

CHAPTER 254

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 04-1231

BY REPRESENTATIVE(S) Larson, Welker, Miller, Rose, and Stengel;
also SENATOR(S) Chlouber, May R., and Entz.

AN ACT

CONCERNING THE CONDITIONS APPLICABLE TO THE HOLDERS OF COMMERCIAL DRIVERS' LICENSES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 42-2-403 (1) and (3), Colorado Revised Statutes, are amended to read:

42-2-403. Department authority - rules - federal requirements. (1) The department shall develop, adopt, and administer a procedure for licensing drivers of commercial motor vehicles in accordance with ~~the~~ APPLICABLE federal "~~Commercial Motor Vehicle Safety Act of 1986~~" LAW GOVERNING COMMERCIAL MOTOR VEHICLE SAFETY and any rules ~~or regulations~~ promulgated thereunder. THE DEPARTMENT IS HEREBY SPECIFICALLY AUTHORIZED TO ADOPT AND EFFECTUATE, WHETHER BY RULE, POLICY, OR ADMINISTRATIVE CUSTOM OR PRACTICE, ANY LICENSING SANCTION IMPOSED BY FEDERAL STATUTES OR RULES GOVERNING COMMERCIAL MOTOR VEHICLE SAFETY.

(3) Nothing in this part 4 shall be construed to prevent the state of Colorado from complying with federal requirements in order to qualify for funds under the federal "Commercial Motor Vehicle Safety Act of 1986" OR OTHER APPLICABLE FEDERAL LAW.

SECTION 2. 42-2-403 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-2-403. Department authority - rules - federal requirements. (2) (e) WITH REGARD TO EVERY PERSON WHO HOLDS OR APPLIES FOR A COMMERCIAL DRIVER'S LICENSE IN THIS STATE, THE DEPARTMENT SHALL MAINTAIN, FOR AT LEAST THREE YEARS, RECORDS OF SUCH PERSON'S APPLICATION AND OF ANY CONVICTIONS,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DISQUALIFICATIONS, AND LICENSING ACTIONS FOR VIOLATION OF STATE OR LOCAL LAWS RELATING TO MOTOR VEHICLE TRAFFIC CONTROL, OTHER THAN PARKING VIOLATIONS, COMMITTED WHILE THE PERSON WAS OPERATING A COMMERCIAL MOTOR VEHICLE OR THAT WOULD AFFECT THE PERSON'S COMMERCIAL DRIVING PRIVILEGE, AND SHALL MAKE SUCH RECORDS AVAILABLE TO THE SPECIFIED PERSONS AND ENTITIES AS FOLLOWS:

(I) TO LAW ENFORCEMENT OFFICERS, COURTS, PROSECUTORS, ADMINISTRATIVE ADJUDICATORS, AND MOTOR VEHICLE LICENSING AUTHORITIES IN COLORADO OR ANY OTHER STATE, ALL INFORMATION ON ALL SUCH PERSONS;

(II) TO THE FEDERAL SECRETARY OF TRANSPORTATION, ALL INFORMATION ON ALL SUCH PERSONS;

(III) TO THE INDIVIDUAL TO WHOM SUCH INFORMATION PERTAINS, ALL SUCH INFORMATION PERTAINING TO THAT INDIVIDUAL;

(IV) TO THE MOTOR CARRIER EMPLOYER OR PROSPECTIVE MOTOR CARRIER EMPLOYER OF THE INDIVIDUAL TO WHOM SUCH INFORMATION PERTAINS, ALL SUCH INFORMATION PERTAINING TO THAT INDIVIDUAL.

SECTION 3. 42-2-404, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-2-404. License for drivers - limitations. (1.5) (a) THE DEPARTMENT SHALL NOT ISSUE A COMMERCIAL DRIVER'S LICENSE TO, AND SHALL IMMEDIATELY CANCEL THE COMMERCIAL DRIVER'S LICENSE OF, ANY PERSON SUBJECT TO A FEDERAL DISQUALIFICATION ORDER ON THE BASIS OF IMMINENT HAZARD TO PUBLIC SAFETY PURSUANT TO 49 CFR 383.52.

(b) A PERSON WHO IS SUBJECT TO A FEDERAL DISQUALIFICATION ORDER ON THE BASIS OF IMMINENT HAZARD, OR WHOSE COMMERCIAL OR NONCOMMERCIAL DRIVER'S PRIVILEGE IS UNDER RESTRAINT, SHALL NOT BE ELIGIBLE FOR A RESTRICTED, PROBATIONARY, OR HARDSHIP LICENSE THAT WOULD PERMIT THE PERSON TO OPERATE A COMMERCIAL MOTOR VEHICLE DURING THE PERIOD OF SUCH DISQUALIFICATION OR RESTRAINT.

(c) (I) THE DEPARTMENT SHALL NOT ISSUE, RENEW, UPGRADE, OR TRANSFER A HAZARDOUS MATERIALS ENDORSEMENT FOR A COMMERCIAL DRIVER'S LICENSE THAT WOULD HAVE THE EFFECT OF AUTHORIZING A PERSON TO OPERATE A COMMERCIAL MOTOR VEHICLE TRANSPORTING HAZARDOUS MATERIAL IN COMMERCE UNLESS THE FEDERAL TRANSPORTATION SECURITY ADMINISTRATION HAS DETERMINED THAT THE PERSON DOES NOT POSE A SECURITY RISK WARRANTING A DENIAL OF THE ENDORSEMENT.

(II) FINGERPRINTING FOR THE PURPOSE OF A CRIMINAL HISTORY RECORD CHECK FOR A HAZARDOUS MATERIAL ENDORSEMENT ON A COMMERCIAL DRIVER'S LICENSE MAY BE CONDUCTED BY A STATE OR LOCAL LAW ENFORCEMENT AGENT OR ANY OTHER PERSON WHO HAS THE AUTHORIZATION OR APPROVAL OF A FEDERAL AGENCY INCLUDING, WITHOUT LIMITATION, THE TRANSPORTATION SAFETY ADMINISTRATION OR THE FEDERAL BUREAU OF INVESTIGATION.

(III) A PERSON ENROLLED IN A COMMERCIAL DRIVER TRAINING SCHOOL OR HOLDING A COMMERCIAL DRIVING LEARNER'S PERMIT SHALL NOT BE ELIGIBLE TO APPLY FOR OR RECEIVE A HAZARDOUS MATERIAL ENDORSEMENT AND IS PROHIBITED FROM OPERATING A COMMERCIAL MOTOR VEHICLE TRANSPORTING HAZARDOUS MATERIAL AT ANY TIME.

SECTION 4. 42-2-405 (1) and (3), Colorado Revised Statutes, are amended to read:

42-2-405. Driver's license disciplinary actions - grounds for denial - suspension - revocation - disqualification. (1) A person who holds a commercial driver's license or who drives a commercial motor vehicle, as defined under this part 4, shall be subject, in addition to this part 4, to disciplinary actions, penalties, and the general provisions under ~~sections 42-2-125 to 42-2-138~~ PARTS 1, 2, AND 3 OF THIS ARTICLE AND ARTICLE 7 OF THIS TITLE.

~~(3) A commercial driver's license shall be cancelled and such driver shall be denied from driving a commercial motor vehicle in this state for life or, if a driver of a commercial motor vehicle does not have a commercial driver's license, such person shall be denied from ever obtaining a commercial driver's license and from driving a commercial motor vehicle in this state for life, unless such cancellation or denial is otherwise reduced to a period of not less than ten years by the secretary of the United States department of transportation.~~ FOR PURPOSES OF THE IMPOSITION OF RESTRAINTS AND SANCTIONS AGAINST COMMERCIAL DRIVING PRIVILEGES:

~~(a) If such driver is convicted of the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance, as defined under section 102 (6) of the federal "Controlled Substance Act", as may be amended from time to time, and the commission of such felony involved the use of a commercial motor vehicle;~~ OR A VIOLATION OF SECTION 42-4-1301 (1) OR (2) (a), OR OF A SUBSTANTIALLY SIMILAR LAW OF ANY OTHER STATE PERTAINING TO DRINKING AND DRIVING, SHALL BE DEEMED DRIVING UNDER THE INFLUENCE; AND

~~(b) If such driver commits two or more violations, or any combination arising from two incidents, of:~~ A VIOLATION OF SECTION 42-4-706, 42-4-707, 42-4-708, OR OF A SUBSTANTIALLY SIMILAR LAW OF ANY OTHER STATE PERTAINING TO CONDUCT AT OR NEAR RAILROAD CROSSINGS, SHALL BE DEEMED A RAILROAD CROSSING OFFENSE.

~~(f) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance;~~

~~(H) Driving a commercial motor vehicle in this state when the amount of alcohol, as shown by analysis of such person's blood or breath, in such person's blood was 0.04 or more grams of alcohol per one hundred milliliters of blood or 0.04 or more grams of alcohol per two hundred ten liters of breath at the time of driving or any time thereafter;~~

~~(HH) Knowingly and willfully leaving the scene of an accident involving a commercial motor vehicle driven by the person;~~

~~(IV) Using a commercial motor vehicle in the commission of any felony, except~~

~~felonies described in paragraph (a) of this subsection (3);~~

~~(V) Refusing to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle.~~

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2005, and shall apply to offenses committed and commercial drivers' licenses issued or renewed on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2004