

1 S.282

2 Introduced by Committee on Transportation

3 Date:

4 Subject: Motor vehicles; commercial driver license; Department of Defense;
5 exemption; renewal; hazardous materials endorsement; records; time
6 limits; notification; convictions; disqualification; out-of-service order;
7 penalties; surface transportation; rules; hazardous materials; safety
8 standards; adoption; enforcement

9 Statement of purpose: This bill proposes to update and clarify the law
10 regarding commercial driver licenses and commercial motor vehicles.

11 Specifically, this bill proposes to:

12 (1) exempt all United States Department of Defense vehicles from the
13 definition of commercial motor vehicle;

14 (2) revise a reference to the Code of Federal Regulations;

15 (3) specify that renewal of a commercial driver's license may be done no
16 earlier than six months prior to its expiration and require the surrender of the
17 previous license upon renewal;

18 (4) authorize the revocation or denial of a hazardous materials endorsement
19 upon an adverse initial or final determination of a security threat assessment;

20 (5) establish a 30-day limit in which a request for an operating record must
21 be fulfilled;

1 (6) establish a 10-day limit in which a Vermont conviction must be
2 reported to a commercial driver license holder's licensing jurisdiction;

3 (7) require disqualifications to be served consecutively;

4 (8) clarify that a commercial motor vehicle may not be operated in
5 violation of an out-of-service order and adjust the penalties for violations of
6 out-of-service orders to conform to federal requirements;

7 (9) clarify that commercial driver records and data are retained in
8 accordance with federal requirements; and

9 (10) update the statutes authorizing the adoption and enforcement of rules
10 for the transportation of hazardous materials and motor carrier safety.

11 An act relating to updating and clarifying provisions regarding commercial
12 driver licenses and commercial motor vehicles

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 23 V.S.A. § 4103(4)(B)(iii) is amended to read:

15 (iii) ~~military~~ equipment owned or operated by the United States
16 Department of Defense, including the National Guard, and operated by
17 noncivilian personnel or by National Guard military technicians (civilians who
18 are required to wear military uniforms) and active duty U.S. Coast Guard
19 personnel;

1 providing updated information and required certifications. If the applicant
2 wishes to retain a hazardous materials endorsement, the written test for a
3 hazardous materials endorsement must be taken and passed. In addition, the
4 applicant must successfully complete the security threat assessment required
5 by 49 C.F.R. part 1572. Within 15 days of an adverse initial or final
6 determination of threat assessment being served by the United States
7 Transportation Security Administration, the applicant's hazardous materials
8 endorsement shall be revoked or denied.

9 Sec. 4. 23 V.S.A. § 4112 is amended to read:

10 § 4112. RECORDS; NOTIFICATION

11 (a) After suspending, revoking, or disqualifying a person from holding a
12 commercial driver license, the commissioner shall update his or her records to
13 reflect that action within 10 days. After suspending, revoking, or disqualifying
14 a nonresident commercial driver's privileges, the commissioner shall notify the
15 licensing authority of the state which issued the commercial driver license or
16 commercial driver certificate within 10 days.

17 (b) When the commissioner receives a request for an operating record of a
18 person currently or previously licensed in Vermont, the commissioner shall
19 provide the information within 30 days.

1 Sec. 5. 23 V.S.A. § 4113 is amended to read:

2 § 4113. NOTIFICATION OF TRAFFIC CONVICTIONS

3 When a person who holds a commercial driver license issued by another
4 state is convicted in this state of any violation of state law or local ordinance
5 relating to motor vehicle traffic control, other than parking violations, in any
6 type of vehicle, the commissioner shall notify the driver licensing authority in
7 the licensing state of the conviction within ~~30~~ 10 days.

8 Sec. 6. 23 V.S.A. § 4116(d) and (k) are amended to read:

9 (d) A person shall be disqualified from driving a commercial motor vehicle
10 for a period of 60 days if convicted of two serious traffic violations, or 120
11 days if convicted of three serious traffic violations, arising from separate
12 incidents occurring within a three-year period. A disqualification for 120 days
13 shall be issued to be consecutive with any previous disqualification.

14 (k) A person shall be disqualified for a term concurrent with any
15 disqualification or suspension issued by the administrator of the Federal Motor
16 Carrier Safety Administration pursuant to 49 C.F.R. ~~part~~ section 383.52.

17 Sec. 7. 23 V.S.A. § 4119 is amended to read:

18 § 4119. COMPLIANCE WITH OUT-OF-SERVICE ORDER;

19 DISQUALIFICATION FROM OPERATION OF VEHICLE

20 (a) No person shall operate a commercial motor vehicle in violation of an
21 out-of-service order.

1 **(b)** Any person convicted for violating an out-of-service order shall be
2 disqualified as follows except as provided in subsection ~~(b)~~**(c)** of this section:

3 (1) A person shall be disqualified from driving a commercial motor
4 vehicle for a period of ~~90~~ 180 days if convicted of a first violation of an
5 out-of-service order.

6 (2) A person shall be disqualified for a period of ~~one year~~ two years if
7 convicted of a second violation of an out-of-service order during any ten-year
8 period, arising from separate incidents.

9 (3) A person shall be disqualified for a period of three years if
10 convicted of a third or subsequent violation of an out-of-service order during
11 any ten-year period, arising from separate incidents.

12 ~~(b)~~**(c)** Any person convicted for violating an out-of-service order while
13 transporting hazardous materials or while operating a commercial motor
14 vehicle designed or used to transport ~~15~~ 16 or more passengers, including the
15 driver, shall be disqualified as follows:

16 (1) A person shall be disqualified for a period of 180 days if convicted
17 of a first violation of an out-of-service order.

18 (2) A person shall be disqualified for a period of three years if convicted
19 of a second or subsequent violation of an out-of-service order during any
20 ten-year period, arising from separate incidents.

1 Sec. 8. 23 V.S.A. § 4120(a) is amended to read:

2 (a) Notwithstanding any other provision of law to the contrary, any driver
3 who violates or fails to comply with an out-of-service order is subject to a
4 penalty of ~~\$1,500.00~~ for a first conviction or for a second or subsequent
5 conviction at the applicable minimum level set forth in 49 C.F.R. section
6 383.53(b)(1), in addition to disqualification under this chapter.

7 (b) Any employer who violates an out-of-service order, or who knowingly
8 requires or permits a driver to violate or fail to comply with an out-of-service
9 order, is subject to a penalty of ~~\$4,000.00~~ for a first conviction or for a second
10 or subsequent conviction at the applicable minimum level set forth in
11 49 C.F.R. section 383.53(b)(2).

12 Sec. 9. 23 V.S.A. § 102(a) is amended to read:

13 (a) The commissioner shall:

14 * * *

15 (9) Issue nondriver identification cards; and

16 (10) Maintain commercial driver records and driver identification data
17 in accordance with the provisions of 49 C.F.R section 384.231(d).

18 Sec. 10. 5 V.S.A. § 2001(d) and (f) are amended to read:

19 (d) Notwithstanding any other provision of this chapter or other law
20 whether general, special, or local, violations of any rules promulgated pursuant
21 to this section involving the operation of a motor vehicle may be charged

1 through the use of a traffic complaint prescribed by the supreme court pursuant
2 to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

3 (f) The regulations promulgated by the ~~Materials Transportation Bureau of~~
4 ~~the Pipeline and Hazardous Materials Safety Administration,~~ United States
5 Department of Transportation contained in Parts ~~170–189~~ 100–199 of Title 49
6 of the Code of Federal Regulations revised as of ~~December 31, 1976~~
7 October 1, 2007, and any amendment or addition to these regulations, and the
8 regulations promulgated by the ~~Bureau of Federal~~ Motor Carrier Safety,
9 ~~Federal Highway~~ Administration, United States Department of Transportation
10 contained in Parts 390–397 of Title 49 of the Code of Federal Regulations,
11 revised as of October 1, ~~1976~~ 2008, and any amendment or addition to these
12 regulations and any provisions of any other regulations regarding the
13 transportation of hazardous materials adopted by a federal agency may be
14 adopted by the secretary of transportation.

15 Sec. 11. 5 V.S.A. § 2101(d) and (e) are amended to read:

16 (d) Notwithstanding any other provision of this chapter or other law
17 whether general, special, or local, violations of any rules adopted pursuant to
18 this section involving the operation of a motor vehicle may be charged through
19 the use of a traffic complaint prescribed by the supreme court pursuant to
20 ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

1 (e) The regulations promulgated by the Federal Motor Carrier Safety
2 Administration, United States Department of Transportation contained in parts
3 350, 360, 365, 372, 381–383, 386–388, 390–397, and 399 of Title 49 of the
4 Code of Federal Regulations, revised as of October 1, ~~2002~~ 2008, and any
5 amendment or addition to these regulations may be adopted by the secretary of
6 transportation.