and promulgated pursuant to this section shall be subject to having his
62 certification revoked by the department. The department shall provide written
63 notice and an opportunity for the third-party tester to be heard in substantially
64 the same manner as provided in chapter 536. If any applicant submits evidence
65 that he has successfully completed a test administered by a third-party tester, the
66 actual driving test for a commercial driver's license may then be waived.

67 (4) Every applicant for renewal of a commercial driver's license shall
68 provide such certifications and information as required by the secretary and if
69 such person transports a hazardous material must also meet the requirements of
70 the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and
71 required by regulations promulgated by the Secretary. Such person shall be
72 required to take the written test for such endorsement. A twenty-five dollar
73 examination fee shall be paid upon completion of such tests.

74 (5) The director shall have the authority to waive the driving skills test
75 for any qualified military applicant for a commercial driver's license who is
76 currently licensed at the time of application for a commercial driver's
77 license. The director shall impose conditions and limitations to restrict the
78 applicants from whom the department may accept alternative requirements for
79 the skills test described in federal regulation 49 C.F.R. 383.77. An applicant
80 must certify that, during the two-year period immediately preceding application
81 for a commercial driver's license, all of the following apply:

82 (a) The applicant has not had more than one license;

83 (b) The applicant has not had any license suspended, revoked, or
84 cancelled;

85 (c) The applicant has not had any convictions for any type of motor vehicle
86 for the disqualifying offenses contained in this chapter or federal rule 49 C.F.R.
87 383.51(b);

88 (d) The applicant has not had more than one conviction for any type of
89 motor vehicle for serious traffic violations;

90 (e) The applicant has not had any conviction for a violation of state or
91 local law relating to motor vehicle traffic control, but not including any parking
92 violation, arising in connection with any traffic accident, and has no record of an
93 accident in which he or she was at fault;

94 (f) The applicant is regularly employed **within the last ninety days** in
95 a **[job] military position** requiring operation of a commercial motor vehicle and
96 has operated the vehicle for at least sixty days during the two years immediately
97 preceding application for a commercial driver's license. The vehicle must be
98 representative of the commercial motor vehicle the driver applicant operates or
99 expects to operate;

100 (g) The applicant, if on active duty, must provide a notarized affidavit
101 signed by a commanding officer as proof of driving experience as indicated in
102 paragraph (f) of this subdivision;

103 (h) The applicant, if honorably discharged from military service, must
104 provide a form-DD214 or other proof of military occupational specialty;

105 (i) The applicant must meet all federal and state qualifications to operate
106 a commercial vehicle; and

107 (j) The applicant will be required to complete all applicable knowledge
108 tests.

109 3. A commercial driver's license may not be issued to a person while the
110 person is disqualified from driving a commercial motor vehicle, when a
111 disqualification is pending in any state or while the person's driver's license is
112 suspended, revoked, or cancelled in any state; nor may a commercial driver's
113 license be issued unless the person first surrenders in a manner prescribed by the
114 director any commercial driver's license issued by another state, which license
115 shall be returned to the issuing state for cancellation.

116 4. Beginning July 1, 2005, the director shall not issue an instruction
117 permit under this section unless the director verifies that the applicant is
118 lawfully present in the United States before accepting the application. The

119 director may, by rule or regulation, establish procedures to verify the lawful
120 presence of the applicant under this section. No rule or portion of a rule
121 promulgated pursuant to the authority of this section shall become effective
122 unless it has been promulgated pursuant to chapter 536.

123 5. Notwithstanding the provisions of this section or any other law to the
124 contrary, beginning August 28, 2008, the director of the department of revenue
125 shall certify as a third-party tester any municipality that owns, leases, or
126 maintains its own fleet that requires certain employees as a condition of
127 employment to hold a valid commercial driver's license; and that administered
128 in-house testing to such employees prior to August 28, 2006.

302.735. 1. An application shall not be taken from a nonresident after
2 September 30, 2005. The application for a commercial driver's license shall
3 include, but not be limited to, the applicant's legal name, mailing and residence
4 address, if different, a physical description of the person, including sex, height,
5 weight and eye color, the person's Social Security number, date of birth and any
6 other information deemed appropriate by the director. The application shall also
7 require, beginning September 30, 2005, the applicant to provide the names of all
8 states where the applicant has been previously licensed to drive any type of motor
9 vehicle during the preceding ten years.

10 2. A commercial driver's license shall expire on the applicant's birthday
11 in the sixth year after issuance, unless the license must be issued for a shorter
12 period due to other requirements of law or for transition or staggering of work as
13 determined by the director, and must be renewed on or before the date of
14 expiration. When a person changes such person's name an application for a
15 duplicate license shall be made to the director of revenue. When a person
16 changes such person's mailing address or residence the applicant shall notify the
17 director of revenue of said change, however, no application for a duplicate license
18 is required. A commercial license issued pursuant to this section to an applicant
19 less than twenty-one years of age and seventy years of age and older shall expire
20 on the applicant's birthday in the third year after issuance, unless the license
21 must be issued for a shorter period as determined by the director.

22 3. A commercial driver's license containing a hazardous materials
23 endorsement issued to an applicant who is between the age of twenty-one and
24 sixty-nine shall not be issued for a period exceeding five years from the approval
25 date of the security threat assessment as determined by the Transportation
26 Security Administration.

27 4. The director shall issue an annual commercial driver's license

28 containing a school bus endorsement to an applicant who is seventy years of age
29 or older. The fee for such license shall be seven dollars and fifty cents.

30 5. A commercial driver's license containing a hazardous materials
31 endorsement issued to an applicant who is seventy years of age or older shall not
32 be issued for a period exceeding three years. The director shall not require such
33 drivers to obtain a security threat assessment more frequently than such
34 assessment is required by the Transportation Security Administration under the
35 Uniting and Strengthening America by Providing Appropriate Tools Required to
36 Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

37 (1) The state shall immediately revoke a hazardous materials
38 endorsement upon receipt of an initial determination of threat assessment and
39 immediate revocation from the Transportation Security Administration as defined
40 by 49 CFR 1572.13(a).

41 (2) The state shall revoke or deny a hazardous materials endorsement
42 within fifteen days of receipt of a final determination of threat assessment from
43 the Transportation Security Administration as required by CFR 1572.13(a).

44 6. The fee for a commercial driver's license or renewal commercial driver's
45 license issued for a period greater than three years shall be forty dollars.

46 7. The fee for a commercial driver's license or renewal commercial driver's
47 license issued for a period of three years or less shall be twenty dollars.

48 8. The fee for a duplicate commercial driver's license shall be twenty
49 dollars.

50 9. In order for the director to properly transition driver's license
51 requirements under the Motor Carrier Safety Improvement Act of 1999 and the
52 Uniting and Strengthening America by Providing Appropriate Tools Required to
53 Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, the director
54 is authorized to stagger expiration dates and make adjustments for any fees,
55 including driver examination fees that are incurred by the driver as a result of
56 the initial issuance of a transitional license required to comply with such acts.

57 10. Within thirty days after moving to this state, the holder of a
58 commercial driver's license shall apply for a commercial driver's license in this
59 state. The applicant shall meet all other requirements of sections 302.700 to
60 302.780, except that the director may waive the driving test for a commercial
61 driver's license as required in section 302.720 if the applicant for a commercial
62 driver's license has a valid commercial driver's license from a state which has
63 requirements for issuance of such license comparable to those in this state.

64 11. Any person who falsifies any information in an application or test for

65 a commercial driver's license shall not be licensed to operate a commercial motor
66 vehicle, or the person's commercial driver's license shall be cancelled, for a period
67 of one year after the director discovers such falsification.

68 12. Beginning July 1, 2005, the director shall not issue a commercial
69 driver's license under this section unless the director verifies that the applicant
70 is lawfully present in the United States before accepting the application. If lawful
71 presence is granted for a temporary period, no commercial driver's license shall
72 be issued. The director may, by rule or regulation, establish procedures to verify
73 the lawful presence of the applicant and establish the duration of any commercial
74 driver's license issued under this section. No rule or portion of a rule
75 promulgated pursuant to the authority of this section shall become effective
76 unless it has been promulgated pursuant to chapter 536.

77 13. (1) Effective December 19, 2005, notwithstanding any provisions of
78 subsections 1 and 5 of this section to the contrary, the director may issue a
79 nonresident commercial driver's license **or commercial driver's instruction**
80 **permit** to a resident of a foreign jurisdiction if the United States Secretary of
81 Transportation has determined that the commercial motor vehicle testing and
82 licensing standards in the foreign jurisdiction do not meet the testing standards
83 established in 49 C.F.R. Part 383.

84 (2) Any applicant for a [nonresident] **nondomiciled** commercial driver's
85 license **or commercial driver's instruction permit** must present evidence
86 satisfactory to the director that the applicant currently has employment with an
87 employer in this state. The [nonresident] **nondomiciled** applicant must meet
88 the same testing, driver record requirements, conditions, and is subject to the
89 same disqualification and conviction reporting requirements applicable to
90 resident commercial drivers.

91 (3) The [nonresident] **nondomiciled** commercial driver's license will
92 expire on the same date that the documents establishing lawful presence for
93 employment expire. The word ["nonresident"] **"nondomiciled"** shall appear on
94 the face of the [nonresident] **nondomiciled** commercial driver's license. Any
95 applicant for a Missouri [nonresident] **nondomiciled** commercial driver's license
96 **or commercial driver's instruction permit** must first surrender any
97 [nonresident] **nondomiciled** commercial driver's license issued by another state.

98 (4) The [nonresident] **nondomiciled** commercial driver's license
99 applicant must pay the same fees as required for the issuance of a resident
100 commercial driver's license **or commercial driver's instruction permit**.

101 14. Foreign jurisdiction for purposes of issuing a [nonresident]

102 **nondomiciled** commercial driver's license **or commercial driver's**
103 **instruction permit** under this section shall not include any of the fifty states
104 of the United States or Canada or Mexico.

302.740. 1. The commercial driver's license shall be manufactured of
2 materials and processes that will prohibit as nearly as possible the ability to
3 reproduce, alter, counterfeit, forge, or duplicate any license without ready
4 detection. Such license shall include, but not be limited to, the following
5 information: a colored photograph of the person, the legal name and address of
6 the person, a physical description of the person, including sex, height, weight and
7 eye color, the person's [Social Security] **driver's license** number or such other
8 number or identifier deemed appropriate by the director or the secretary, the date
9 of birth, class or type of commercial motor vehicle or vehicles which the person
10 is authorized to drive, the name of this state, and the words "COMMERCIAL
11 DRIVER'S LICENSE" or "CDL", the dates of issuance and expiration, the person's
12 signature and such other information as the director prescribes.

13 2. Before issuing a commercial driver's license, the director shall obtain
14 driving record information from sources including, but not limited to, the national
15 driver's register, the commercial driver's license information system, and any
16 state driver's licensing system in which the person has been licensed; except that
17 the director shall only be required to obtain the complete driving record from each
18 state the person has ever been licensed in when such person is issued an initial
19 commercial driver's license or renews his or her commercial driver's license for
20 the first time. The director shall maintain a notation in the driving record
21 system of the date when he or she has obtained the driving records from all other
22 states which the person has been licensed.

23 3. Within ten days after issuing a commercial driver's license, the director
24 shall notify the commercial driver's license information system of such fact,
25 providing all information required to ensure identification of the person. For the
26 purpose of this subsection, the date of issuance shall be the date the commercial
27 driver's license is mailed to the applicant.

28 4. The commercial driver's license shall indicate the class of vehicle the
29 person may drive and any applicable endorsements or restrictions. Commercial
30 driver's license classifications, endorsements and restrictions shall be in
31 compliance with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of
32 Pub. Law 99-570) and those prescribed by the director. The commercial driver's
33 license driving record shall contain a complete history of the driver, including
34 information and convictions from previous states of licensure.

35 **5. The commercial driver's instruction permit shall include, but**
36 **not be limited to, the same data elements as a commercial driver**
37 **license and the words "CDL PERMIT" or "COMMERCIAL LEARNER**
38 **PERMIT", and such other information as the director or secretary**
39 **prescribes.**

 302.755. 1. A person is disqualified from driving a commercial motor
2 vehicle for a period of not less than one year if convicted of a first violation of:

3 (1) Driving a motor vehicle under the influence of alcohol or a controlled
4 substance, or of an alcohol-related enforcement contact as defined in subsection
5 3 of section 302.525;

6 (2) Driving a commercial motor vehicle which causes a fatality through
7 the negligent operation of the commercial motor vehicle, including but not limited
8 to the crimes of vehicular manslaughter, homicide by motor vehicle, and negligent
9 homicide;

10 (3) Driving a commercial motor vehicle while revoked pursuant to section
11 302.727;

12 (4) Leaving the scene of an accident involving a commercial or
13 noncommercial motor vehicle operated by the person;

14 (5) Using a commercial or noncommercial motor vehicle in the commission
15 of any felony, as defined in section 302.700, except a felony as provided in
16 subsection 4 of this section.

17 2. If any of the violations described in subsection 1 of this section occur
18 while transporting a hazardous material the person is disqualified for a period
19 of not less than three years.

20 3. Any person is disqualified from operating a commercial motor vehicle
21 for life if convicted of two or more violations of any of the offenses specified in
22 subsection 1 of this section, or any combination of those offenses, arising from two
23 or more separate incidents. The director may issue rules and regulations, in
24 accordance with guidelines established by the secretary, under which a
25 disqualification for life under this section may be reduced to a period of not less
26 than ten years.

27 4. Any person is disqualified from driving a commercial motor vehicle for
28 life who uses a commercial or noncommercial motor vehicle in the commission of
29 any felony involving the manufacture, distribution, or dispensing of a controlled
30 substance, or possession with intent to manufacture, distribute, or dispense a
31 controlled substance.

32 5. Any person is disqualified from operating a commercial motor vehicle

33 for a period of not less than sixty days if convicted of two serious traffic violations
34 or one hundred twenty days if convicted of three serious traffic violations, arising
35 from separate incidents occurring within a three-year period.

36 6. Any person found to be operating a commercial motor vehicle while
37 having any measurable alcohol concentration shall immediately be issued a
38 continuous twenty-four-hour out-of-service order by a law enforcement officer in
39 this state.

40 7. Any person who is convicted of operating a commercial motor vehicle
41 beginning at the time of issuance of the out-of-service order until its expiration
42 is guilty of a class A misdemeanor.

43 8. Any person convicted for the first time of driving while out of service
44 shall be disqualified from driving a commercial motor vehicle in the manner
45 prescribed in 49 CFR Part 383, or as amended by the Secretary.

46 9. Any person convicted of driving while out of service on a second
47 occasion during any ten-year period, involving separate incidents, shall be
48 disqualified in the manner prescribed in 49 CFR Part 383, or as amended by the
49 Secretary.

50 10. Any person convicted of driving while out of service on a third or
51 subsequent occasion during any ten-year period, involving separate incidents,
52 shall be disqualified for a period of three years.

53 11. Any person convicted of a first violation of an out-of-service order
54 while transporting hazardous materials or while operating a motor vehicle
55 designed to transport sixteen or more passengers, including the driver, is
56 disqualified for a period of one hundred eighty days.

57 12. Any person convicted of any subsequent violation of an out-of-service
58 order in a separate incident within ten years after a previous violation, while
59 transporting hazardous materials or while operating a motor vehicle designed to
60 transport fifteen passengers, including the driver, is disqualified for a period of
61 three years.

62 13. Any person convicted of any other offense as specified by regulations
63 promulgated by the Secretary of Transportation shall be disqualified in
64 accordance with such regulations.

65 14. After suspending, revoking, cancelling or disqualifying a driver, the
66 director shall update records to reflect such action and notify a nonresident's
67 licensing authority and the commercial driver's license information system within
68 ten days in the manner prescribed in 49 CFR Part 384, or as amended by the
69 Secretary.

70 15. Any person disqualified from operating a commercial motor vehicle
71 pursuant to subsection 1, 2, 3 or 4 of this section shall have such commercial
72 driver's license cancelled, and upon conclusion of the period of disqualification
73 shall take the written and driving tests and meet all other requirements of
74 sections 302.700 to 302.780. Such disqualification and cancellation shall not be
75 withdrawn by the director until such person reapplies for a commercial driver's
76 license in this or any other state after meeting all requirements of sections
77 302.700 to 302.780.

78 16. The director shall disqualify a driver upon receipt of notification that
79 the Secretary has determined a driver to be an imminent hazard pursuant to 49
80 CFR, Part 383.52. Due process of a disqualification determined by the Secretary
81 pursuant to this section shall be held in accordance with regulations promulgated
82 by the Secretary. The period of disqualification determined by the Secretary
83 pursuant to this section shall be served concurrently to any other period of
84 disqualification which may be imposed by the director pursuant to this
85 section. Both disqualifications shall appear on the driving record of the driver.

86 17. The director shall disqualify a commercial license holder or operator
87 of a commercial vehicle from operation of any commercial motor vehicle upon
88 receipt of a conviction for an offense of failure to appear or pay, and such
89 disqualification shall remain in effect until the director receives notice that the
90 person has complied with the requirement to appear or pay.

91 **18. The disqualification period must be in addition to any other**
92 **previous periods of disqualification in the manner prescribed in 49**
93 **CFR Part 383, or as amended by the Secretary, except when the major**
94 **or serious violations are a result of the same incident.**

 304.820. 1. Except as otherwise provided in this section, no person
2 twenty-one years of age or younger operating a moving motor vehicle upon the
3 highways of this state shall, by means of a hand-held electronic wireless
4 communications device, send, read, or write a text message or electronic message.

5 **2. Except as otherwise provided in this section, no person shall**
6 **operate a moving commercial motor vehicle while using a hand-held**
7 **mobile telephone.**

8 **3. Except as otherwise provided in this section, no person shall**
9 **operate a moving commercial motor vehicle while using a wireless**
10 **communications device to send, read, or write a text message or**
11 **electronic message.**

12 4. The provisions of subsection 1 of this section shall not apply to a person

13 operating:

- 14 (1) An authorized emergency vehicle; or
- 15 (2) A moving motor vehicle while using a hand-held electronic wireless
- 16 communications device to:
- 17 (a) Report illegal activity;
- 18 (b) Summon medical or other emergency help;
- 19 (c) Prevent injury to a person or property; or
- 20 (d) Relay information between a transit or for-hire operator and that
- 21 operator's dispatcher, in which the device is permanently affixed to the vehicle.

22 [3.] 5. Nothing in this section shall be construed or interpreted as

23 prohibiting a person from making or taking part in a telephone call, by means of

24 a hand-held electronic wireless communications device, while operating a

25 **noncommercial** motor vehicle upon the highways of this state.

26 [4.] 6. As used in this section, "electronic message" means a

27 self-contained piece of digital communication that is designed or intended to be

28 transmitted between hand-held electronic wireless communication

29 devices. "Electronic message" includes, but is not limited to, electronic mail, a

30 text message, an instant message, or a command or request to access an internet

31 site.

32 [5.] 7. As used in this section, "hand-held electronic wireless

33 communications device" includes any hand-held cellular phone, palm pilot,

34 blackberry, or other mobile electronic device used to communicate verbally or by

35 text or electronic messaging, but shall not apply to any device that is

36 permanently embedded into the architecture and design of the motor vehicle.

37 [6.] 8. As used in this section, "making or taking part in a telephone call"

38 means listening to or engaging in verbal communication through a hand-held

39 electronic wireless communication device.

40 [7.] 9. As used in this section, "send, read, or write a text message or

41 electronic message" means using a hand-held electronic wireless

42 telecommunications device to manually communicate with any person by using

43 an electronic message. Sending, reading, or writing a text message or electronic

44 message does not include reading, selecting, or entering a phone number or name

45 into a hand-held electronic wireless communications device for the purpose of

46 making a telephone call.

47 [8.] 10. A violation of this section shall be deemed an infraction and shall

48 be deemed a moving violation for purposes of point assessment under section

49 302.302.

50 **[9.] 11.** The state preempts the field of regulating the use of hand-held
51 electronic wireless communications devices in motor vehicles, and the provisions
52 of this section shall supercede any local laws, ordinances, orders, rules, or
53 regulations enacted by a county, municipality, or other political subdivision to
54 regulate the use of hand-held electronic wireless communication devices by the
55 operator of a motor vehicle.

56 **[10.] 12.** The provisions of this section shall not apply to:

- 57 (1) The operator of a vehicle that is lawfully parked or stopped;
58 (2) Any of the following while in the performance of their official duties:
59 a law enforcement officer; a member of a fire department; or the operator of a
60 public or private ambulance;
61 (3) The use of factory-installed or aftermarket global positioning systems
62 (GPS) or wireless communications devices used to transmit or receive data as part
63 of a digital dispatch system;
64 (4) The use of voice-operated technology;
65 (5) The use of two-way radio transmitters or receivers by a licensee of the
66 Federal Communications Commission in the Amateur Radio Service.

Bill ✓

Copy