

Fifty-eighth  
Legislative Assembly  
of North Dakota

ENGROSSED SENATE BILL NO. 2150

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to create and enact two new sections to chapter 39-06.2 of the North Dakota  
2 Century Code, relating to furnishing driving record information and to records of imminent  
3 hazard disqualification of commercial drivers; and to amend and reenact subsection 67 of  
4 section 39-01-01 and sections 39-06.2-02 and 39-06.2-10 of the North Dakota Century Code,  
5 relating to definitions and disqualification of commercial motor vehicle operators.

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

7 **SECTION 1.** A new section to chapter 39-06.2 of the North Dakota Century Code is  
8 created and enacted as follows:

9 **Driving record information to be furnished.** Notwithstanding any other provision of  
10 law, the director shall furnish full information regarding the driving record of a person who has  
11 been issued a commercial driver's license to an employer or prospective employer upon  
12 request and payment of a fee of three dollars.

13 **SECTION 2.** A new section to chapter 39-06.2 of the North Dakota Century Code is  
14 created and enacted as follows:

15 **Imminent hazard disqualification - Records.** A disqualification imposed in  
16 accordance with the provisions of 49 CFR part 383.52 relating to notification from the federal  
17 motor carrier safety administration that the driver is disqualified from driving a commercial  
18 motor vehicle and is determined to constitute an imminent hazard becomes a part of the  
19 driver's record maintained by the director.

20 **SECTION 3. AMENDMENT.** Subsection 67 of section 39-01-01 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22 67. "Schoolbus" means ~~any a commercial~~ motor vehicle ~~owned by a public or~~  
23 ~~governmental agency and operated for the transportation of children to or from~~  
24 ~~school or to or from school related activities, or privately owned and operated for~~

1           ~~compensation for the transportation of children to or from school or to or from~~  
2           ~~school related activities~~ used to transport preprimary, primary, or secondary school  
3           students from home to school, from school to home, or to and from school-related  
4           events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle  
5           that is owned or leased by a public or governmental agency and used to transport  
6           primary or secondary school students to or from school or to or from school-related  
7           events, or is privately owned and operated for compensation to transport primary  
8           or secondary school students to or from school or to or from school-related events.  
9           Schoolbus does not include a bus used as a common carrier.

10           **SECTION 4. AMENDMENT.** Section 39-06.2-02 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12           **39-06.2-02. Definitions.** As used in this chapter, unless the context or subject matter  
13 otherwise requires:

- 14           1. "Alcohol" means any substance containing any form of alcohol, including ethanol,  
15           methanol, propanol, and isopropanol.
- 16           2. "Alcohol concentration" means:
  - 17           a. The number of grams of alcohol per one hundred milliliters of blood;
  - 18           b. The number of grams of alcohol per two hundred ten liters of breath; or
  - 19           c. The number of grams of alcohol per sixty-seven milliliters of urine.
- 20           3. "Commercial driver's instruction permit" means a permit issued under subsection 4  
21           of section 39-06.2-07.
- 22           4. "Commercial driver's license" means a license issued under this chapter which  
23           authorizes an individual to drive a class of commercial motor vehicle.
- 24           5. "Commercial driver's license information system" means the information system  
25           established under the Commercial Motor Vehicle Safety Act to serve as a  
26           clearinghouse for locating information related to the licensing and identification of  
27           commercial motor vehicle drivers.
- 28           6. "Commercial motor vehicle" means a motor vehicle or combination of motor  
29           vehicles designed or used to transport passengers or property:

- 1           a.    If the gross combination weight rating is twenty-six thousand one pounds  
2                    [11794 kilograms] or more provided the towed unit has a gross vehicle weight  
3                    rating of more than ten thousand pounds [4536 kilograms];
- 4           b.    If the vehicle has a gross vehicle weight rating of more than twenty-six  
5                    thousand pounds [11793.40 kilograms] or such lesser rating as determined by  
6                    federal regulation;
- 7           c.    If the vehicle is designed to transport sixteen or more passengers, including  
8                    the driver; or
- 9           d.    If the vehicle is transporting hazardous materials and is required to be  
10                  placarded in accordance with 49 CFR part 172, subpart F.
- 11        7.    "Controlled substance" means any substance so classified under section 802(6) of  
12                  the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances  
13                  listed on schedules I through V, of 21 CFR part 1308, as they may be revised from  
14                  time to time.
- 15        8.    "Conviction" means an unvacated adjudication of guilt, or a determination that a  
16                  person has violated or failed to comply with the law in a court of original jurisdiction  
17                  or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral  
18                  deposited to secure the person's appearance in court, the payment of a fine or  
19                  court cost, or violation of a condition of release without bail, regardless of whether  
20                  or not the penalty is rebated, suspended, or probated.
- 21        9.    "Disqualification" means a withdrawal of the privilege to drive a commercial motor  
22                  vehicle.
- 23        10.   "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- 24        11.   "Driver" means any person who drives, operates, or is in physical control of a  
25                  commercial motor vehicle, or who is required to hold a commercial driver's license.
- 26        12.   "Driver's license" means a license issued by a state to an individual which  
27                  authorizes the individual to drive a motor vehicle.
- 28        13.   "Drug" means any drug or substance or combination of drugs or substances which  
29                  renders a person incapable of safely driving, and includes any controlled  
30                  substance.

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- 1           14. "Employer" means any person, including the United States, a state, or a political  
2                   subdivision of a state, who owns or leases a commercial motor vehicle, or assigns  
3                   a person to drive a commercial motor vehicle.
- 4           15. "Fatality" means the death of a person as a result of a motor vehicle accident.
- 5           16. "Felony" means any offense under state or federal law which is punishable by  
6                   death or imprisonment for a term exceeding one year.
- 7   ~~16.~~ 17. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
- 8   ~~17.~~ 18. "Gross vehicle weight rating" means the value specified by the manufacturer as  
9                   the maximum loaded weight of a single or a combination (articulated) vehicle, or  
10                  registered gross weight, whichever is greater. The gross vehicle weight rating of a  
11                  combination (articulated) vehicle (commonly referred to as the "gross combination  
12                  weight rating") is the gross vehicle weight rating of the power unit plus the gross  
13                  vehicle weight rating of the towed unit or units.
- 14   ~~18.~~ 19. "Hazardous materials" has the meaning as that found in section 103 of the  
15                  Hazardous Materials Transportation Act [49 App. U.S.C. 1801 et seq.].
- 16           20. "Imminent hazard" means the existence of a condition that presents a substantial  
17                  likelihood that death, serious illness, severe personal injury, or a substantial  
18                  endangerment to health, property, or the environment may occur before the  
19                  reasonably foreseeable completion date of a formal proceeding begun to lessen  
20                  the risk of that death, illness, injury, or endangerment.
- 21   ~~19.~~ 21. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is  
22                  propelled by electric power obtained from overhead trolley wires but not operated  
23                  upon rails, except vehicles moved solely by human power and motorized  
24                  wheelchairs.
- 25           22. "Noncommercial motor vehicle" means a motor vehicle or combination of motor  
26                  vehicles not defined by the term commercial motor vehicle.
- 27   ~~20.~~ 23. "Out-of-service order" means a temporary prohibition against driving a commercial  
28                  motor vehicle.
- 29   ~~21.~~ 24. "Serious traffic violation" means a conviction when operating a commercial motor  
30                  vehicle of:

- 1 a. Excessive speeding, involving a single charge of any speed fifteen miles  
2 [24.14 kilometers] per hour or more, above the posted speed limit;
- 3 b. Reckless driving, as defined under section 39-08-03 or local ordinance,  
4 including charges of driving a commercial motor vehicle in willful or wanton  
5 disregard for the safety of persons or property, improper or erratic traffic lane  
6 changes, or following the vehicle ahead too closely; ~~or~~
- 7 c. A violation of any state or local law related to motor vehicle traffic control,  
8 other than a parking violation, arising in connection with a fatal accident;
- 9 d. Driving a commercial motor vehicle without obtaining a commercial driver's  
10 license;
- 11 e. Driving a commercial motor vehicle without a commercial driver's license in  
12 the driver's possession. An individual who provides proof to the enforcement  
13 authority that issued the citation, by the date the individual must appear in  
14 court or pay a fine for such violation, that the individual held a valid  
15 commercial driver's license on the date the citation was issued, is not guilty of  
16 this offense; or
- 17 f. Driving a commercial motor vehicle without the proper class of commercial  
18 driver's license or endorsement, or both, for the specific vehicle group being  
19 operated or for the passengers or type of cargo being transported.

20 ~~22.~~ 25. "State" means a state of the United States or the District of Columbia.

21 ~~23.~~ 26. "United States" means the fifty states and the District of Columbia.

22 **SECTION 5. AMENDMENT.** Section 39-06.2-10 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **39-06.2-10. Disqualification and cancellation –Penalty.**

- 25 1. Disqualification offenses. Any person is disqualified from driving a commercial  
26 motor vehicle for a period of not less than one year if convicted of a first violation  
27 of:
- 28 a. Driving a commercial motor vehicle under the influence of alcohol or drugs;  
29 b. Leaving the scene of an accident involving a commercial motor vehicle driven  
30 by the person in violation of section 39-08-04, 39-08-05, 39-08-07, or  
31 39-08-09;

- 1           c. Using a commercial motor vehicle in the commission of any felony as defined  
2           in this chapter;  
3           d. Refusal to submit to a test to determine the driver's alcohol concentration  
4           while driving a commercial motor vehicle; or  
5           e. Driving or being in actual physical control of a commercial motor vehicle while  
6           the alcohol concentration of the person's blood, breath, or urine is four  
7           one-hundredths of one percent or more by weight.

8           If any of the above violations occurred while transporting a hazardous material  
9           required to be placarded, the person is disqualified for a period of not less than  
10          three years.

- 11          2. A person is disqualified for life if convicted of two or more violations of any of the  
12          offenses specified in subsection 1, or any combination of those offenses, arising  
13          from two or more separate incidents. Only offenses committed after July 1, 1989,  
14          may be considered in applying this subsection.
- 15          3. The director may adopt rules under section 39-06.2-14, establishing guidelines,  
16          including conditions, under which a disqualification for life under ~~subsection~~  
17          subsections 2, 8, 10, and 12 may be reduced to a period of not less than ten  
18          years.
- 19          4. A person is disqualified from driving a commercial motor vehicle for life who uses a  
20          commercial motor vehicle in the commission of any felony involving the  
21          manufacture, distribution, or dispensing of a controlled substance, or possession  
22          with intent to manufacture, distribute, or dispense a controlled substance.
- 23          5. A person is disqualified from driving a commercial motor vehicle for a period of not  
24          less than sixty days if convicted of two serious traffic violations, or one hundred  
25          twenty days if convicted of three serious traffic violations, committed in a  
26          commercial motor vehicle arising from separate incidents occurring within a  
27          three-year period.
- 28          6. Disqualification for railroad-highway grade crossing violation:  
29          a. A driver who is convicted of driving a commercial motor vehicle in violation of  
30          a federal, state, or local law or regulation pertaining to any one of the

1 following six offenses at a railroad-highway grade crossing is disqualified for  
2 the period of time specified in subdivision b:

- 3 (1) For drivers who are not required to always stop, failing to slow down  
4 and check that the tracks are clear of an approaching train;  
5 (2) For drivers who are not required to always stop, failing to stop before  
6 reaching the crossing, if the tracks are not clear;  
7 (3) For drivers who are always required to stop, failing to stop before  
8 driving onto the crossing;  
9 (4) For all drivers, failing to have sufficient space to drive completely  
10 through the crossing without stopping;  
11 (5) For all drivers, failing to obey a traffic control device or the directions of  
12 an enforcement official at the crossing; and  
13 (6) For all drivers, failing to negotiate a crossing because of insufficient  
14 undercarriage clearance.

15 b. Duration of disqualification for a railroad-highway grade crossing violation:

- 16 (1) First violation. A driver is disqualified for not less than sixty days if the  
17 driver is convicted of a first violation of a railroad-highway grade  
18 crossing violation.  
19 (2) Second violation. A driver is disqualified for not less than one hundred  
20 twenty days if, during any three-year period, the driver is convicted of a  
21 second railroad-highway grade crossing violation in separate incidents.  
22 (3) Third or subsequent violation. A driver is disqualified for not less than  
23 one year if, during any three-year period, the driver is convicted of a  
24 third or subsequent railroad-highway grade crossing violation in  
25 separate incidents.

26 7. For a first conviction of driving while under the influence of alcohol or being under  
27 the influence of a controlled substance or refusal to be tested while operating a  
28 noncommercial motor vehicle, a commercial driver's licenseholder must be  
29 disqualified from operating a commercial motor vehicle for one year.

30 8. For a second conviction of driving while under the influence or being under the  
31 influence of a controlled substance or refusal to be tested while operating a

- 1           noncommercial motor vehicle, a commercial driver's licenseholder must be  
2           disqualified from operating a commercial motor vehicle for life.
- 3           9. For a first conviction for leaving the scene of an accident while operating a  
4           noncommercial motor vehicle, a commercial driver's licenseholder must be  
5           disqualified from operating a commercial motor vehicle for one year.
- 6           10. For a second conviction for leaving the scene of an accident while operating a  
7           noncommercial motor vehicle, a commercial driver's licenseholder must be  
8           disqualified from operating a commercial motor vehicle for life.
- 9           11. For a first conviction for using a vehicle to commit a felony while operating a  
10           noncommercial motor vehicle, a commercial driver's licenseholder must be  
11           disqualified from operating a commercial motor vehicle for one year.
- 12           12. For a second conviction for using a vehicle to commit a felony while operating a  
13           noncommercial motor vehicle, a commercial driver's licenseholder must be  
14           disqualified from operating a commercial motor vehicle for life.
- 15           13. For a conviction for using a vehicle in the commission of a felony involving  
16           manufacturing, distributing, or dispensing a controlled substance while operating a  
17           commercial motor vehicle or a noncommercial motor vehicle, a commercial driver's  
18           licenseholder must be disqualified from operating a commercial motor vehicle for  
19           life.
- 20           14. A person is disqualified from driving a commercial motor vehicle for a period of not  
21           less than sixty days if convicted of any combination of two serious violations within  
22           a three-year period while operating a noncommercial motor vehicle.
- 23           15. A person is disqualified from driving a commercial motor vehicle for a period of not  
24           less than one hundred twenty days if convicted of any combination of three or  
25           more serious violations within a three-year period while operating a noncommercial  
26           motor vehicle.
- 27           16. Notice and hearing. Prior to suspending, revoking, or disqualifying a driver under  
28           this section, the director must provide the driver with notice of opportunity for  
29           hearing, in accordance with section 39-06-33, and the hearing requested must be  
30           held in accordance with section 39-06-33.

1     & 17. After suspending, revoking, or canceling a commercial driver's license, the director  
2           shall update the director's records to reflect that action within ten days. After  
3           suspending, revoking, or canceling a nonresident commercial driver's privileges,  
4           the director shall notify the licensing authority of the state that issued the  
5           commercial driver's license or commercial driver's instruction permit within ten  
6           days.