

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to create and enact a new subsection to section 39-06.1-10 of the North  
2 Dakota Century Code, relating to the disqualification of foreign commercial drivers; to amend  
3 and reenact section 39-06.2-02 and subsection 1 of section 39-06.2-06 of the North Dakota  
4 Century Code, relating to the definitions relating to commercial driver's licenses and to  
5 exceptions for commercial driver's licenses.

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

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

9 **39-06.2-02. Definitions.**

10 As used in this chapter, unless the context or subject matter otherwise requires:

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

- 1           6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles  
2           designed or used to transport passengers or property:
- 3           a. If the gross combination weight rating or gross combination weight is twenty-six  
4           thousand one pounds [11793.86 kilograms] or more, whichever is greater,  
5           provided the towed unit has a gross vehicle weight rating or gross vehicle weight  
6           of more than ten thousand pounds [4536 kilograms], whichever is greater;
- 7           b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more  
8           than twenty-six thousand pounds [11793.40 kilograms], whichever is greater;
- 9           c. If the vehicle is designed to transport sixteen or more passengers, including the  
10          driver; or
- 11          d. If the vehicle is transporting hazardous materials and is required to be placarded  
12          in accordance with 49 CFR part 172, subpart F or any quantity of a material listed  
13          as a select agent or toxin in 42 CFR part 73.
- 14          7. "Controlled substance" means any substance so classified under section 802(6) of the  
15          Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on  
16          schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
- 17          8. "Conviction" means an unvacated adjudication of guilt, or a determination that an  
18          individual 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 individual's appearance in court, the payment of a fine or court  
21          cost, or violation of a condition of release without bail, regardless of whether or not the  
22          penalty is rebated, suspended, or probated.
- 23          9. "Covered farm vehicle" means a straight truck or articulated vehicle:
- 24          a. Registered in a state with a licensed plate or other designation issued by the  
25          state of registration which allows law enforcement officials to identify it as a farm  
26          vehicle;
- 27          b. Operated by the owner or operator of a farm or ranch or an employee or family  
28          member of a owner or operator of a farm or ranch;
- 29          c. Used to transport agricultural commodities, livestock, machinery, or supplies to or  
30          from a farm or ranch; and

- 1           d. Not used in for-hire motor carrier operations; however, for-hire motor carrier  
2           operations do not include the operation of a vehicle meeting the requirements of  
3           subdivisions a, b, and c of this subsection by a tenant pursuant to a crop share  
4           farm lease agreement to transport the landlord's portion of the crops under that  
5           agreement.
- 6           e. Meeting the requirements of subdivisions a, b, c, and d of this subsection:
- 7           (1) With a gross vehicle weight or gross vehicle weight rating, whichever is  
8           greater, of twenty-six thousand one pounds [11793.86 kilograms] or less  
9           may utilize the exemptions in 40 CFR 390.39 anywhere in the United  
10           States; or
- 11           (2) With a gross vehicle weight or gross vehicle weight rating, whichever is  
12           greater, or more than twenty-six thousand one pounds [11793.86 kilograms]  
13           may utilize the exemptions in 40 CFR 390.39 anywhere in the state of  
14           registration or across the state lines within one hundred fifty air miles of the  
15           farm or ranch with respect to which the vehicle is being operated.
- 16        10. "Disqualification" means a withdrawal of the privilege to drive a commercial motor  
17        vehicle.
- 18        ~~40-11.~~ "Downgrade" means:
- 19           a. A state allows the driver to change the driver's self-certification to interstate, but  
20           operating exclusively in transportation or operation excepted from 49 CFR  
21           part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;
- 22           b. A state allows the driver to change the driver's self-certification to intrastate only,  
23           if the driver qualifies under the state's physical qualification requirements for  
24           intrastate only;
- 25           c. A state allows the driver to change the driver's certification to intrastate, but  
26           operating exclusively in transportation or operations excepted from all or part of  
27           the state driver's qualification; or
- 28           d. A state removes the commercial driver's license privilege from the driver's  
29           license.
- 30        ~~44-12.~~ "Drive" means to drive, operate, or be in physical control of a motor vehicle.

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- 1 ~~12-13.~~ "Driver" means an individual who drives, operates, or is in physical control of a  
2 commercial motor vehicle, or who is required to hold a commercial driver's license.
- 3 ~~13-14.~~ "Driver's license" means a license issued by a state to an individual which authorizes  
4 the individual to drive a motor vehicle.
- 5 ~~14-15.~~ "Drug" means any drug or substance or combination of drugs or substances which  
6 renders an individual incapable of safely driving, and includes any controlled  
7 substance.
- 8 ~~15-16.~~ "Electronic device" includes a cellular telephone, personal digital assistant, pager,  
9 computer, or any other device used to input, write, send, receive, or read text.
- 10 ~~16-17.~~ "Employer" means any person, including the United States, a state, or a political  
11 subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an  
12 individual to drive a commercial motor vehicle.
- 13 ~~17-18.~~ "Fatality" means the death of an individual as a result of a motor vehicle accident.
- 14 ~~18-19.~~ "Felony" means any offense under state or federal law which is punishable by death or  
15 imprisonment for a term exceeding one year.
- 16 20. "Foreign commercial driver" means an individual licensed to operate a commercial  
17 motor vehicle by an authority outside the United States or a citizen of a foreign country  
18 who operates a commercial motor vehicle in the United States.
- 19 ~~19-21.~~ "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
- 20 ~~20-22.~~ "Gross vehicle weight rating" means the value specified by the manufacturer as the  
21 maximum loaded weight of a single or a combination or articulated vehicle. The gross  
22 vehicle weight rating of a combination or articulated vehicle, commonly referred to as  
23 the "gross combination weight rating", is the gross vehicle weight rating of the power  
24 unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
- 25 ~~21-23.~~ "Hazardous materials" means any material that has been designated as hazardous  
26 under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR  
27 part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR  
28 part 73.
- 29 ~~22-24.~~ "Imminent hazard" means the existence of a condition ~~that presents a substantial~~of  
30 vehicle, employee, or commercial motor vehicle operations which substantially  
31 increases the likelihood that death, of serious illness, severe personal injury, or death if

1           not discontinued immediately or a condition relating to hazardous materials which  
2           presents a substantial likelihood that death, serious illness, severe personal injury, or a  
3           substantial endangerment to health, property, or the environment may occur before  
4           the reasonably foreseeable completion date of a formal proceeding begun to lessen  
5           the risk of that death, illness, injury, or endangerment.

6   ~~23-25.~~ "Mobile telephone" means a mobile communication device that falls under or uses any  
7           commercial mobile radio service, as defined in regulations of the federal  
8           communications commission in 47 CFR 20.3. The term does not include two-way and  
9           citizens band radio services.

10 ~~24-26.~~ "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is  
11           propelled by electric power obtained from overhead trolley wires but not operated  
12           upon rails, except vehicles moved solely by human power and motorized wheelchairs.

13 ~~25-27.~~ "Noncommercial motor vehicle" means a motor vehicle or combination of motor  
14           vehicles not defined by the term commercial motor vehicle.

15 ~~26-28.~~ "Nondomiciled commercial driver's license" means a commercial driver's license or a  
16           commercial learner's permit issued by a state to an individual domiciled in a foreign  
17           country meeting the requirements of 49 CFR 383.23(b)(1).

18 ~~27-29.~~ "Out-of-service order" means a temporary prohibition against driving a commercial  
19           motor vehicle.

20 ~~28-30.~~ "Serious traffic violation" means a conviction when operating a commercial motor  
21           vehicle of:

- 22           a. Excessive speeding, involving a single charge of any speed fifteen miles  
23           [24.14 kilometers] per hour or more, above the posted speed limit;
- 24           b. Reckless driving, as defined under section 39-08-03 or local ordinance, including  
25           charges of driving a commercial motor vehicle in willful or wanton disregard for  
26           the safety of an individual or property, improper or erratic traffic lane changes, or  
27           following the vehicle ahead too closely;
- 28           c. A violation of any state or local law related to motor vehicle traffic control, other  
29           than a parking violation, arising in connection with a fatal accident;
- 30           d. Driving a commercial motor vehicle without obtaining a commercial driver's  
31           license or commercial learner's permit;

- 1 e. Driving a commercial motor vehicle without a commercial driver's license or  
2 commercial learner's permit in the driver's possession. An individual who provides  
3 proof to the enforcement authority that issued the citation, by the date the  
4 individual must appear in court or pay a fine for such violation, that the individual  
5 held a valid commercial driver's license or commercial learner's permit on the  
6 date the citation was issued, is not guilty of this offense;
- 7 f. Driving a commercial motor vehicle without the proper class of commercial  
8 driver's license, endorsement, or commercial learner's permit, for the specific  
9 vehicle group being operated or for the passengers or type of cargo being  
10 transported;
- 11 g. Violating a state or local law or ordinance prohibiting texting while driving; or
- 12 h. Violating a state law or local law or ordinance on motor vehicle traffic control  
13 restricting or prohibiting the use of a hand-held mobile telephone while driving a  
14 commercial motor vehicle.
- 15 ~~29-31.~~ "State" means a state of the United States or the District of Columbia.
- 16 ~~30-32.~~ "Tank vehicle" means any commercial motor vehicle that is designed to transport any  
17 liquid or gaseous material within one or more tanks having an individual rated capacity  
18 of more than one hundred nineteen gallons [450.46 liters] and an aggregate rated  
19 capacity of one thousand gallons [3785.41 liters] or more that is either permanently or  
20 temporarily attached to the vehicle or the chassis. A commercial motor vehicle  
21 transporting an empty storage container tank, not designed for transportation, with a  
22 rated capacity of one thousand gallons [3785.41 liters] or more that is temporarily  
23 attached to a flatbed trailer is not considered a tank vehicle.
- 24 ~~31-33.~~ "Texting" means manually entering alphanumeric text into, or reading text from, an  
25 electronic device. This action includes short message service, e-mailing, instant  
26 messaging, a command or request to access a worldwide web page, pressing more  
27 than a single button to initiate or terminate a voice communication using a mobile  
28 telephone or engaging in any other form of electronic text retrieval or entry, for present  
29 or future communication. "Texting" does not include:
- 30 a. Pressing a single button to initiate or terminate a voice communication using a  
31 mobile telephone;

1           b.    Inputting, selecting, or reading information on a global positioning system or  
2           navigation system; or

3           c.    Using a device capable of performing multiple functions, including fleet  
4           management systems, dispatching devices, smartphones, citizens' band radios,  
5           or music players, for a purpose that is not otherwise prohibited in 49 CFR  
6           part 383.

7   ~~32.34.~~ "Third-party skills test examiner" means an individual employed by a third-party tester  
8           who is authorized by the state to administer the skills tests in 49 CFR part 383,  
9           subparts G and H.

10 ~~33.35.~~ "Third-party tester" means a person, including another state, a motor carrier, a private  
11           driver training facility or other private institution, or a political subdivision authorized by  
12           the state to employ skills test examiners to administer the skills tests in 49 CFR  
13           part 383, subparts G and H.

14 ~~34.36.~~ "United States" means the fifty states and the District of Columbia.

15 ~~35.37.~~ "Use a hand-held mobile telephone" means using at least one hand to hold a mobile  
16           telephone to conduct a voice communication; dialing or answering a mobile telephone  
17           by pressing more than a single button; or reaching for a mobile telephone in a manner  
18           that requires a driver to maneuver so that the driver is no longer in a seated driving  
19           position, restrained by a seatbelt that is installed under 49 CFR 393.93 and adjusted in  
20           accordance with the vehicle manufacturer's instructions.

21           **SECTION 2. AMENDMENT.** Subsection 1 of section 39-06.2-06 of the North Dakota  
22 Century Code is amended and reenacted as follows:

- 23           1.    Except when driving under a commercial learner's permit and accompanied by the  
24           holder of a commercial driver's license valid for the vehicle being driven, an individual  
25           may not drive a commercial motor vehicle on the highways of this state unless the  
26           individual holds and is in immediate possession of a commercial driver's license with  
27           applicable endorsements valid for the vehicle the individual is driving. This subsection  
28           does not apply:
- 29           a.    When the vehicle being driven is a house car or a vehicle towing a travel trailer  
30           being used solely for personal rather than commercial purposes.

- 1           b. When the vehicle being driven constitutes emergency or firefighting equipment  
2           necessary to the preservation of life or property.  
3           c. When the vehicle is being driven for military purposes, subject to any limitations  
4           imposed by 49 CFR part 383.3(c).  
5           d. When the vehicle being driven is a covered farm vehicle as defined in this  
6           chapter.

7           **SECTION 3.** A new subsection to section 39-06.2-10 of the North Dakota Century Code is  
8 created and enacted as follows:

9           A foreign commercial driver is subject to disqualification under this section.