

FIRST ENGROSSMENT  
with Senate Amendments

Sixty-first  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1438

Introduced by

Representatives D. Johnson, Gruchalla, Hofstad

Senators Fiebiger, G. Lee, Oehlke

1 A BILL for an Act to create and enact a new section to chapter 39-06.2 of the North Dakota  
2 Century Code, relating to a nonresident commercial driver's license; to amend and reenact  
3 sections 39-06.2-02, 39-06.2-08, and 39-06.2-09 of the North Dakota Century Code, relating to  
4 an application for a nonresident commercial driver's license; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 39-06.2-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **39-06.2-02. Definitions.** As used in this chapter, unless the context or subject matter  
9 otherwise requires:

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

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

- 1           13. "Drug" means any drug or substance or combination of drugs or substances which  
2                   renders a person incapable of safely driving, and includes any controlled  
3                   substance.
- 4           14. "Employer" means any person, including the United States, a state, or a political  
5                   subdivision of a state, who owns or leases a commercial motor vehicle, or assigns  
6                   a person to drive a commercial motor vehicle.
- 7           15. "Fatality" means the death of a person as a result of a motor vehicle accident.
- 8           16. "Felony" means any offense under state or federal law which is punishable by  
9                   death or imprisonment for a term exceeding one year.
- 10          17. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
- 11          18. "Gross vehicle weight rating" means the value specified by the manufacturer as  
12                   the maximum loaded weight of a single or a combination (articulated) vehicle. The  
13                   gross vehicle weight rating of a combination (articulated) vehicle (commonly  
14                   referred to as the "gross combination weight rating") is the gross vehicle weight  
15                   rating of the power unit plus the gross vehicle weight rating or actual weight of the  
16                   towed unit or units.
- 17          19. "Hazardous materials" means any material that has been designated as hazardous  
18                   under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR  
19                   part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR  
20                   part 73.
- 21          20. "Imminent hazard" means the existence of a condition that presents a substantial  
22                   likelihood that death, serious illness, severe personal injury, or a substantial  
23                   endangerment to health, property, or the environment may occur before the  
24                   reasonably foreseeable completion date of a formal proceeding begun to lessen  
25                   the risk of that death, illness, injury, or endangerment.
- 26          21. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is  
27                   propelled by electric power obtained from overhead trolley wires but not operated  
28                   upon rails, except vehicles moved solely by human power and motorized  
29                   wheelchairs.
- 30          22. "Noncommercial motor vehicle" means a motor vehicle or combination of motor  
31                   vehicles not defined by the term commercial motor vehicle.

- 1           23.   "Nonresident commercial driver's license" means a commercial driver's license  
2                   issued by a state to an individual domiciled in a foreign country meeting the  
3                   requirements of 49 CFR 383.23(b)(1).
- 4           24.   "Out-of-service order" means a temporary prohibition against driving a commercial  
5                   motor vehicle.
- 6   ~~24.~~ 25.   "Serious traffic violation" means a conviction when operating a commercial motor  
7                   vehicle of:
- 8                   a.   Excessive speeding, involving a single charge of any speed fifteen miles  
9                           [24.14 kilometers] per hour or more, above the posted speed limit;
- 10                  b.   Reckless driving, as defined under section 39-08-03 or local ordinance,  
11                           including charges of driving a commercial motor vehicle in willful or wanton  
12                           disregard for the safety of persons or property, improper or erratic traffic lane  
13                           changes, or following the vehicle ahead too closely;
- 14                  c.   A violation of any state or local law related to motor vehicle traffic control,  
15                           other than a parking violation, arising in connection with a fatal accident;
- 16                  d.   Driving a commercial motor vehicle without obtaining a commercial driver's  
17                           license;
- 18                  e.   Driving a commercial motor vehicle without a commercial driver's license in  
19                           the driver's possession. An individual who provides proof to the enforcement  
20                           authority that issued the citation, by the date the individual must appear in  
21                           court or pay a fine for such violation, that the individual held a valid  
22                           commercial driver's license on the date the citation was issued, is not guilty of  
23                           this offense; or
- 24                  f.   Driving a commercial motor vehicle without the proper class of commercial  
25                           driver's license or endorsement, or both, for the specific vehicle group being  
26                           operated or for the passengers or type of cargo being transported.
- 27   ~~25.~~ 26.   "State" means a state of the United States or the District of Columbia.
- 28   ~~26.~~ 27.   "United States" means the fifty states and the District of Columbia.

29           **SECTION 2. AMENDMENT.** Section 39-06.2-08 of the North Dakota Century Code is  
30 amended and reenacted as follows:

31           **39-06.2-08. Application for commercial driver's license.**

- 1           1. The application for a commercial driver's license or commercial driver's instruction  
2           permit must include the following:
  - 3           a. The full name and current mailing address of the ~~person~~ applicant;
  - 4           b. A physical description of the ~~person~~ applicant, including sex, height, weight,  
5           and eye and hair color;
  - 6           c. Date of birth;
  - 7           d. The applicant's social security number, unless the application is for a  
8           nonresident commercial driver's license and the applicant is a resident of a  
9           foreign jurisdiction;
  - 10          e. The ~~person's~~ applicant's signature;
  - 11          f. The certifications including those required by 49 CFR part 383.71(a);
  - 12          g. Any other information required by the director; and
  - 13          h. A consent to release driving record information.
- 14          2. The application must be accompanied by an application fee of fifteen dollars.
- 15          ~~2.~~ 3. When the holder of a commercial driver's license changes the holder's name or  
16          mailing address, an application for a duplicate license must be made as provided  
17          in section 39-06-18.
- 18          ~~3.~~ 4. ~~No person~~ An individual who has been a resident of this state for thirty days may  
19          not drive a commercial motor vehicle under the authority of a commercial driver's  
20          license issued by another jurisdiction.
- 21          ~~4.~~ 5. Any ~~person~~ individual who knowingly falsifies information or certifications required  
22          under subsection 1 is subject to suspension, revocation, or cancellation of the  
23          ~~person's~~ individual's commercial driver's license for a period of at least sixty  
24          consecutive days.

25           **SECTION 3. AMENDMENT.** Section 39-06.2-09 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **39-06.2-09. Commercial driver's license.**

- 28           1. ~~Content of license.~~ The commercial driver's license must be marked "commercial  
29           driver's license", and must be, to the maximum extent practicable, tamper proof. It  
30           must include the following information:
  - 31           a. The name and residential address of the person;

- 1           b. The person's color photograph;
- 2           c. A physical description of the person, including sex, height, weight, and eye
- 3           and hair color;
- 4           d. Date of birth;
- 5           e. A distinguishing number assigned to the person which upon request may be a
- 6           number different from the person's social security number;
- 7           f. The person's signature;
- 8           g. The class or type of commercial motor vehicle or vehicles which the person is
- 9           authorized to drive together with any endorsements or restrictions;
- 10          h. The name of this state; and
- 11          i. The dates between which the license is valid.
- 12          2. The director may issue a nonresident commercial driver's license pursuant to the
- 13          limitations of 49 CFR 383 including waiving the social security number
- 14          requirement. The face of the license must be marked "nonresident" in accordance
- 15          with 49 CFR 383.153(b).
- 16          3. ~~Classifications, endorsements, and restrictions.~~ Commercial driver's licenses may
- 17          be issued with the following classifications, endorsements, and restrictions; the
- 18          holder of a valid commercial driver's license may drive all vehicles in the class for
- 19          which that license is issued and all lesser classes of vehicles except motorcycles.
- 20          Vehicles for which an endorsement is required may not be driven unless the
- 21          proper endorsement appears on the license. The requirements of placarding
- 22          vehicles transporting hazardous materials under subparagraph b of paragraph 3 of
- 23          subdivision a and the endorsement required under paragraph 1 of subdivision b do
- 24          not apply to a person who is the operator of a farm vehicle, provided such vehicle
- 25          is controlled and operated by a farmer and used to transport hazardous materials
- 26          in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of
- 27          the farm, and not used in the operations of a common or contract carrier.
- 28          a. Classifications:
- 29                (1) Class A. Any combination of vehicles with a gross vehicle weight rating
- 30                of more than twenty-six thousand pounds [11793.40 kilograms],

- 1 provided the gross vehicle weight rating of the vehicles being towed is  
2 in excess of ten thousand pounds [4535.92 kilograms].
- 3 (2) Class B. Any single vehicle with a gross vehicle weight rating of more  
4 than twenty-six thousand pounds [11793.40 kilograms], and any such  
5 vehicle towing a vehicle not in excess of ten thousand pounds [4535.92  
6 kilograms].
- 7 (3) Class C. Any single vehicle with a gross vehicle weight rating of  
8 twenty-six thousand pounds [11793.40 kilograms] or less or any such  
9 vehicle towing a vehicle with a gross vehicle weight rating not in excess  
10 of ten thousand pounds [4535.92 kilograms] comprising:
- 11 (a) Vehicles designed to transport sixteen or more passengers,  
12 including the driver; and
- 13 (b) Vehicles used in the transportation of hazardous materials which  
14 requires the vehicle to be placarded under 49 CFR part 172,  
15 subpart F.
- 16 b. Endorsements and restrictions:
- 17 (1) "H" - authorizes the driver to drive a vehicle transporting hazardous  
18 materials.
- 19 (2) "T" - authorizes driving double and triple trailers.
- 20 (3) "P" - authorizes driving vehicles carrying passengers.
- 21 (4) "N" - authorizes driving tank vehicles.
- 22 (5) "X" - combinations of tank vehicles and hazardous material vehicles.
- 23 (6) "S" - authorizes driving a schoolbus.
- 24 Other restrictions may be placed upon a commercial driver's license, as provided  
25 in section 39-06-17. The applicant shall pay a fee of three dollars for each  
26 endorsement.
- 27 ~~3.~~ 4. ~~Applicant record check.~~ Before issuing a commercial driver's license, the director  
28 shall obtain driving record information through the commercial driver's license  
29 information system, the national driver's register, and from each state in which the  
30 person has been licensed.

1       4. ~~5.~~ ~~Notification of license issuance.~~ Within ten days after issuing a commercial  
2           driver's license, the director shall notify the commercial driver's license information  
3           system of that fact, providing all information required to ensure identification of the  
4           person.

5       5. ~~6.~~ ~~Expiration of license.~~ A commercial driver's license issued under this chapter  
6           expires in the manner provided for operator's licenses under section 39-06-19.

7       6. ~~7.~~ ~~License renewal procedures.~~ Every person applying for renewal of a commercial  
8           driver's license must complete the application form required by subsection 1 of  
9           section 39-06.2-08, providing updated information and required certifications. If  
10          the applicant wishes to retain a hazardous materials endorsement, the written test  
11          for a hazardous materials endorsement must be taken and passed.

12           **SECTION 4.** A new section to chapter 39-06.2 of the North Dakota Century Code is  
13   created and enacted as follows:

14           **Nonresident license.**

15           1. The department may issue a nonresident commercial driver's license to an  
16           applicant who does not present a social security card as required by section  
17           39-06.2-08 but who otherwise meets the requirements for a nonresident  
18           commercial driver's license. A license issued under this subsection is valid only  
19           during the period of time of the applicant's authorized stay in the United States.  
20           The license may be renewed only upon presentation of valid documentary  
21           evidence that the status has been extended. The department shall renew without  
22           a skills or knowledge test a nonresident commercial license that has been expired  
23           for a duration not longer than one year.

24           2. The fee for a nonresident commercial driver's license is twenty dollars.

25           **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.