

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2/50

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2003 SENATE TRANSPORTATION

SB 2150

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10-16-03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

Senate Transportation Committee

☐ Conference Committee

Hearing Date 1-17-03

Tape Number	Side A	Side B	Meter #
1	X		0-end
1		X	0-275
Committee Clerk Signature <i>Mary K Monson</i>			

Minutes:

Chairman Senator Thomas Trenbeath opened the hearing on SB 2150 relating to furnishing driving record information and to records of imminent hazard disqualification of commercial drivers, and relating to definitions and disqualification of commercial motor vehicle operators.

All members were present.

Rosellen Sand: Testified in support of SB 2150 for the Department of Public Instruction on behalf of Superintendent Wayne Sans. ad, and Transportation Director Tom Decker. Testimony attached.

Senator Trenbeath: (Meter 490) Chapter 39-21. It seems that a number of schools lease the bus and provide the driver. That wouldn't seem to be covered here.

Rosellen Sand: Maybe we need to amend a little more.

Senator Bercier: (Meter 610) In our area we have a subcontractor who provides bus service. Is that true in other systems in North Dakota?

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Senate Transportation Committee
Bill/Resolution Number SB 2150
Hearing Date 1-17-03

Senator Espesgard: Grand Forks is all subcontracted.

Keith Magnusson: (Deputy Director for Driver and Vehicle Services ND DOT) (Meter 825)

Testified in support of SB 2150. See attached testimony. Focused on CDL provisions.

Senator Mutch: How do you spend the CDL grant funds?

Keith Magnusson: (Meter 2315) In the past we have applied for those funds, if available, for a specific program.

(Meter 2490) A discussion as to whether subsection 13 which begins on page 8, line 7 and the preexisting subsection 4 which begins on line 11 page 6 could be made into one. There seems to be some redundancy.

Senator Trenbeath: Is "fatal accident" defined anywhere.

Keith Magnusson: (Meter 2820) I'm not sure that it is or that we need to. The federal government is not requiring it.

(Meter 2850) A discussion concerning the language in line 4 on page 2 relating to school buses. Doesn't seem to take into consideration when the school bus is owned privately, leased by the school, and driven by a school employee. Saying "owned or leased by a public or government agency" might take care of the problem.

LeRoy Ernst: (Managing Director of the North Dakota Motor Carriers Association) Testified in support of SB 2150. (Meter 3220) Addressed problems the industry is facing such as driver shortage, increased average ages of drivers, turn around time to get a driver hired, and driver records. Basically addressing Section 1 page 1. The information that the industry is able to obtain from some of the states is very sketchy because of state law. Provided a copy of a sample driving record. (attached)

Page 3

Senate Transportation Committee

Bill/Resolution Number SB 2150

Hearing Date 1-17-03

Senator Mutch: (Meter 4775) Where in North Dakota is there a driving school to get a CDL.

LeRoy Ernst: Through the Jobs and Skills Training Center in Fargo. Very limited enrollment.

All the students from the last graduating class from that school were hired by one large interstate carrier based out of state.

(Meter 5035) Discussion on schooling to obtain a CDL license.

Larry Klundt: (Executive Director of the School Administrator Associations in North Dakota)

(Meter 5260) Testified in support of SB 2150. Voiced concern that, if the proposed amendments are adopted, the potential exists in the future for not being able to use vans that are under 16 passenger. Suggested talking to school districts, school boards, and superintendents to see what they think. Should they be allowed to make the decision about whether or not they should use these vans or should there be a restriction on that from the state?

Rick Schaffan: (Superintendent at Solen/Selfridge) (Meter 6150) Stated that their school is a very small school and they have three students that go to another school for vocational classes. They use a suburban to transport students. They feel it is a very safe vehicle.

Barb Tengesdal: (Voices for North Dakota Children) (Meter 90 Side B) Neutral position.

Confused at how this will affect child care programs.

(Meter 115) Discussion. Vehicles used by those programs probably wouldn't be affected.

The hearing on SB 2150 was closed.

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10-16-03
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

Senate Transportation Committee

☐ Conference Committee

Hearing Date 1-30-03

Tape Number	Side A	Side B	Meter #
1		X	145-560

Committee Clerk Signature *Mary K Monson*

Minutes:

Chairman Senator Thomas Trenbeath opened SB 2150 for discussion.

The amendment is a revised first amendment adding the words "or leased".

Senator Espegard motioned to accept the Sand Amendment which defines school bus.

Seconded by **Senator Bercier**.

Senator Trenbeath noted that on page 2 line 4 "school sponsored" was replaced with "school related" and "or leased" was added for the definition of a school bus.

Roll call vote 6-0-0. **Passed.**

Senator Espegard motioned a **Do Pass as Amended**. Seconded by **Senator Bercier**.

Roll call vote 6-0-0. **Passed.** Floor carrier is **Senator Espegard**.

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10-16-03
Date

FISCAL NOTE
Requested by Legislative Council
04/11/2003

Amendment to: SB 2150

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$35,200		
Appropriations				\$35,200		

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The amendments (38164.0202) do not change the fiscal impact as identified in the original fiscal note dated 1/9/03.

This bill would require some computer programming to facilitate compliance.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Estimated programming costs total \$35,200

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The total amount will need to be appropriated as this was not a part of the approved 2003-2005 budget

Name:	Linda Mathern	Agency:	NDDOT
Phone Number:	328-4359	Date Prepared:	04/11/2003

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Yubereca d. Lee

Date

10-16-03

FISCAL NOTE
Requested by Legislative Council
01/03/2003

Bill/Resolution No.: SB 2160

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$35,200		
Appropriations				\$35,200		

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would require some computer programming to facilitate compliance..

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Estimated programming costs total \$35,200

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The total amount will need to be appropriated as this was not a part of the approved 2003-2005 budget

Name:	Linda Mathern	Agency:	ND Dept of Transportation
Phone Number:	328-4359	Date Prepared:	01/09/2003

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Date

Date: 1-30-03
Roll Call Vote #: /

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2150

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass and Amendment

Motion Made By Senator Espigard Seconded By Senator Bercier

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair	✓		Senator Dennis Bercier	✓	
Senator Duaine Espigard, V. Chair	✓		Senator Ryan Taylor	✓	
Senator Duane Mutch	✓				
Senator Dave Nething	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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10-16-03
Date

38164.0101
Title.0200

Adopted by the Transportation Committee
January 30, 2003

JB
1-31-03

PROPOSED AMENDMENTS TO SENATE BILL NO. 2150

Page 2, line 4, replace "school-sponsored" with "school-related" and after the underscored period insert "For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events."

Renumber accordingly

Page No. 1

38164.0101

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10-16-03
Date

Date: 1-30-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2150

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38164.0101 Title 0200

Action Taken No Pass as Amended

Motion Made By Senator Espey Seconded By Senator Bercier

[illegible]

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Espeland

If the vote is on an amendment, briefly indicate intent:

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4-10-68

Operator's Signature

Date _____

REPORT OF STANDING COMMITTEE (410)
January 31, 2003 11:47 a.m.

Module No: SR-19-1431
Carrier: Espagard
Insert LC: 38164.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2150: Transportation Committee (Sen. Trenbeath, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2150 was placed on the Sixth order on the calendar.

Page 2, line 4, replace "school-sponsored" with "school-related" and after the underscored period insert "For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events."

Renumber accordingly

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2003 HOUSE TRANSPORTATION

SB 2150

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

House Transportation Committee

☐ Conference Committee

Hearing Date March 6, 2003

Tape Number	Side A	Side B	Meter #
1	x		27.1 to end
		x	0.1 to 15.0
Committee Clerk Signature <i>Lauren B. Jant</i>			

Minutes:

Rep. Weisz opened the hearing on SB 2150, a bill for an Act to create and enact two sections to chapter 39-06.2 of the North Dakota Century Code, relating to furnishing driving record information and to records of imminent hazard disqualification of commercial drivers; and to amend and reenact subsection 67 of section 39-01-01 and sections 39-06.2-02 and 39-06.2-10 of the North Dakota Century Code, relating to definitions and disqualification of commercial motor vehicle operators.

Keith Magnusson, Deputy Director for Driver and Vehicle Services, North Dakota Department of Transportation provided a written copy of his testimony which explained the basis for this proposed legislation. A copy of his testimony is attached. The only difference between the original bill and the Senate engrossed bill you have before is the definition of 'school bus'.

Rep. Weisz (43.2) Section 5 -- applies only to CDL ?

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10-16-03
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Page 2
House Transportation Committee
Bill/Resolution Number SB 2150
Hearing Date March 6, 2003

Keith Magnusson All the existing language applies only to CDL and only in those situations in which we specifically say it applies to non-commercial motor vehicle. Where it applies to your pickup or your car or something like that -- if you have a CDL. If you don't have a CDL then none of this applies to you or unless you are driving something where you should have a CDL.

Rep. Thorpe Page 4, line 18 -- where you describe a non-commercial vehicle -- that means any private passenger --

Keith Magnusson I presume you are on the original bill as the line numbering is different on the engrossed bill -- it would be line 25 -- those are excluded from the definition of a commercial motor vehicle. There wasn't any definition in the federal rules of a non commercial; motor vehicle and we wanted to put this in to avoid confusion.

Rep. Thorpe people have contacted me --- and I will present their question to you like they presented it to me -- have a commercial drivers license and they went out New Years Eve in the personal automobile and were stopped and given a blood test or the patrol test and they tested .07 -- would they lose their commercial drivers license?

Keith Magnusson No -- under current law the they don't -- and right now the threshold is still .10 they aren't going to be written up -- unless their driving was so erratic that they were charged under the general provisions where a DUI doesn't require a BAC of .10. Now under this proposed law there would still be required to have a conviction to lose their license. And if they are in their commercial vehicle then the standard of .04 applies. Now if they are in their personal vehicle and are convicted of a DUI they will lose everything. But if they are convicted in their commercial vehicle at a BAC of .04 or .05 they lose their commercial license but not the personal car driver's license.

Rep. Thorpe This person went into this in some depth back home and was charged with DUI

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10-16-03
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House Transportation Committee
Bill/Resolution Number SB 2150
Hearing Date March 6, 2003

and then the blood test showed a .07 and he wouldn't be convicted presumably so this shouldn't effect his license.

Keith Magnusson You are correct if he was in his personal vehicle it wouldn't effect his CDL.

Rep. Weisz In regards to the employers releasing the information -- is there a problem with the privacy issue?

Keith Magnusson Right now we have the Driver License Privacy Act and you do need the person's signature - - this is federal law being proposed here and yes it does open it up so it becomes state law too. Its intent is that the employers will find out what kind of a driver that person is. The next step that is coming along and that is there is a study whether to put the drug tests on that person's record.

Rep. Weisz Define 'prospective employer' --

Keith Magnusson (52.3) That's one thing we are going to have some guidance from the Feds on -- there will forms which we will need to look at to see what the feds are thinking --

End of Side a Tape 1

Rep Ruby When somebody loses their license on a non-commercial vehicle and they get their normal license back -- do they automatically get their CDL back?

Keith Magnusson They get back what ever they had.

Rep. Ruby Do you have any statistical information that shows that if a person gets picked up for a DUI in their personal vehicle that necessarily have problems with their commercial vehicle?

Keith Magnusson We don't have in North Dakota because we have so few of these cases and the rule talk about these types of things from the National studies but it is Federal Law.

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10-16-03
Date

Page 4
House Transportation Committee
Bill/Resolution Number SB 2150
Hearing Date March 6, 2003

Rep. Ruby On page 5 section 4 we have d, e, and f showing treating those areas as serious traffic violations -- those were basically against the law already -- why are you adding them here -- what are you changing by adding them here?

Keith Magnusson because it is a federal mandate and they are treating them more seriously than before.

Rep. Schmidt How much are the Motor Carrier Safety assistance program grant funds -- do you know how much they are?

Keith Magnusson no I don't those funds go to the Highway Patrol -- they administer those funds. Doyle is here from the Patrol -- I do know there are a lot more available under this new law -- available to enforcement.

Rep. Thorpe About information that information is disclosed -- it wouldn't be their Social Security number would it?

Keith Magnusson Right now if their drivers license number is their social security number it would be until that shifts off but their employers are going to have that information anyway.

Tom Decker from the Department of Public Instruction speaking for the Superintendent Wayne Sanstead. Copy of his remarks are attached in written form with his referenced attachments.

Rep. Weisz Do you require the same endorsement for the 15 passenger or less buses?

Tom Decker It is my understanding that those who driver the 15 passenger buses will be able to drive the regular busses.

LeRoy Ernst Executive Director of the North Dakota Motor Carriers spoke in support of this proposed legislation. He presented a lot of statistics and some examples of driver records from North Dakota. A copy of this is attached. He also gave the fatalities statistics involving

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Page 5
House Transportation Committee
Bill/Resolution Number SB 2150
Hearing Date March 6, 2003

commercial trucks and the number of fatalities be years. He also cited Home Land Security requirements coming as the result of 911 and the concerns for hazardous loads and recent notices that terrorists have indicated they would possibly use these vehicles to blow up building, tunnels and bridges. All of these things cause the Motor Carriers Association to endorse these measures.

There being no other persons wishing to testify on SB 2150, Chairman Weisz closed the hearing.

End of hearing record (15.0)

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150 b

House Transportation Committee

☐ Conference Committee

Hearing Date March 14, 2003

Tape Number	Side A	Side B	Meter #
1		x	30.0 to 44.8
Committee Clerk Signature <i>Lauren L. Fink</i>			

Minutes:

Rep. Weisz opened the discussion for action on SB 2150. He had some amendments drafted as a number of legislators expressed some concerns. Rep. Weisz had a concern with reference to "prospective" employer on page 1. The other concern was brought forward -- if some one had a speeding ticket with his private car would that effect his CDL record -- if it was a DUI that is something else. Copies of the draft amendments was distributed. They acknowledged Keith Magnusson 's amendment at the time of his presentations. In Rep. Weisz amendment the only thing they were saying was that the employer can get hte information any time he wants but a prospective employer the person has to give written permission to release his information. This was to prevent anyone or a competitor getting information on the other's drivers. And on line 10 was that the information had to come from the Commercial Driver's License Information System. Keith Magnussons amendments were handed out and discussed.

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Yubereca d. Lee

Date

10-16-03

Page 2

House Transportation Committee

Bill/Resolution Number SB 2150 b

Hearing Date March 14, 2003

Rep. Hawken moved approval of the amendments. Rep. Price seconded the motion. On a voice vote the motion carried.

Rep. Hawken moved approval of Keith Magnussons' amendments. Rep. Delmore seconded the motion. On a voice vote the motion carried.

Rep. Schmidt moved a 'Do Pass as amended' and re-referred to Appropriations. Rep. Price seconded the motion. On a roll call vote the motion carried 11 Ayes 2 Nays 0

Absent and not voting.

Rep. Weisz was designated to carry Sb 2150 on the floor.

End of record. (44.7)

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10-16-03
Date

Date: March 14, 2003
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2150

House TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amended re-referred to original

Motion Made By Rep. Schmidt Seconded By Rep. Price

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Lois Delmore	✓	
Kathy Hawken - Vice Chairman	✓		Arlo E. Schmidt	✓	
LeRoy G. Bernstein	✓		Elwood Thorpe		✓
Mark A. Dosch	✓		Steven L. Zaiser	✓	
Pat Galvin	✓				
Craig Headland	✓				
Clara Sue Price	✓				
Dan J. Ruby	✓	✓			
Dave Weiler	✓				

Total Yes 11 No 2

Absent 0

Floor Assignment Rep. Weisz

If the vote is on an amendment, briefly indicate intent:

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Yvonne A. Lee 10-16-03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 17, 2003 9:19 a.m.

Module No: HR-47-4870
Carrier: Welaz
Insert LC: 38164.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2150, as engrossed: Transportation Committee (Rep. Welaz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2150 was placed on the Sixth order on the calendar.

Page 1, line 10, after "furnish" insert "upon request and payment of a fee of three dollars." and after "information" insert "from the commercial driver's license information system"

Page 1, line 11, after the first "employer" insert an underscored comma, after "or" insert "a", after the second "employer" insert "if the person has given written consent to the prospective employer for this information", and remove "upon"

Page 1, line 12, remove "request and payment of a fee of three dollars"

Page 8, line 22, after "vehicle" insert "and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Page 8, line 26, after "vehicle" insert "and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Renumber accordingly

2003 HOUSE APPROPRIATIONS

SB 2150

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Y. Herrera
Operator's Signature

10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

House Appropriations Committee

☐ Conference Committee

Hearing Date March 26, 2003

Tape Number	Side A	Side B	Meter #
1	X		7
Committee Clerk Signature <i>Chris S. Nelson</i>			

Minutes:

REP. SVEDJAN Called the committee to order.

REP. WEISZ This bill has to do with new federal requirements for commercial driver's license.

The reason there is a fiscal note of \$35,200 is because of the driver's information that has to be available now on a nationwide system. There is federal grant money that will be available that should cover the cost of that \$35,000. Keith Magnuson is here and can address that issue.

REP. SVEDJAN This came in as a separate bill, was this something that was learned after the budget was prepared, because this is not included in the D.O.T's budget?

REP. WEISZ I can't answer that. I assumed they had this information earlier, because this bill was introduced at the beginning of the session, at the request of the Department of Transportation.

REP. SVEDJAN Asked Keith Magnuson to verify that.

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10-16-03
Date

Page 2

House Appropriations Committee

Bill/Resolution Number SB 2150

Hearing Date March 26, 2003

KEITH MAGNUSON, DEPARTMENT OF TRANSPORTATION Stated they didn't have this cost estimate until after the first of the year, when the budget had come in. The cost is almost all for programming, and there are lots of federal funds around this topic available, so we anticipate getting a federal grant to take care of these expenses and others.

REP. WALD Referred to the language on page 1, lines 9 through 12, where you can request someone's driver's license, did anything come to light about being in conflict with the confidential. / of certain information?

KEITH MAGNUSON No, because Congress passed this law, and they can make exceptions, but this law does not apply to driver's license type information.

REP. CARLISLE When they furnish this law, and those of us that have CDL's are our social security numbers going to be blanked out in light of this legislation being passed?

KEITH MAGNUSON You won't have your social security number on your driver's license. It will be on the commercial driver's license information system, which is a national data base, which is mandated by federal law.

REP. CARLISLE When somebody requests it, you are not sending our numbers out with it?

KEITH MAGNUSON If it would be an employer or prospective employer, who would probably already have that number, we will send out what your driver's license number is. There is no longer a requirement by law, that the social security number be on the face of the driver's license.

REP. CARLISLE I have two of them, I have one with the number and one without, are you saying I can come over and take that number off my CDL license?

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10-16-03
Date

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House Appropriations Committee
Bill/Resolution Number SB 2150
Hearing Date March 26, 2003

KEITH MAGNUSON That is correct, because you are only supposed to have one license anyway.

REP. WALD Referred to the top of page 2, does this also include bus drivers?

KEITH MAGNUSON Stated that was the definition of school bus. Last session we created a separate endorsement for school bus drivers. You need a commercial driver's license with the school bus endorsement. We have had that for a long time.

REP. WALD It is not the same license as a truck driver has.

KEITH MAGNUSON It is just in a different class of the commercial license.

REP. DELZER Asked whether the three dollars has been charged of the respective employers.

KEITH MAGNUSON that is the standard fee for getting a driving record. That has been there for many years.

REP. DELZER If that is the case, why did you put it in the language?

KEITH MAGNUSON Because this is a new section of the law, if you don't put it in there, someone will question whether they can get it for free.

REP. DELZER Related to Section 2, how long are the qualifications staying on, if after three years, do they drop off, or do they stay on permanently.

KEITH MAGNUSON That is a federal function. The law requires that we have to put it on our record, when they tell us that is no longer a disqualification, that will come off of our record. Otherwise, it will be on the record for three years, then it goes into private record after that.

REP. DELZER When an employer sends in there, what do they get, the private record or just the last three years?

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House Appropriations Committee
Bill/Resolution Number SB 2150
Hearing Date March 26, 2003

KEITH MAGNUSON The employer will get everything we have in the record, that's what the federal law requires.

REP. MONSON In Section 2, what Rep. Wald talked about, does that include vans and anything like that, or is it just the big yellow buses with all the lights and all that?

KEITH MAGNUSON Under this, any commercial motor vehicle, and I don't have the commercial law here, but it is cut off on sizes of vans, numbers of passengers, those types of things.

REP. WEISZ Responded to Rep. Monson's question, DPI just had that issue, and it is their understanding of the federal law, that it will not include a fifteen passenger van, it wasn't absolutely clear, but it was their impression. He also stated that another question came up, having to do with Section 1, we did change the language on driving information to be furnished to make sure the perspective employer had that permission from the perspective employee before they can search their driver's record.

REP. TIMM TO KEITH MAGNUSON The \$35,000 is for programming, who are you going to pay that money to, you say you don't need an extra FTE, are you paying it to ITD, or who are you paying it to?

KEITH MAGNUSON According to the fiscal note, almost all of that is program cost, these are mainframe programs so generally we pay that to ITD, there is just a small amount of staff time for our analysts, which we can get reimbursed with federal money.

REP. TIMM Basically, the money is going to go to ITD?

KEITH MAGNUSON They put ITD staff time \$1,700, the reason we put that down is we think we can use federal funds to pay for that.

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House Appropriations Committee
Bill/Resolution Number SB 2150
Hearing Date March 26, 2003

REP. SVEDJAN Asked why there is additional money to do this, when you have people there to do this?

KEITH MAGNUSON We don't generally have mainframe programmers. The mainframe is run by ITD, and they do almost all of the mainframe programming.

REP. WALD TO REP. WEISZ If your perspective employee gives permission for that employer to get a copy of their license, an existing employer can do it without the employee's permission?

REP. WEISZ That is correct.

REP. DELZER Related to Section 7, asked about .04, .08, or .10, whichever comes out of the session in that first conviction of DUI in a non commercial vehicle.

KEITH MAGNUSON If it is in a non commercial vehicle, that will be whatever we set as the standard threshold which right now is .10 and hope very soon, will be .08. In a commercial vehicle, the .04 will hold.

REP. CARLISLE You said you might get federal funds, did you apply for them?

KEITH MAGNUSON Until this bill passes, we can't apply for it. There are lots of federal funds, and we have been told that if we apply, we will get it. There are other things we need to do. This is a hot issue nationally.

REP. TIMM You mentioned some minor things you wanted changed in this bill, but the other thing was kind of a major thing, that you wanted this committee to change. Did you discuss those with the transportation committee and they didn't do that, now you expect us to do that?

KEITH MAGNUSON The one we talked about, commercial driver's license information systems, they did that in committee.

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House Appropriations Committee
Bill/Resolution Number SB 2150
Hearing Date March 26, 2003

REP. TIMM You want us to change that?

KEITH MAGNUSON I would ask that you change it back.

REP. TIMM They are the policy committee over there, and you want us to change their policy?

KEITH MAGNUSON I can let the chairman of that committee address that.

REP. WEISZ We had passed that out, because it appeared that would be the simplest and cleanest way to address this. It was only after it was already on the floor, Keith brought it to our attention that we were not getting a complete record. I do not have a problem with the reading, with the amendment we put on, having to do with the commercial driver license information. The other amendments we put on we want to stay on. The traffic violation was caught after we sent the bill out, in conversation with my intern, it cropped up that the language didn't follow. That language is on page 8, line 21 and 25. We would like the word "traffic" added in there. We are not opposed to eliminating the language of the commercial driver's license information system. I would hope we can come back in two years and put that language in.

REP. TIMM Stated, they did not have those amendments.

REP. WEISZ Stated he was talking about the amendments which were passed out of the transportation committee.

REP. TIMM Stated they did not have the amendments.

REP. DELZER Asked regarding the amendments, in discussion about the signed document by the employer before they can get a copy of the driving record, did you come up with a lot of these driving jobs who called somebody and asked if they had anything, can that be faxed in, or is there some way around that.

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House Appropriations Committee
Bill/Resolution Number SB 2150
Hearing Date March 26, 2003

REP. WEISZ I don't believe a fax would be a problem, it would be up to the D.O.T. if they would accept a fax. It would require a signature before the D.O.T. could release the information.

REP. GLASSHEIM Is there any reason why these pages in the policy part, could not be done in a conference committee?

REP. WEISZ I would have no problem doing this in conference committee, it would not be an issue. You don't have the amendments we passed in the house, they should be in front of you, then discuss the changes. The amendment on page 1, line 10, which we passed, take that back off. He stated he would be happy to take it to a conference committee to clean up the language.

REP. TIMM Made a motion for a **DO PASS** as is.

REP. BRUSEGAARD Second the motion. **MOTION CARRIED.** 18 yes 3 no

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consultant relating to a new fee-for-service payment system for developmental disabilities services providers.

REPORT OF STANDING COMMITTEE

SB 2089: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (18 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING). SB 2089 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2147, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2147 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2150, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (18 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2150 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2153, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (17 YEAS, 2 NAYS, 4 ABSENT AND NOT VOTING). Engrossed SB 2153 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2188: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2188 was placed on the Sixth order on the calendar.

Page 1, line 17, after "applicant's" insert "written"

Page 1, line 21, remove "Immunity."

Page 1, line 23, after "agency's" insert "written"

Page 2, line 3, after "agency's" insert "written"

Page 2, line 4, remove "A child-placing agency is not civilly or criminally liable for refusing to"

Page 2, remove line 5

Page 2, line 6, remove "the agency's religious or moral convictions or policies."

Page 2, line 8, after "agency's" insert "written"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2223, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (19 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). Engrossed SB 2223 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2260, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO NOT PASS** (16 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2260 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2297, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (18 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). Engrossed SB 2297 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2310, as engrossed: Natural Resources Committee (Rep. Nelson, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2310 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2314, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO**

2003 SENATE TRANSPORTATION

CONFERENCE COMMITTEE

SB 2150

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10-16-03
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2150

Senate Transportation Committee

■ Conference Committee

Hearing Date 4-8-03

Tape Number	Side A	Side B	Meter #
2	X		0-644
Committee Clerk Signature <i>Mary K. Monson</i>			

Minutes:

Senator Espgaard opened the conference committee on SB 2150. He explained that the Senate didn't have a problem with the changes made in the House. He asked Keith Magnusson (DOT) to explain the proposed changes which were all technical and housekeeping that dealt with the federal law.

Keith Magnusson (DOT) The department didn't have any problem with the House amendments except that one was premature and a technical addition was needed. The amendments the House made in Section 1 were all okay except for the words "from the commercial driver's license information system" on line 11 of the first engrossment with House amendments. That wording should come out. This is the federal system that they put the commercial drivers license data in and it will take them probably 4 years to update this so all the added information the trucking companies and the employers need and are entitled to by federal law won't be there. This way they can still get the information from the DOT. Page 8, sections 14/15, lines 23 and 29, should

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10-16-03
Date

Page 2
Senate Transportation Committee
Bill/Resolution Number SB 2150
Hearing Date 4-8-03

read serious "traffic" violations. Serious traffic violations is already defined. They don't define serious violations. The other changes by the House are okay and don't affect the federal law.

Representative Bernstein wanted clarification that the only changes being made were those being recommended by Keith Magnusson.

Senator Espgaard asked for clarification on the changes made in the House.

Representative Bernstein explained that the changes in the House were basically just language clarification. The meaning of the bill wasn't changed.

Keith Magnusson explained that the lines added in the new Sections 14 and 15 came out of a revised federal rule about the time the Senate was voting this out of committee.

Representative Galvin moved that the House recede from the House amendments. Seconded by

Senator Bercier. Roll call vote 5-0-1. **Passed**.

Senator Bercier moved to adopt the House amendments with the changes and recommendations from Keith Magnusson. Seconded by **Representative Bernstein**. Roll call vote 5-0-1.

Amendments adopted.

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Yvonne A. Lee
Operator's Signature

10-16-03
Date

Date: 4-8-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2150

Senate Transportation Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Recede from House amendments

Motion Made By Rep. Galvin Seconded By Sen. Bercier

Senators	Yes	No	Representatives	Yes	No
Senator Espegard	✓		Representative Bernstein	✓	
Senator Mutch			Representative Galvin	✓	
Senator Bercier	✓		Representative Thorpe	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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10-16-03
Date

38164.0202
Title.0400

Adopted by the Conference Committee
April 8, 2003

923
4-9-03

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2150

That the House recede from its amendments as printed on page 931 of the Senate Journal and page 922 of the House Journal and that Engrossed Senate Bill No. 2150 be amended as follows:

Page 1, line 10, after "furnish" insert "upon request and payment of a fee of three dollars."

Page 1, line 11, after "or" insert "to a" and replace "upon" with "if the person has given written consent to the prospective employer for this information"

Page 1, line 12, remove "request and payment of a fee of three dollars"

Page 8, line 21, after "serious" insert "traffic"

Page 8, line 22, after "vehicle" insert "and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Page 8, line 25, after "serious" insert "traffic"

Page 8, line 26, after "vehicle" insert "and any of the convictions results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Renumber accordingly

Date: 4-8-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2150

Senate Transportation Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number 38164.0202 Title 0400

Action Taken Amendments with changes & recommendations (DOT)

Motion Made By Sen. Bercier Seconded By Rep. Bernstein

Senators	Yes	No	Representatives	Yes	No
Senator Espegard	✓		Representative Bernstein	✓	
Senator Mutch			Representative Galvin	✓	
Senator Bercier	✓		Representative Thorpe	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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Yvonne A. Lee 10-16-03
Operator's Signature Date

REPORT OF CONFERENCE COMMITTEE (420)
April 9, 2003 9:46 a.m.

Module No: HR-64-7163

Insert LC: 38164.0202

REPORT OF CONFERENCE COMMITTEE

SB 2150, as engrossed: Your conference committee (Sens. Espegard, Mutch, Bardler and Reps. Bernstein, Galvin, Thorpe) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 981, adopt amendments as follows, and place SB 2150 on the Seventh order:

That the House recede from its amendments as printed on page 981 of the Senate Journal and page 922 of the House Journal and that Engrossed Senate Bill No. 2150 be amended as follows:

Page 1, line 10, after "furnish" insert ", upon request and payment of a fee of three dollars."

Page 1, line 11, after "or" insert "to a" and replace "upon" with "if the person has given written consent to the prospective employer for this information"

Page 1, line 12, remove "request and payment of a fee of three dollars"

Page 8, line 21, after "serious" insert "traffic"

Page 8, line 22, after "vehicle" insert ", and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Page 8, line 25, after "serious" insert "traffic"

Page 8, line 26, after "vehicle" insert ", and any of the convictions results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Renumber accordingly

Engrossed SB 2150 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

SB 2150

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Operator's Signature

10-16-03
Date

1-17-03

TESTIMONY ON SB 2150

SENATE TRANSPORTATION COMMITTEE

January 17, 2003

Department of Public Instruction

Mr. Chairman, my name is Rosellen Sand and I am appearing for the Department of Public Instruction on behalf of Superintendent Wayne Sanstead, and Transportation Director Tom Decker. The Superintendent supports the changes proposed by this bill because they will assure that our roads are safer and those who drive students are qualified and safe drivers. However we have some concerns with the impact of the bill upon our charge to assure that vehicles transporting students are safe. We are proposing an amendment that will not adversely affect the purpose of SB 2150, but will allow us to continue to set safety standards for school transportation so that the safety of school children is assured. Our proposed amendments are attached to my testimony and have two components.

First, the amendment changes the language "school-sponsored" back to the old language of "school related." We propose this amendment because there are many activities that school children attend that are not sponsored by the school but by another organization. An example is the North Dakota Class "B" basketball tournament. The North Dakota High School Activities Association, not the individual school, sponsors that event. Because this activity is not a school-sponsored event, the protections provided by this law will not apply to the school children transported to the tournament even though they are transported in school owned vehicles.

Second, by defining a schoolbus as a commercial vehicle, the bill changes the definition of "schoolbus" from the functional definition that is currently used, to a definition that is based upon the vehicle type. Chapter 39-21 contains various safety requirements for "schoolbuses" and I have attached some of those requirements to my testimony. Among the provisions in Chapter 39-21 is the authorization of the Superintendent to adopt regulations concerning "schoolbuses." Now the Superintendent's regulations apply to all vehicles that transport school children to and from school related activities. Unfortunately, the new definition limits the Superintendent's ability to assure that school children are transported safely by limiting the adoption of regulations to commercial vehicles. Under this bill school buses with capacities of less than 16 passengers will not be subject to the safety requirements. Additionally, schools could use nonconforming vehicles to transport students. This amendment restores the Superintendent's ability to assure that all students are transported in safe vehicles.

Mr. Chairman, that concludes my testimony. I would be happy to respond to any questions the committee may have.

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Rosellen Sand
Operator's Signature

10-16-03
Date

PROPOSED AMENDMENT TO SENATE BILL NO. 2150

Page 2, line 4, replace "school-sponsored" with "school related"

Page 2, line 4 after the period insert "For purposes of chapter 39-21, a schoolbus means any motor vehicle that is owned by a public or governmental agency and used to transport primary, or secondary school students to or from school, or to or from school related events or is privately owned and operated for compensation to transport primary or secondary school students to or from school, or to or from school related events."

Renumber accordingly

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As amended the statute would read:

67. "Schoolbus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school related events. For purposes of chapter 39-21, a schoolbus means any motor vehicle that is owned by a public or governmental agency and used to transport primary, or secondary school students to or from school, or to or from school related events or is privately owned and operated for compensation to transport primary or secondary school students to or from school, or to or from school related events.

Schoolbus does not include a bus used as a common carrier.

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39-21-18. Audible and visual signals on vehicle.

1. Every authorized emergency vehicle must, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, exhaust whistle, or bell capable of causing a minimum sound intensity level of eighty-five decibels. The siren or signal must be mounted outside of the vehicle or in front of the radiator.
2. Any authorized emergency vehicle may be equipped with safety strobe lights.
3. A police vehicle when used as an authorized emergency vehicle may be equipped with alternately flashing red lights specified herein and a vehicle designated for the use of the adjutant general or the assistant adjutant general may be equipped with a siren, exhaust whistle, or bell specified herein.
4. Every **schoolbus**, except vehicles with a seating capacity of less than sixteen students, must be equipped with:
 - a. Signal lamps mounted as high and as widely spaced laterally as practicable, which must be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights must have sufficient intensity to be visible at five hundred feet [152.4 meters] in normal sunlight;
 - b. A stop sign on a control arm that can be activated by the busdriver. The stop sign on the control arm must be located on the left side of the bus, be equipped with a flashing red light, and when activated, extend out from the bus at approximately a ninety degree angle; and
 - c. Safety strobe lights if the **schoolbus** was manufactured after July 31, 1998. Older **schoolbuses** may have safety strobe lights installed.

39-21-26. Special restrictions on lamps.

1. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and **schoolbus** warning lamps, which projects a beam of light of an intensity greater than three hundred candle power must be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet [22.86 meters] from the vehicle.
2. No person may drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red or green light visible from directly in front of the center thereof. This section does not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this chapter.
3. Flashing lights are prohibited except on an authorized emergency vehicle, **schoolbus**, snow-removal equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing.

39-21-26. Special restrictions on lamps.

1. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and **schoolbus** warning lamps, which projects a beam of light of an intensity greater than three hundred candle power must be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet [22.86 meters] from the vehicle.
2. No person may drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red or green light visible from directly in front of the

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Operator's Signature

Date

center thereof. This section does not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this chapter.

3. Flashing lights are prohibited except on an authorized emergency vehicle, **schoolbus**, snow-removal equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing.

39-21-27. Special lighting and warning equipment on schoolbuses.

1. The superintendent of public instruction, in cooperation with the director, is authorized to adopt standards and specifications applicable to lighting equipment and special warning devices, including the stop sign on a control arm specified in section 39-21-18, to be carried by **schoolbuses** and other vehicles transporting children to school for compensation, consistent with the provisions of this chapter, but supplemental thereto. The standards and specifications must correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

2. It is unlawful to operate any flashing warning signal light or the stop sign on the control arm specified in section 39-21-18 on a **schoolbus** except when the **schoolbus** is stopped on a highway for the purpose of permitting schoolchildren to board or alight from the **schoolbus**.

3. **Schoolbuses** equipped with safety strobe lights pursuant to subsection 4 of section 39-21-18 must have the safety strobe light in operation whenever the **schoolbus** is being operated upon a highway for purposes of transporting children either to or from school or for a school-sanctioned activity. It is unlawful to operate a safety strobe light on a **schoolbus** when the **schoolbus** is used for any other purpose.

39-21-27.1. Schoolbus standards - Equipment and color regulations. Only motor vehicles which have been designed by the manufacturer for the purpose of carrying passengers may be used as **schoolbuses**. The superintendent of public instruction may adopt reasonable regulations, consistent with the provisions of this chapter, relating to the construction, design, operation, equipment, and color of **schoolbuses** and shall prepare and publish standards for North Dakota **schoolbuses** which must set forth the regulations. The superintendent of public instruction may issue an order prohibiting the operation on public streets, highways, and elsewhere of any **schoolbus** which does not comply with the regulations, and school districts operating buses which do not meet the regulations will not be eligible to receive state reimbursement for vehicular transportation. If a **schoolbus** is purchased for a purpose or purposes other than the public transport of schoolchildren, the purchaser shall change the color of the vehicle and deactivate or remove the warning signal lights and the stop sign on the control arm. Highway patrolmen and all peace officers are authorized to make necessary investigations relating to compliance with the regulations adopted by the superintendent of public instruction and to make reports of their findings to the office of the superintendent of public instruction.

39-21-40. Restrictions as to tire equipment.

1. Every solid rubber tire on a vehicle must have rubber on its entire traction surface at least one inch [2.54 centimeters] thick above the edge of the flange of the entire periphery.

2. No person may operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.

3. No tire on a vehicle moved on a highway may have on its periphery any block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber which

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Date

projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it is permissible to use tire chains of reasonable proportions. It is also permissible to use, from October fifteenth to April fifteenth, pneumatic tires which have metal studs which do not project more than one-sixteenth of an inch [1.59 millimeters] beyond the tread of the traction surface of the tire, except that it is permissible to use such tires on **schoolbuses** at any time during the year.

39-21-41. Safety glazing material in motor vehicles.

1. No person may sell any new motor vehicle, nor may any new motor vehicle be registered, unless it is equipped with safety glazing material of a type approved by the department wherever glazing material is used in doors, windows, and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and **schoolbuses**, but in respect to trucks, including truck tractors, the requirements as to safety glazing material apply to all glazing material used in doors, windows, and windshields in the drivers' compartment.
2. The term "safety glazing materials" means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.
3. The department shall maintain a list of types of glazing material by name approved by it as meeting the requirements of this section and may not register after January 1, 1964, any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and it shall thereafter suspend the registration of any motor vehicle subject to this section which it finds is not equipped until it is made to conform to the requirements of this section. The requirements of this section do not apply to antique automobiles licensed under provision of chapter 39-04.

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Operator's Signature

Y. Hernandez

Date

10-16-03

SENATE TRANSPORTATION COMMITTEE

January 17, 2003

**North Dakota Department of Transportation
Keith Magnusson, Deputy Director for Driver and Vehicle Services**

SB 2150

The North Dakota Department of Transportation prefiled SB 2150 as an agency bill. This bill concerns holders of a commercial driver's license (CDL). It is intended to conform North Dakota law to the Motor Carrier Safety Improvement Act of 1999. That law and subsequent federal regulations mandate these provisions by October 1, 2005.

We started this process during the last legislative session, with a separate school bus endorsement to the CDL and preliminary language in 39-06.2-01. But we dared not go further until final regulations were available.

The purposes of the federal act are to establish the Federal Motor Carrier Safety Administration (FMCSA) and reduce the number and severity of crashes involving large trucks. The act intends to accomplish this through more commercial motor vehicle (CMV) and driver inspections, more carrier compliance reviews, stronger enforcement, expedited completion of rules, sound research, and effective commercial driver's license testing, record keeping, and sanctions. We are focusing here on the CDL provisions.

Much of what is required federally is already in North Dakota law, but several updates are necessary. There are other requirements that do not need law changes, but may require speeding up of processing and other administrative procedures.

SB 2150 adds definitions of "fatality," "imminent hazard," and "noncommercial motor vehicle" (Section 4), as well as amending our definition of "school bus" (Section 3). The bill makes these definitions the same as those in the federal regulations.

We also propose adding to the definition of "serious traffic violation" (for which a CDL holder can be disqualified) the following acts: driving a CMV without obtaining a CDL, driving a CMV without a CDL in possession, and driving without the proper class of CDL or required endorsement (Section 4).

The federal law attempts to look at the "whole" driver and not just conduct while driving a commercial motor vehicle. The theory is that a driver with serious problems in a noncommercial vehicle will eventually have problems driving a commercial motor vehicle. Because of this, a number of disqualifications have been added to the law for actions committed in a noncommercial vehicle: driving under the influence, leaving the scene of an accident, and using a vehicle to commit a felony. The period of disqualification depends on whether it is a first, second, or subsequent conviction (Section 5). This pattern has already been used under the CDL law.

There is a lifetime disqualification for a conviction for using either a CMV or a non-CMV to commit a felony involving manufacturing, distributing, or dispensing a controlled substance.

Page 1 of 2

while operating either a CMV or a non-CMV (Section 5).

There is also a disqualification, again for escalating periods of time, for committing two or more serious violations while operating a noncommercial motor vehicle (Section 5).

Federal law and regulations also authorize the FMCSA to disqualify a driver who is found to have constituted an imminent hazard. This must become a part of the driver's record and we have added a provision to allow this as required (Section 2).

We have also added a provision to make a CDL holder's complete driving history available to employers and prospective employers, as required, giving them more information about their employees' driving history (Section 1).

With these changes, and other provisions in the federal Motor Carrier Safety Improvement Act of 1999, the FMCSA intends to make the CDL program more effective by improving driver performance and removing unsafe drivers from the road.

There are sanctions if a state fails to comply with the law and regulations by October 1, 2005. Following the first year of noncompliance, an amount equal to five percent of the federal-aid highway funds required to be apportioned will be withheld (approximately \$7.2 million for North Dakota). For second and subsequent years of noncompliance, the withheld funds will equal 10 percent (about \$14.4 million) each year. The Motor Carrier Safety Assistance Program (MCSAP) grant funds will also be withheld. There are tight provisions on the availability of the funds withheld for noncompliance. Federal-aid highway funds withheld will be completely taken away and no longer available for apportionment. MCSAP funds will remain available until June 30 of the fiscal year in which they are withheld and then redistributed to other states. The FMCSA also has the authority to decertify the CDL licensing program of any state found to be in substantial noncompliance. This means that we would not be able to issue CDLs that would be effective across state lines. These sanctions are much more severe than in any other recent mandates.

On the positive side, there will be substantially more funds available for the MCSAP program. There have also been federal CDL funds available to help states comply with the many federal requirements.

10/15/98

NORTH DAKOTA DRIVERS LICENSE AND TRAFFIC SAFETY DIVISION
DRIVING RECORD ABSTRACT - FOR COURT USE ONLY

DeKoy Ernst

RECORD ID:

10/15/98

DOB: SEX: M WT: 190 HT: 5-10 HAIR: BRN EYES: BLU
EXPIRATION DATE: 01/02/01 STATUS: LI CLASS: A

VIOLATIONS/CONVICTIONS

VIOL CONVICTION DATE: 05/01/96 OFFENSE DATE: 03/31/96 SPEEDING 077/65
#1190098 POINTS 004 COURT ID: STUTSMAN JAMESTOWN COUNTY

STATUS: CURRENT LICENSE

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Yubereca J. Doe
Operator's Signature

10-16-03
Date

10/15/98

* *****
* THIS PORTION OF THE RECORD CONTAINS INFORMATION WHICH IS *
* NOT AVAILABLE TO THE PUBLIC *
* *****

COMMERCIAL VIOLATIONS/CONVICTIONS

COMMERCIAL VIOLATIONS/CONVICTIONS

VIOL CONVICTION DATE: 03/05/96 OFFENSE DATE: 01/25/96 SPEEDING 069/55
#0 POINTS 000 COURT ID: OREGON
VIOL CONVICTION DATE: 01/07/98 OFFENSE DATE: 10/14/97 SPEEDING 080/70
POINTS 001 COURT ID: MORTON MANDAN COUNTY

SUSPENSIONS/REVOCATIONS/CANCELLATIONS

SUSP ORDER DATE: 05/27/96 FAIL TO APPEAR/POST BOND PERIOD: 000
LICENSE RECEIVED: 00/00/00 RELEASED: 06/03/96 TIME: 0817
COURT: CO 47 CITY 005 ID 2
SUSP ORDER DATE: 05/27/96 FAIL TO APPEAR/POST BOND PERIOD: 000
LICENSE RECEIVED: 00/00/00 RELEASED: 06/03/96 TIME: 0817
COURT: CO 47 CITY 005 ID 2
SUSP ORDER DATE: 09/05/96 FAIL TO APPEAR/POST BOND PERIOD: 000
LICENSE RECEIVED: 00/00/00 RELEASED: 09/13/96 TIME: 0001

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Operator's Signature

Date

#START

----- CURRENT CDL IDENTIFICATION -----
STATE : NORTH DAKOTA DATE/TIME PERFORMED : 10-15-1998 11:58

LICENSE NUMBER : SSN : HEIGHT : 5 10
NAME : DOB : EIGHT : 190
MAILING ADDR : SEX : MALE EYES: BLUE

----- STATUS -----
COMMERCIAL CLASS : CLASS A ISSUE : 05/29/1998
COMMERCIAL STATUS : LICENSED EXPIRE : 01/02/2001
NON-COMMERCIAL CLASS : CLASS C
NON-COMMERCIAL STATUS : LICENSED

ENDORSEMENTS : NONE

MEDICAL INDICATOR : NO
WITHDRAWAL ACTION PENDING : NO

----- CONVICTION HISTORY -----
06/28/1998 CITATION EQUIPMENT USED IMPROPER/OBSTRUCTED
09/14/1998 CONVICTION LOCATION: NORTH DAKOTA
 COURT: COUNTY COURT
 COMMERCIAL MV OFFENSE: NO
 HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
 OFFENSE REFERENCE: 349

06/06/1998 CITATION SPEEDING-SPEED LIMIT AND ACTUAL
06/18/1998 CONVICTION LOCATION: MONTANA
 COURT: JUSTICE OF PEACE COU
 COMMERCIAL MV OFFENSE: YES
 HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
 LOCATOR REFERENCE: 510A204810780
 OFFENSE REFERENCE: 5183
 CONVICTION DETAIL: 65079

10/14/1997 CITATION 06-10 >SPEED LIMIT(DETAIL OPTIONAL)
01/07/1998 CONVICTION LOCATION: NORTH DAKOTA
 COURT: COUNTY COURT
 COMMERCIAL MV OFFENSE: YES
 HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
 OFFENSE REFERENCE: 301 C
 CONVICTION DETAIL: 70080

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Yubereza
Operator's Signature

10-16-98
Date

07/27/1997 CITATION SPEEDING-SPEED LIMIT AND ACTUAL
08/22/1997 CONVICTION LOCATION: MONTANA
COURT: JUSTICE OF PEACE COU
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
LOCATOR REFERENCE: 510Z949220845
OFFENSE REFERENCE: 5183
CONVICTION DETAIL: 65076

02/27/1997 CITATION 11-15 >SPEED LIMIT(DETAIL OPTIONAL)
04/07/1997 CONVICTION LOCATION: WISCONSIN
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 302
CONVICTION DETAIL: 65078

09/25/1996 CITATION SPEEDING
09/27/1996 CONVICTION LOCATION: MONTANA
COURT: JUSTICE OF PEACE COU
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
LOCATOR REFERENCE: 510Y888230915
OFFENSE REFERENCE: 5183

06/02/1996 CITATION EXP/NO DRIVER LIC
07/25/1996 CONVICTION LOCATION: MINNESOTA
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 375

06/02/1996 CITATION 06-10 >SPEED LIMIT(DETAIL OPTIONAL)
07/25/1996 CONVICTION LOCATION: MINNESOTA
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 301
CONVICTION DETAIL: 65074

06/02/1996 CITATION 06-10 >SPEED LIMIT(DETAIL OPTIONAL)
07/25/1996 CONVICTION LOCATION: MINNESOTA
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 301
CONVICTION DETAIL: 65074

06/02/1996 CITATION EXP/NO DRIVER LIC

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Y. Beresa d. Lee
Operator's Signature

10-16-03
Date

07/25/1996 CONVICTION LOCATION: MINNESOTA
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 375

03/31/1996 CITATION SPEEDING
05/16/1996 CONVICTION LOCATION: MONTANA
COURT: JUSTICE OF PEACE COU
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
LOCATOR REFERENCE: 510Y876000845
OFFENSE REFERENCE: 5183

03/31/1996 CITATION 06-10 >SPEED LIMIT(DETAIL OPTIONAL)
05/01/1996 CONVICTION LOCATION: NORTH DAKOTA
COURT: COUNTY COURT
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 301
CONVICTION DETAIL: 65073

03/31/1996 CITATION 11-15 >SPEED LIMIT(DETAIL OPTIONAL)
05/01/1996 CONVICTION LOCATION: NORTH DAKOTA
COURT: COUNTY COURT
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 302
CONVICTION DETAIL: 65077

01/25/1996 CITATION SPEEDING-SPEED LIMIT AND ACTUAL
03/05/1996 CONVICTION LOCATION: OREGON
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 401 C
CONVICTION DETAIL: 55069

12/22/1995 CITATION FT OBEY SIGN/TRAFFIC CONTROL DEVICE
01/16/1996 CONVICTION LOCATION: NORTH DAKOTA
COURT: MUNICIPAL COURT
COMMERCIAL MV OFFENSE: NO
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 329

04/11/1995 CITATION SPEEDING
05/08/1995 CONVICTION LOCATION: WASHINGTON

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

COURT: DISTRICT COURT
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
LOCATOR REFERENCE: I00071488951790033
OFFENSE REFERENCE: 04

10/28/1994 CITATION SPEEDING-SPEED LIMIT AND ACTUAL
01/10/1995 CONVICTION LOCATION: OREGON
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 401 C
CONVICTION DETAIL: 55075

08/30/1994 CITATION SPEEDING-SPEED LIMIT AND ACTUAL
01/24/1995 CONVICTION LOCATION: MISSOURI
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
OFFENSE REFERENCE: 401 C
CONVICTION DETAIL: 55068

04/07/1992 CITATION USE OF EQUIP PROHIBITED BY LAW
07/15/1992 CONVICTION LOCATION: VIRGINIA
COURT: DISTRICT COURT
COMMERCIAL MV OFFENSE: YES
HAZMAT OFFENSE: NOT CARRYING HAZARDOUS MATERIALS
LOCATOR REFERENCE: 922340645

----- WITHDRAWAL HISTORY -----

01/18/1995 SUSPENDED FTA FOR TRIAL/COURT APPEARANCE
WITHDRAWAL BASIS: CONVICTION
LOCATION: NORTH DAKOTA
EXTENT: ALL
ELIGIBLE DATE: 99/99/1999
REINSTATE DATE: 01/25/1995
OFFENSE REFERENCE: 770

05/27/1996 SUSPENDED FTA FOR TRIAL/COURT APPEARANCE
WITHDRAWAL BASIS: CONVICTION
LOCATION: NORTH DAKOTA
EXTENT: ALL
ELIGIBLE DATE: 99/99/1999
REINSTATE DATE: 06/03/1996
OFFENSE REFERENCE: 770

05/27/1996 SUSPENDED FTA FOR TRIAL/COURT APPEARANCE

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Y. Herrera J. Lee
Operator's Signature

10-16-03
Date

WITHDRAWAL BASIS: CONVICTION
LOCATION: NORTH DAKOTA
EXTENT: ALL
ELIGIBLE DATE: 99/99/1999
REINSTATE DATE: 06/03/1996
OFFENSE REFERENCE: 770

09/05/1996 SUSPENDED FTA FOR TRIAL/COURT APPEARANCE
WITHDRAWAL BASIS: CONVICTION
LOCATION: NORTH DAKOTA
EXTENT: ALL
ELIGIBLE DATE: 99/99/1999
REINSTATE DATE: 09/13/1996
OFFENSE REFERENCE: 770

01/29/1998 SUSPENSION FTA FOR TRIAL/COURT APPEARANCE
LOCATION: NORTH DAKOTA
EXTENT: ALL
ELIGIBLE DATE: 99/99/1999
REINSTATE DATE: 04/30/1998
OFFENSE REFERENCE: 770 C

NOTE: AS OF MAY 17, 1997 DRIVER LICENSE REPORTS NOW INCLUDE BOTH CDL
AND NON-CDL CLASSES WITH THEIR AAMVANET NEWLY DEFINED STATUSES.
ALL NON-CDL CLASSES ARE NOW DEFINED TO BE C FOR UNIFORMITY.
***** END OF STATE RECORD

#END

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2150

Page 8, line 22, after "vehicle" insert ", if the conviction results in the revocation, cancellation, or suspension of the commercial driver's licenseholder's license or noncommercial motor vehicle driving privileges"

Page 8, line 26, after "vehicle" insert ", if the conviction results in the revocation, cancellation, or suspension of the commercial driver's licenseholder's license or noncommercial motor vehicle driving privileges"

Renumber accordingly

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

HOUSE TRANSPORTATION COMMITTEE

March 6, 2003

**North Dakota Department of Transportation
Keith Magnusson, Deputy Director for Driver and Vehicle Services**

SB 2150

The North Dakota Department of Transportation prefiled SB 2150 as an agency bill. This bill concerns holders of a commercial driver's license (CDL). It is intended to conform North Dakota law to the Motor Carrier Safety Improvement Act of 1999. That law and subsequent federal regulations mandate these provisions by October 1, 2005.

We started this process during the last legislative session, with a separate school bus endorsement to the CDL and preliminary language in 39-06.2-01. But we dared not go further until final regulations were available.

The purposes of the federal act are to establish the Federal Motor Carrier Safety Administration (FMCSA) and reduce the number and severity of crashes involving large trucks. The act intends to accomplish this through more commercial motor vehicle (CMV) and driver inspections, more carrier compliance reviews, stronger enforcement, expedited completion of rules, sound research, and effective commercial driver's license testing, record keeping, and sanctions. We are focusing here on the CDL provisions.

Much of what is required federally is already in North Dakota law, but several updates are necessary. There are other requirements that do not need law changes, but may require speeding up of processing and other administrative procedures.

SB 2150 adds definitions of "fatality," "imminent hazard," and "noncommercial motor vehicle" (Section 4), as well as amending our definition of "school bus" (Section 3). The bill makes these definitions the same as those in the federal regulations.

We also propose adding to the definition of "serious traffic violation" (for which a CDL holder can be disqualified) the following acts: driving a CMV without obtaining a CDL, driving a CMV without a CDL in possession, and driving without the proper class of CDL or required endorsement (Section 4).

The federal law attempts to look at the "whole" driver and not just conduct while driving a commercial motor vehicle. The theory is that a driver with serious problems in a noncommercial vehicle will eventually have problems driving a commercial motor vehicle. Because of this, a number of disqualifications have been added to the law for actions committed in a noncommercial vehicle: driving under the influence, leaving the scene of an accident, and using a vehicle to commit a felony. The period of disqualification depends on whether it is a first, second, or subsequent conviction (Section 5). This pattern has already been used under the CDL law.

There is a lifetime disqualification for a conviction for using either a CMV or a non-CMV to commit a felony involving manufacturing, distributing, or dispensing a controlled substance.

Page 1 of 2

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Yuberead J. Lee
Operator's Signature

10-16-03
Date

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Federal law and regulations also authorize the FMCSA to disqualify a driver who is found to have constituted an imminent hazard. This must become a part of the driver's record and we have added a provision to allow this as required (Section 2).

We have also added a provision to make a CDL holder's complete driving history available to employers and prospective employers, as required, giving them more information about their employees' driving history (Section 1).

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On the positive side, there will be substantially more funds available for the MCSAP program. There have also been federal CDL funds available to help states comply with the many federal requirements.

As SB 2150 cleared the Senate Transportation Committee, the FMCSA published a change to the final rule, making a technical correction in response to a petition for reconsideration. We are presenting a proposed amendment to reflect that technical correction.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2150

Page 8, line 22, after "vehicle" insert ". if the conviction results in the revocation, cancellation, or suspension of the commercial driver's licenseholder's license or noncommercial motor vehicle driving privileges"

Page 8, line 26, after "vehicle" insert ". if the conviction results in the revocation, cancellation, or suspension of the commercial driver's licenseholder's license or noncommercial motor vehicle driving privileges"

Renumber accordingly

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

TESTIMONY ON ENGROSSED SB 2150

HOUSE TRANSPORTATION COMMITTEE

March 6, 2003

Department of Public Instruction

Mr. Chairman, my name is Tom Decker I am the Transportation Director for the Department of Public Instruction and I am appearing on behalf of Superintendent Wayne Sanstead. The Superintendent supports the changes proposed by this bill and the Senate amendment. The bill will assure that our roads are safer, that those who transport students are qualified and safe drivers and that school children are transported in safe vehicles. The Senate amendment allowed the Department to continue to set safety standards for school transportation of primary and secondary school children.

The Senate amendment changed the language "school-sponsored" back to the old language of "school related." This amendment was made because there are many activities that school children attend that are not sponsored by the school but by another organization. An example is the North Dakota Class "B" basketball tournament. The North Dakota High School Activities Association, not the individual school, sponsors that event.

The Senate amendment also addressed a concern we had with the new definition of a schoolbus as a commercial vehicle. The Senate amendment returned the definition of a schoolbus to a functional definition that is based upon how the vehicle is used.

Chapter 39-21 contains various safety requirements for "schoolbuses" and I have attached some of those requirements to my testimony for your information. Among the provisions in Chapter 39-21 is the authorization of the Superintendent to adopt regulations concerning "schoolbuses." With the Senate amendment the Superintendent's regulations will continue to apply to all vehicles that transport school children to and from school related activities.

Also attached to my testimony is a recent opinion from Attorney General Stenehjem. We requested this opinion because there was considerable confusion in the field about whether regular passenger vans could be used to transport school children. The Attorney General's opinion concludes that schools may not transport students in passenger vans that do not comply with the minimum standards set out in the Department's rules. This will be a concern for some school districts because they have vans that are currently being used to transport school children but do not meet the minimum safety standards. On the other hand the use of these vans has increasingly been questioned because they have a history of accidents resulting in serious injury or death to the occupants. To balance these concerns the Department will implement a rule that allows a five-year phase-out for schools that are currently using vans to transport school children.

Mr. Chairman, that concludes my testimony. I would be happy to respond to any questions the committee may have.

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10-16-03
Date



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210 FAX (701) 328-2226

LETTER OPINION
2003-L-15

March 4, 2003

Honorable Wayne G. Sanstead
Superintendent of Public Instruction
600 East Boulevard Avenue, Dept. 201
Bismarck, ND 58505-0440

Dear Dr. Sanstead:

Thank you for your letter asking whether a van that does not conform to school bus standards contained in your department's administrative rules may be used by a public or private school to transport children to and from school or school-related activities.

State law defines "schoolbus" as follows:

"Schoolbus" means any motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or to or from school-related activities, or privately owned and operated for compensation for the transportation of children to or from school or to or from school-related activities.

N.D.C.C. § 39-01-01(67).

A "vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway." N.D.C.C. § 39-01-01(89). A "motor vehicle" includes every vehicle that is self-propelled." N.D.C.C. § 39-01-01(38). Therefore, a vehicle commonly referred to as a "van" is a motor vehicle and, if operated for the transportation of children to or from school or to or from school-related activities, must comply with your department's rules on schoolbuses.

Your authority with respect to schoolbus standards provides:

Schoolbus standards - Equipment and color regulations. Only motor vehicles which have been designed by the manufacturer for the purpose of carrying passengers may be used as schoolbuses. The

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Yuberead J. Lee
Operator's Signature

10-16-03
Date

LETTER OPINION 2003-L-15

March 4, 2003

Page 2

superintendent of public instruction may adopt reasonable regulations, consistent with the provisions of this chapter, relating to the construction, design, operation, equipment, and color of schoolbuses and shall prepare and publish standards for North Dakota schoolbuses which must set forth the regulations. The superintendent of public instruction may issue an order prohibiting the operation on public streets, highways, and elsewhere of any schoolbus which does not comply with the regulations, and school districts operating buses which do not meet the regulations will not be eligible to receive state reimbursement for vehicular transportation. If a schoolbus is purchased for a purpose or purposes other than the public transport of schoolchildren, the purchaser shall change the color of the vehicle and deactivate or remove the warning signal lights and the stop sign on the control arm.

Highway patrolmen and all peace officers are authorized to make necessary investigations relating to compliance with the regulations adopted by the superintendent of public instruction and to make reports of their findings to the office of the superintendent of public instruction.

N.D.C.C. § 39-21-27.1. This section authorizes you to adopt administrative rules, issue orders prohibiting operation of non-complying vehicles, and impose sanctions upon school districts operating non-complying buses. Id.

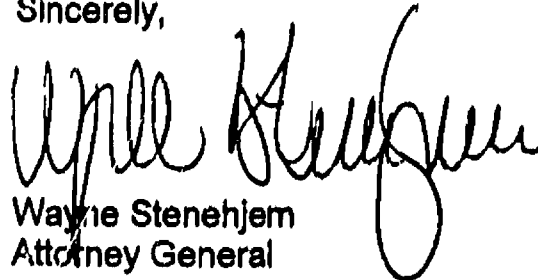
You implemented that authority by adopting N.D.A.C. ch. 67-12-01, Standards for Schoolbuses. Those rules provide that all public schoolbuses operated in North Dakota must meet the minimum body and chassis standards established or referenced in the chapter. N.D.A.C. § 67-12-01-01 (emphasis added). The rules apply to buses manufactured after January 1, 2000. N.D.A.C. § 67-12-01-04. The rules adopt the body and chassis standards of the federal motor vehicle safety standards and supplement those standards with the 1995 national minimum standards for schoolbus construction if the latter exceed or are in addition to the federal motor vehicle safety standards for schoolbuses. N.D.A.C. §§ 67-12-01-02 and 67-12-01-03.

Section 39-21-27.1, N.D.C.C., authorizes you to issue orders prohibiting any party, including private schools, from using a schoolbus that does not comply with your department's rules. However, the rules that have been adopted are limited to schoolbuses operated by public schools. It is therefore my opinion that a van used to transport children to and from school or school-related activities which you find does not comply with the minimum standards adopted in your administrative rules may not be used by a public school district, whether it is owned by the district or operated under contract pursuant to

LETTER OPINION 2003-L-15
March 4, 2003
Page 3

N.D.C.C. §§ 15.1-30-06 through 15.1-30-12.¹ Vehicles used by private schools are not required to comply with your department's standards.

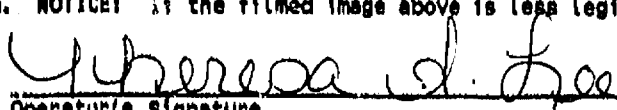
Sincerely,


Wayne Stenehjem
Attorney General

rel/pg

¹ Transit buses utilized by students under N.D.C.C. § 15.1-30-01(3) are not schoolbuses subject to regulation because they are operated for general public transit which only incidentally includes students.

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Large vans under scrutiny

VCSU may replace vehicles

By Steven P. Wagner
swagner@forumcomm.com

Some passenger vans may be replaced at Valley City State University after a crash injured six people, one official said Friday.

The university wants to swap three 15-passenger vans for minivans from the State Fleet Division.

One 15 person van used by the university rolled during icy conditions Wednesday on Interstate 94 near West Fargo, and landed on its top, requiring rescue workers to extricate three passengers.

"We've requested replacement with front-wheel minivans," said Les Wong, the university's vice president of academic affairs. "We're hoping for

replacements ASAP."

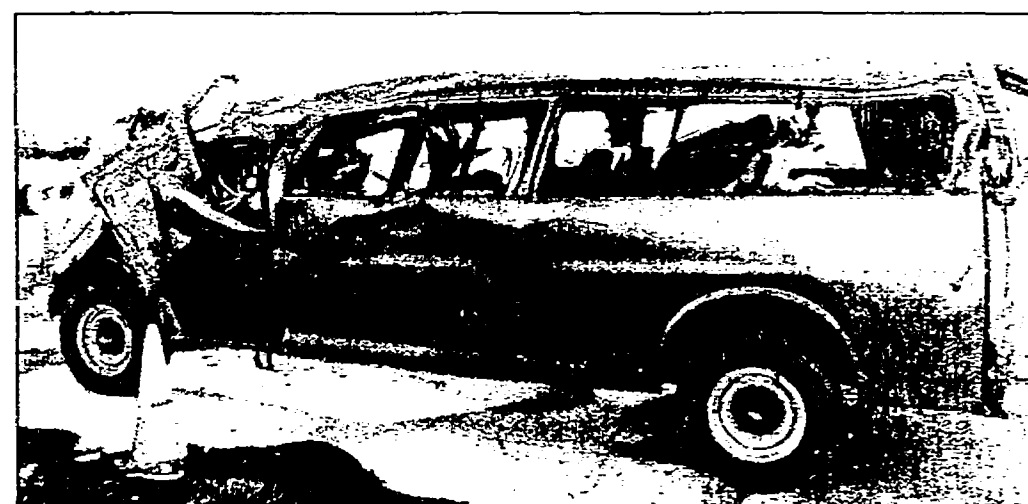
University officials declined talking in detail about concerns over the safety of 15-passenger vans because of possible litigation.

"The fact we suspended use of them should indicate our level of concern," Wong said.

The university joins federal regulators and safety advocates nationwide who want changes in large passenger vans to prevent rollovers.

Recent research shows 15-person vans are prone to rollovers, particularly in single-vehicle accidents like the one Wednesday.

VANS: Back Page



Bruce Crummy / The Forum

This van carried five Valley City State University students and a professor when it was involved in a Wednesday morning rollover on Interstate 94 near the Horace, N.D., exit.

THE BACK PAGE

The Forum

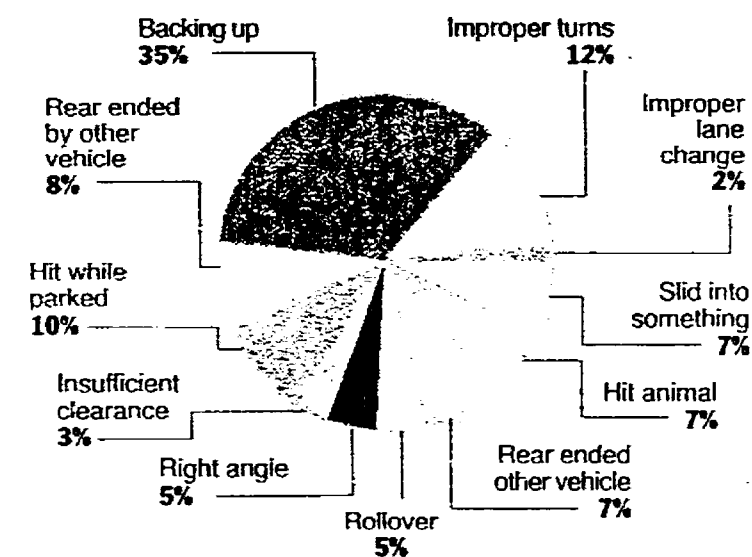
12

VANS: The large vehicles popular with universities and churches

From Page A1

Van accidents in North Dakota

The following statistics reflect the number of accidents during the past five years involving large passenger vans owned by the state of North Dakota. Large passenger vans are defined as those that carry seven to 16 people. Since 1997, large passenger vans have been involved in 60 accidents.



Source: ND DOT

The Forum

VCSU professor Jim Dew was driving five students to Fargo for a class field trip. All six were taken to Fargo hospitals.

A former VCSU football coach who drove 15-person vans regularly, Dew, 58, was listed in satisfactory condition Friday at MeritCare Hospital. With the release of MacKenzie Wounded Face from Innovis Health Friday, all the students are out of the hospital.

The large vans are popular with universities and churches because they cost just over \$20,000. A 14-passenger bus costs about \$35,000.

Hope Lutheran in Fargo owns two of the vehicles. Marilyn Wahlgren, the church's business administrator, said the vans are used mostly for in-town driving - shuttling senior citizens from home to Sunday services and students from school to after-school care.

"We've never had an accident with a van. We've been very fortunate," she said. "As a result of this, I know we'll have some discussions about whether to keep them."

The vans are an efficient people mover for First Assembly of God in Fargo, which owns four of them.

Drivers must be 21 to drive the vans, and the church places a check-list in the vehicle for drivers to read before driving, said the Rev. Scott Stensgard. It includes pointers like checking the tires, and rotating

ing drivers on long trips.

Two weeks ago, the National Transportation Safety Board recommended changes to van manufacturers. Historically, Dodge and Ford have built the majority of 15-passenger vans. Dodge quit making the vans earlier this year.

Chevrolet and GMC also make 15-passenger vans. The one in Wednesday's crash was a 2002 Chevrolet, one of 16 purchased by the state of North Dakota this year.

NTSB statistics show:

► 81 percent of fatalities in 15-passenger vans occur in single-vehicle rollovers.

► 52 percent of the vans in

fatal, single-vehicle accidents rolled over.

► Heavily loaded vans can cause the center of gravity to move rearward and upward, increasing the vehicle's rollover propensity.

GuideOne Insurance provides coverage for churches and calls the vans "inherently unsafe," according to its Web site.

In North Dakota, about 2,900 vehicles are maintained by State Fleet Services, a division of the Department of Transportation. The fleet includes 109 large passenger vans.

"We certainly are aware of what the national scene is,"

said Paul Feyereisen, director of State Fleet Services. "It's amazing how unstable they get when you take gross and evasive action."

"If you go straight down the road and drive to conditions, you're not going to have problems."

State vehicles are farmed out to locations like North Dakota State University.

The 348-vehicle motor pool at NDSU, which includes 19 vans carrying seven to 16 people, serves all the state agencies in the region.

University and state agency workers can check out the vehicles, but it's up to the agency or institution to decide if the 15-passenger van is an acceptable transportation option, Feyereisen said. "We will offer that van for use."

An NDSU policy that took effect Nov. 1 requires drivers of state-owned 15-passenger vans to complete specialized training that teaches driving maneuvers, precautions and issues specifically relating to the vehicles.

During the past 60 days, large passenger vans have been used for an average of three trips per day from the motor pool at NDSU.

"These vans are used quite extensively throughout the state," said Dick Rayl, vice president of business and finance at NDSU.

About 300 people have been trained through NDSU to drive the vans and there are no plans to suspend use of the vehicles, he said.

Jo Zschomler, the state's risk management director, said investigators are looking into Wednesday's crash.

"We want to find out what happened," she said.

Dew passed a sanding truck just after 9 a.m. during freezing rain, according to the North Dakota Highway Patrol.

One witness, Susan Meiers, gave a written version of what happened.

"I was in the driving lane," she wrote. "A van passed me, went back into the driving lane and lost it."

Meiers estimated the van was traveling at least 55 mph.

The van is a total loss and won't be covered by insurance. North Dakota Workers Compensation should cover Dew's medical expenses and the state's Risk Management Division will be responsible for the students' expenses, Feyereisen said.

All six passengers were wearing seat belts, which probably saved their lives, Wong said.

However, some officials believe the crash was avoidable.

"There were icy conditions," Rayl said. "I don't believe it tipped because it was a 15-passenger van. You have to adjust your speed to conditions."

Feyereisen agrees.

"When you lose control at highway speeds, you're going to roll," he said.

Forum reporter Erin Henne Frisbie contributed to this article.

Readers can reach Forum reporter Steven P. Wagner at (701) 241-5542.

State

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Board votes to buy bus

By SHEENA DOOLEY
Bismarck Tribune

Mandan school board members Monday voted unanimously to purchase a 14-passenger bus because of safety concerns with the vans they use to transport kids to activities.

The district will spend about \$36,000 to purchase the bus, which will replace one of the five 15-passenger vans it currently runs.

"There has been some discussion and print about whether vans should be used to transport students," said Gordon Berge, the district's director of transportation. "The National Transportation Safety Board is trying to outlaw their use."

Berge presented the board with the proposal to purchase a bus after a parent called him one morning, saying she didn't want her child to travel in the vans because of bad weather conditions.

The same day a supervisor, who was supposed to drive one of the vans, also called him and said he didn't want to take the vans because of safety concerns.

"Because of their height with bad road conditions with someone driving them who isn't familiar with them, the vans are a little on the hazardous side," Berge said.

Concern over the safety of the vans was heightened when a Valley City State University professor lost control of a 15-passenger van and rolled it. Five students and the professor were injured in the accident.

After investigation, it was ruled that the accident was not a result of the van itself.

"That accident did make a point about the safety of the van," board member John Gerding said. "We have had a few complaints from parents and we wanted to ease their mind. Everyone decided that the safety of the children comes first."

(Reach reporter Sheena Dooley at 701-250-8225 or

VCSU might replace vans

FARGO (AP) — Some passenger vans at Valley City State University might be replaced after an accident that injured six people, a school official says.

"We've requested replacement with front-wheel minivans," said Les Wong, the university's vice president of academic affairs. "We're hoping for replacements ASAP."

The minivans would replace three 15-passenger vans like the one that rolled in icy conditions on Interstate 94 on Wednesday. The university suspended use of the vans after the crash.

Officials at the University of North Dakota said they plan to keep using the school's 21 large passenger vans.

Mary Metcalf, UND transportation manager, said the university will continue to require all drivers of its large passenger vans to take a road test and an examination before they are allowed to drive the vehicles.

The tests, she said, show drivers how the large vans react to sudden movements at varying speeds.

North Dakota State University also will keep using the vehicles.

A policy that took effect Nov. 1 requires drivers of 15-passenger vans at NDSU to complete specialized training that teaches driving maneuvers and precautions.

"These vans are used quite extensively throughout the state," said Dick Rayl, vice president of business and finance at NDSU.

Keith C. Magnusson

03/31/2003 04:48 PM

To: Thomas L. Trenbeath/NDLC/NoDak@NoDak
cc: Robin L. Welsz/NDLC/NoDak@NoDak
Subject: SB 2150

Tom,

I see that SB 2150 has made its way back to the Senate. House Transportation made several amendments, including those I mentioned to you that were needed because of minor changes made to the Federal rules just as the bill was coming out of your committee.

One of those amendments (to Section One of the bill), concerning the commercial driver's license information system was premature because CDLIS needs to be updated before the added information can be put into the system. This will probably take several years for the Feds to get it done. It was also discovered (too late for House Transportation to act) that we had all missed that the word "traffic" was missing in two places, in new subsections 14 and 15 of NDCC 39-06.2-10 (found in Section Five of the bill). These should both be "serious traffic violation", instead of "serious violation". These subsections are also where the changes required by the recent Fed amendments were inserted (these actually benefit the driver). House Transportation modified our requested amendments, but I think we can make it work.

Rep. Welsz and I tried to get House Appropriations to look at making the above corrections, so that there probably would not be a need for a conference committee. But, they preferred that the corrections be made by a conference committee, so they did not have to get into policy. This is something that should not take much time to accomplish.

If you would like me to explain this to you in person, I would be glad to meet at your convenience.. Rep. Welsz may have already talked to you.

Thanks for your help,
Keith

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10-16-03
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TO: SYNDI FROM: JEPF

4384 Federal Register/Vol. 68, No. 19/Wednesday, January 29, 2003/ Rules and Regulations

FMCSA ROUTING

SD 989
DPS _____
SI-1 _____
SI-2 _____
TA _____
FILE 383.1★ **IMPORTANT CDL TECHNICAL AMENDMENT**★ **FAKED TO SYNDI, DAILE and LEROY on 01/29/03**

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Michigan, is amended by removing DTV channel 14 and adding DTV channel 35 at Cheboygan.

Federal Communications Commission,
Barbara A. Kreisman,
Chief, Video Division, Media Bureau.
[FR Doc. 03-1966 Filed 1-28-03; 8:45 am]
BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 383

[Docket Nos. FMCSA-2001-8709 and FMCSA-00-7382]

RINs 2126-AA90 and 2126-AA55

Commercial Driver's License Standards, Requirements, and Penalties; Commercial Driver's License Program Improvements and Noncommercial Motor Vehicle Violations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA amends its Commercial Driver's License (CDL) rules concerning disqualification of drivers to make a technical correction in response to a petition for reconsideration filed by the International Brotherhood of Teamsters, the Transport Workers Union of America, the Transportation Trades Department of the AFL-CIO, and the Amalgamated Transit Union (collectively, "the Petitioners"). The technical correction provides that disqualifications for offenses committed by a CDL holder while operating a non-commercial motor vehicle (non-CMV) would be applicable only if the conviction for such offenses results in the revocation, cancellation, or suspension of the CDL holder's license or non-CMV driving privileges. The agency denies the Petitioners' request to shorten the disqualification periods driving a non-CMV while under the influence of controlled substances or alcohol; and establish a means to disqualify foreign drivers for offenses committed in a non-CMV in the country of domicile. The FMCSA believes these issues were adequately explained in the July 31, 2002, final rule concerning the CDL program, and that the petitioners have not presented any new information that would warrant reconsideration of the agency's decisions.

DATES: The effective date of this final rule is January 29, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, Office of Safety Programs, (202) 366-9579, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 201(b) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106-159, 113 Stat. 1759) requires that the FMCSA issue regulations providing for the disqualification of CDL holders who are convicted of a serious offense involving a non-CMV that results in the revocation, cancellation, or suspension of the person's driver's license, or a drug or alcohol related offense involving a non-CMV. The MCSIA also requires FMCSA to establish minimum disqualification periods for non-CMV offenses based on the seriousness of the offense. However, the disqualification periods for non-CMV offenses must not

exceed the disqualification periods for offenses involving a CMV.

On July 31, 2002, the FMCSA published a final rule (67 FR 48742) implementing several MCSIA provisions concerning the CDL program, including the requirements of section 201(b).

Petition for Reconsideration

On August 30, 2002, the Petitioners requested that the agency reconsider three issues covered in the final rule. A copy of the petition is in both of the dockets identified at the beginning of this notice. The following is a summary of the three issues raised by the petitioners, followed by the FMCSA's response.

Issue 1: Disqualification Periods for Driving Under the Influence (DUI).

The Petitioners believe the disqualification periods for driving under the influence of controlled substances or alcohol are excessive and can result in unfair sanctions against CDL holders by potentially disqualifying them from working in the motor carrier industry for life. The Petitioners argue that the disqualification periods are significantly longer than State penalties and that the States generally do not impose lifetime disqualification for second offenses.

FMCSA Response: The FMCSA denies the Petitioners' request to shorten the disqualification periods established by the July 31, 2002, final rule. Section 201(b) of the MCSIA clearly provides FMCSA with the statutory authority to establish disqualification periods for DUI offenses committed by CDL holders while operating non-CMVs, that are identical to the disqualification periods for DUI offenses committed while operating a CMV. Although the FMCSA could have proposed and adopted less stringent penalties, the agency chose to impose the maximum penalties provided by the statute to ensure the highest level of safety. To achieve our safety objectives, we must disqualify CDL holders who represent an unacceptable safety risk to the motoring public by failing to refrain from the use of controlled substances, and consuming alcoholic beverages prior to driving a motor vehicle. There is no readily apparent reason why the agency should consider DUI committed by a professional CMV driver to be less severe when committed in a non-CMV during off-duty hours, than in a CMV while on duty. The conviction for such a serious offense in the non-CMV suggests that the CDL holder is more likely to commit the same offense in a CMV, than a CDL holder who has never committed such an offense. The FMCSA

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must take action to reduce to the greatest extent practicable, the likelihood of unsafe drivers being allowed to operate CMVs on public roads.

With the publication of the July 31, 2002, final rule, all CDL holders should now be aware that a conviction for DUI while operating a non-CMV could have a significant adverse impact on their driving careers. These drivers have a choice between sharing the road responsibly with other motorists at all times, regardless of the type of vehicle being operated, or engaging in unsafe driving practices with the potential of being subjected to enforcement actions and ultimately disqualification. The agency's decision represents an appropriate use of its statutory authority, and will help to ensure national uniformity and consistency in the administration of the CDL program.

Issue 2: Less Stringent Penalties for Foreign-Domiciled Drivers

The Petitioners argued that the penalties discriminate against U.S. drivers because foreign drivers' CDLs are not subject to suspension, cancellation or revocation for the same offenses in non-CMVs. They believe that convictions for non-CMV offenses must be enforced in a non-discriminatory manner against all drivers operating on U.S. highways.

FMCSA Response: The FMCSA denies the Petitioners' request because all CDL holders, including foreign domiciled drivers, operating in the U.S. are held to the same standard for offenses committed in the U.S. The agency recognizes that the July 31, 2002, final rule leaves unresolved differences between the consequences for a U.S. driver convicted of a disqualifying offense in a non-CMV, and a foreign domiciled driver who commits similar offenses in his/her country of domicile. However, this is an issue that cannot be resolved through the rulemaking process because it involves offenses in countries that have not adopted laws to disqualify commercial drivers for offenses committed in private vehicles. As indicated in the preamble of the July 31, 2002, final rule, the FMCSA will initiate discussions with Mexico and Canada to modify existing CDL reciprocity agreements to include non-CMV convictions for offenses committed in the drivers' country of domicile.

The FMCSA urges all States to implement the disqualification standards adopted on July 31, 2002, and corrected by today's final rule, because doing so is necessary to safeguard the motoring public. Implementation of the disqualification standards should not be

delayed because of concerns about the status of reciprocity negotiations between the U.S., Canada and Mexico. The governments of Canada and Mexico share our commitment to ensuring the safety of cross-border motor carrier operations, and we expect to complete appropriate reciprocity agreements.

Issue 3: Inconsistency Between the Regulatory Language and MCSIA

The Petitioners stated that MCSIA provides for disqualification based on a serious offense involving a motor vehicle (other than a commercial motor vehicle) that has resulted in the revocation, cancellation, or suspension of the individual's license. However, the rule adopted by the FMCSA does not include the limiting language concerning the revocation, cancellation, or suspension of the license by the State. The Petitioners argue that rule must be amended to make it consistent with MCSIA.

FMCSA Response: The FMCSA agrees with the Petitioners that a CDL driver may only be disqualified for offenses committed while operating a non-CMV if the conviction for the offense results in the revocation, cancellation, or suspension of the driver's license. The preamble to the 2002 final rule includes a discussion that explicitly acknowledges that offenses are not disqualifying unless the State also finds that the circumstances of the offense warrant revocation, cancellation, or suspension. However, Table 2 to § 383.51 does not include the required reference to revocation, cancellation, or suspension. Therefore, the agency is revising Table 2 to include the required reference to revocation, cancellation, or suspension.

Rulemaking Analyses and Notices

Under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)) an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. In this case, additional notice and comment are unnecessary. This final rule makes a technical correction to the FMCSA's July 31, 2002, final rule concerning disqualifying offenses committed by CDL holders while operating non-CMVs. This correction is necessary to make the regulatory language in Table 2 of § 383.51 consistent with section 201(b) of MCSIA. The agency requested public comment in response to its May 4, 2001, notice of proposed rulemaking, and intended to adopt the necessary regulatory language on July 31, 2002. However, certain regulatory text was omitted, and the agency must now

correct that error. Therefore, the FMCSA finds good cause to adopt this final rule without prior notice or opportunity for public comment (5 U.S.C. 553(b)).

For the same reasons, the FMCSA finds, pursuant to 5 U.S.C. 553(d)(3) that there is good cause for making the rule effective upon publication. The final rule is a technical correction to Table 2 of § 383.51 to make the regulations consistent with MCSIA. Therefore, good cause exists under 5 U.S.C. 553(d) to dispense with the 60-day delay in the effective date requirement and the FMCSA is making the rule effective upon publication in the Federal Register. The final rule does not change the substance of the requirements.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this rulemaking action makes only technical corrections to the current regulations, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. Although the July 2002 final rule establishing the current requirements was a significant regulatory action under section 3(f) of Executive Order 12866, the Office of Management and Budget does not consider this amendment of the final rule to be a significant action.

Regulatory Flexibility Act

This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The original rule did not have a significant effect on a substantial number of small entities, and this rule simply amends Table 2 to § 383.51 to reflect the statutory language in the MCSIA.

Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 et seq.) that will result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of

\$100 million or more in any one year. (2 U.S.C. 1531 *et seq.*)

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks." This rule is not economically significant and does not involve an environmental risk to health or safety that would disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined this action does not have substantial direct Federalism implications that would limit the policymaking discretion of the States. This action will not have a significant effect on the States' ability to execute

traditional State governmental functions, and any additional administrative cost borne by the States should be negligible. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520. Although the July 31, 2002, final rule affected the information collection burden associated with OMB Control No. 2126-0011, titled "Commercial Driver Licensing and Test Standards," this rulemaking does not result in any additional changes to the approved information collection.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this rule under Executive Order 13211, Actions

Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because it is not economically significant and not likely to have a significant adverse effect on the supply, distribution, or use of energy. Additionally, the Administrator of the Office of Information and Regulatory Affairs has not designated this rule as a significant energy action. For these reasons, a Statement of Energy Effects under Executive Order 13211 is not required.

List of Subjects in 49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Commercial driver's license, Commercial motor vehicles, Drug abuse, Highway safety, Motor carriers, Motor vehicle safety.

In consideration of the foregoing, the FMCSA amends title 49, Code of Federal Regulations, Chapter III, part 383 as set forth below:

1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, 31502; sec. 214 of Pub.L. 106-150, 113 Stat. 1766; and 49 CFR 1.73.

§ 383.51 [Amended]

2. Revise Table 2 to § 383.51 to read as follows:

* * * * *

TABLE 2 TO § 383.51

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CDL holder's license or non-CMV driving privileges, for . . .	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CDL holder's license or non-CMV driving privileges, for . . .
(1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the posted speed limit.	60 days	60 days	120 days	120 days.

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Operator's Signature

Date

TABLE 2 TO § 383.51—Continued

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CDL holder's license or non-CMV driving privileges, for . . .	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for . . .	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CDL holder's license or non-CMV driving privileges, for . . .
(2) driving recklessly, as defined by State or local law or regulation, including but not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property.	60 days	60 days	120 days	120 days.
(3) making improper or erratic traffic lane changes.	60 days	60 days	120 days	120 days.
(4) following the vehicle ahead too closely.	60 days	60 days	120 days	120 days.
(5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident.	60 days	60 days	120 days	120 days.
(6) driving a CMV without obtaining a CDL.	60 days	Not applicable	120 days	Not applicable.
(7) driving a CMV without a CDL in the driver's possession ¹ .	60 days	Not applicable	120 days	Not applicable.
(8) driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.	60 days	Not applicable	120 days	Not applicable.

¹Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, shall not be guilty of this offense.

Issued on: January 22, 2003.

Annette M. Sandberg,

Acting Administrator.

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