

No. 20. An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

(S.151)

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

Sec. 1. 23 V.S.A. chapter 39 is amended to read:

CHAPTER 39. COMMERCIAL DRIVER LICENSE ACT

§ 4101. SHORT TITLE

This chapter may be cited as the Commercial Driver License Act.

§ 4102. STATEMENT OF INTENT AND PURPOSE

The purpose of this chapter is to implement 49 U.S.C. ch. 313, as may be amended, and the federal Commercial Motor Vehicle Safety Act of 1986 (~~Title XII of Pub. Law 99-570~~), Title XII of Pub. L. No. 99-570, as amended, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by permitting commercial drivers to hold only one license, disqualifying commercial drivers who have committed certain criminal or other offenses, or serious traffic violations, and strengthening licensing and testing standards. This chapter is a remedial law and shall be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general operator licensing provisions, this chapter prevails. Where this chapter is silent, the general operator licensing provisions apply.

§ 4103. DEFINITIONS

As used in this chapter:

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(3) “Commercial ~~driver instruction~~ learner’s permit” means a permit issued pursuant to ~~subsection 4108(e)~~ sections 4108 and 4110 of this title.

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(16) “Serious traffic violation” means a conviction, when operating a commercial motor vehicle, or when operating a noncommercial motor vehicle when the conviction results in the revocation, cancellation, or suspension of the operator’s license or operating privilege, of:

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(I) texting while driving in violation of section 4125 of this chapter or section 1099 of this title.

(17) “Tank vehicle” means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. ~~Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. part 171. However, they do not include portable tanks having a rated capacity under 1,000 gallons~~ A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not a tank vehicle.

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(20) “Medical examiner” means:

(A) For medical examinations conducted before May 21, 2014, or before such later date as the Federal Motor Carrier Safety Administration (FMCSA) may prescribe, a person who is licensed, certified, or registered in accordance with applicable state laws and rules to perform physical examinations. A “medical examiner” may include a doctor of medicine, osteopathic physician, physician assistant, advanced practice registered nurse, or chiropractic physician.

(B) For medical examinations conducted on and after May 21, 2014, or on or after such later date as the FMCSA may prescribe, an individual certified by the FMCSA and listed on the National Registry of Certified Medical Examiners.

(21) A person’s state of domicile is that state where a person has his or her true, fixed, and permanent home and physical residence and to which he or she has the intention of returning whenever he or she is absent.

(22) “Mobile telephone” means a mobile communication device that falls under or uses any commercial mobile radio service, as defined under 47 C.F.R. § 20.3. “Mobile telephone” does not include two-way or Citizens Band Radio services.

(23) “Texting” means manually entering alphanumeric text into, or reading text from, an electronic device. “Texting” includes short message service, e-mailing, instant messaging, a command or request to access a World

Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication.

“Texting” does not include:

(A) inputting, selecting, or reading information on a global positioning system or navigation system;

(B) pressing a single button to initiate or terminate a voice communication using a mobile telephone; or

(C) using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios, and music players for a purpose that is not otherwise prohibited in this chapter.

(24) “Use a hand-held mobile telephone” means:

(A) using at least one hand to hold a mobile telephone to conduct a voice communication;

(B) dialing or answering a mobile telephone by pressing more than a single button; or

(C) reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position and restrained by a seat belt that is installed in accordance with 49 C.F.R. § 393.93 and adjusted in accordance with the vehicle manufacturer’s instructions.

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§ 4107. COMMERCIAL DRIVER LICENSE REQUIRED

(a) Except when driving under a commercial ~~driver instruction~~ learner's permit and accompanied by the holder of a commercial driver license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this ~~state~~ State unless ~~the person~~:

- (1) the person holds a commercial driver license; and
- (2) the person is in immediate possession of the license; and
- (3) the license has the applicable endorsements valid for the vehicle he or she is driving.

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§ 4108. COMMERCIAL DRIVER LICENSE, COMMERCIAL LEARNER'S PERMIT QUALIFICATION STANDARDS

(a) Before issuing a commercial driver license or commercial learner's permit, the ~~commissioner~~ Commissioner shall request the applicant's complete operating record from any state in which the applicant was previously licensed to operate any type of motor vehicle in the past 10 years and conduct a check of the applicant's operating record by querying the ~~national driver register~~ National Driver Register established under 49 U.S.C. § 30302 and the ~~commercial driver's license information system~~ Commercial Driver's License Information System established under 49 U.S.C. § 31309 to determine if:

- (1) the applicant has already been issued a commercial driver license;

(2) the applicant's commercial driver license has been suspended, revoked, or canceled; or

(3) the applicant has been convicted of any offense listed in ~~Section 205(a)(3) of the National Driver Register Act of 1982 (49 U.S.C. § 30304(a)(3))~~ 49 U.S.C. § 30304(a)(3).

(b) The ~~commissioner~~ Commissioner shall not issue a commercial driver license or commercial ~~driver instruction~~ learner's permit to any person:

(1)(A) under the age of 21 years in the case of commercial driver licenses, except as otherwise provided, that persons 18 years of age or older may obtain a commercial driver license that restricts the driver to operation solely within this State; or

(B) under the age of 18 years in the case of commercial learner's permits;

(2) who, within three years of the license application and for initial applicants only, has been convicted of an offense listed in subsection 4116(a) of this title ~~(or or a comparable offense in any jurisdiction)~~ jurisdiction, or convicted of an offense listed in 49 U.S.C. § 30304(a)(3) in any jurisdiction;

(3) unless ~~that~~ Vermont is the state of domicile of the person is a resident of this state and the person has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts F, G, and H and has satisfied all other requirements of 49 U.S.C. ch.

313, as may be amended, and the Commercial Motor Vehicle Safety Act of 1986, Title XII of Pub. L. 99-570, as amended, in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the ~~commissioner~~ Commissioner.

(c) The ~~commissioner~~ Commissioner may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section, provided:

(1) the test is the same as would otherwise be administered by the ~~state~~ State; and

(2) the third party has entered into an agreement with this ~~state~~ State which complies with requirements of 49 C.F.R. ~~part~~ § 383.75.

(d) ~~A skills test may be waived as follows:~~

~~(1) the commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, may provide for a waiver of the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77;~~

~~(2) the rules may establish deadlines by which applicants must claim entitlement and qualification to skills test waivers and may provide for the scheduling of group knowledge testing. At the discretion of the Commissioner, the skills test required under 49 C.F.R. § 383.113 may be waived for a commercial motor vehicle driver with military commercial motor~~

vehicle experience who is currently licensed at the time of his or her application for a commercial driver license, if the test is substituted with an applicant's driving record in combination with the driving experience specified in this subsection. The Commissioner shall impose conditions and limitations to restrict the applicants from whom alternative requirements for the skills test may be accepted. Such conditions shall include the following:

(1) the applicant must certify that, during the two-year period immediately prior to applying for a commercial driver license, he or she:

(A) has not had more than one license in addition to a military license;

(B) has not had any license suspended, revoked, or cancelled;

(C) has not had any convictions for any type of motor vehicle for the disqualifying offenses specified in subsection 4116(a) of this title;

(D) has not had more than one conviction for any type of motor vehicle for serious traffic violations specified in subdivision 4103(16) of this title; and

(E) has not had any conviction for a violation, other than a parking violation, of military, state, or local law relating to motor vehicle traffic control arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault; and

(2) the applicant must provide evidence and certify that he or she:

(A) is regularly employed or was regularly employed within the last 90 days in a military position requiring operation of a commercial motor vehicle;

(B) was exempted from the commercial driver license requirements in 49 C.F.R. § 383.3(c); and

(C) was operating for at least the two years immediately preceding discharge from the military a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

(e) ~~A Obtaining a commercial driver instruction learner's permit shall be issued as follows:~~

~~(1) a commercial driver instruction permit is a precondition to the initial issuance of a commercial driver license. The issuance of a commercial learner's permit also is a precondition to the upgrade of a commercial driver license if the upgrade requires a skills test. A permit may be issued to an individual who holds a valid Vermont driver's license from any jurisdiction who has passed the vision and written tests required for the class of license authorizing the operation of the type of vehicle for which the permit application is being made; A commercial learner's permit holder is not eligible to take the commercial driver license skills test in the first 14 days after initial issuance of the commercial learner's permit. A permit shall be issued for a period of six months, and only one renewal or reissuance of a commercial learner's permit may be granted within a two-year period.~~

~~(2) the commercial driver instruction permit shall be issued for a period of six months for a fee of \$12.00. Only one renewal or reissuance may be granted within a two year period. The holder of a commercial driver instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.~~

(f) The fee for a knowledge test and accompanying skill test shall be \$35.00 for the first test and \$30.00 for each subsequent test. The fee for an endorsement test shall be \$13.00. In the event that an applicant fails a test three times, he or she may not take the test again for at least six months. A fee of \$20.00 shall be paid by the applicant before he or she may schedule a skill test. If an applicant does not appear for the scheduled skill test, the \$20.00 scheduling fee is forfeited and another \$20.00 scheduling fee must be paid before another skill test will be scheduled, unless the applicant has given the ~~department~~ Department at least 48 hours' notice of cancellation of the test. If the applicant passes the skill test, the \$20.00 scheduling fee for that test will be used as part of the license fee. If the applicant appears for the scheduled skill test and fails the skill test, a subsequent skill test will be scheduled without an additional \$20.00 fee. Use of an interpreter is prohibited during the administration of the knowledge or skills tests.

(g) A commercial driver license, or commercial ~~driver instruction~~ learner's permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked, or cancelled in any state. A driver license may not be issued to a person who has a commercial driver license issued by any state unless the person first surrenders all driver licenses issued by any state, which licenses shall be returned to the issuing states for cancellation.

(h) A person shall be entitled to take the test for a commercial driver license unless his or her driver's license is, at the time of the requested test, suspended, revoked, cancelled, or disqualified in any other state.

§ 4109. NONRESIDENT NONDOMICILED COMMERCIAL DRIVER LICENSE; NONDOMICILED COMMERCIAL LEARNER'S PERMIT

(a) The ~~commissioner~~ Commissioner may issue a ~~nonresident nondomiciled~~ commercial driver license or a nondomiciled commercial learner's permit to a resident of an individual domiciled in a foreign jurisdiction if the ~~United States secretary of transportation~~ Federal Motor Carrier Safety Administrator has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. part 383. In addition, the ~~commissioner~~ Commissioner may issue a ~~nonresident nondomiciled~~

commercial driver license or a nondomiciled commercial learner's permit to a person domiciled in a state while that state is prohibited from issuing commercial driver licenses in accordance with 49 C.F.R. ~~part~~ § 384.405. The word "~~nonresident~~" "nondomiciled" must appear on the face of the ~~nonresident~~ nondomiciled commercial driver license or nondomiciled commercial learner's permit. An applicant shall surrender any ~~nonresident~~ nondomiciled commercial driver license or nondomiciled commercial learner's permit issued by another state. Prior to issuing a ~~nonresident~~ nondomiciled commercial driver license or nondomiciled commercial learner's permit, the ~~commissioner~~ Commissioner shall establish the practical capability of revoking or suspending the ~~nonresident~~ nondomiciled commercial driver license or nondomiciled commercial learner's permit.

(b) An applicant domiciled in a foreign jurisdiction must provide an unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant's most recent admittance into the United States. No proof of domicile is required.

(c) An applicant for a nondomiciled commercial driver license or commercial learner's permit is not required to surrender his or her foreign license.

§ 4110. APPLICATION FOR COMMERCIAL DRIVER LICENSE OR
COMMERCIAL LEARNER'S PERMIT

(a) The application for a commercial driver license or commercial ~~driver~~
~~instruction~~ learner's permit shall include the following:

(1) The full name and current mailing and residential address of the person.

(2) A physical description of the person, including sex, height, and weight.

(3) Date of birth and proof of age.

(4) The applicant's Social Security number; unless the application is for a ~~nonresident~~ nondomiciled commercial driver license or a nondomiciled commercial learner's permit. The Commissioner must verify the name, date of birth, and Social Security number provided by the applicant with the information on file with the Social Security Administration. A commercial learner's permit or commercial driver license may not be issued, renewed, or upgraded if data in the Social Security Administration database does not match the data provided by the applicant.

(5) The person's signature.

(6) Certifications that:

(A) ~~for an applicant who operates or expects to operate in interstate or foreign commerce or who is otherwise subject to 49 C.F.R. part 391, the applicant meets the qualifications requirements contained in part 391; or~~

~~operates or expects to operate entirely in intrastate commerce and who is not subject to part 391, that the applicant is subject to state driver qualification requirements and is not subject to part 391;~~ One of the following categories applies to the applicant:

(i) Non-excepted interstate. He or she operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements of 49 C.F.R. part 391, and is required to obtain a medical examiner's certificate under 49 C.F.R. § 391.45.

(ii) Excepted interstate. He or she operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. § 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. part 391 and therefore is not required to obtain a medical examiner's certificate by 49 C.F.R. § 391.45.

(iii) Non-excepted intrastate. He or she operates only in intrastate commerce and therefore is subject to state driver qualification requirements.

(iv) Excepted intrastate. He or she operates only in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state's driver qualification requirements.

(B) ~~the~~ The motor vehicle in which the applicant's skills test will be taken is representative of the type of motor vehicle that the applicant operates or expects to operate;

(C) ~~the~~ The applicant is not subject to any disqualification under 49 C.F.R. ~~section~~ § 383.51, or any license suspension, revocation, or cancellation under the law of any jurisdiction;

(D) ~~the~~ The applicant does not have a driver's license from more than one state or jurisdiction; ~~and,~~

(E) ~~for~~ For initial applicants only, the applicant has not been convicted of an offense listed in subsection 4116(a) of this title ~~(or or a comparable offense in any jurisdiction)~~ jurisdiction, or an offense listed in 49 U.S.C. § 30304(a)(3) in any jurisdiction within three years of the license application.

(7) Any other information required by the ~~commissioner;~~ Commissioner, including, ~~but not limited to~~ the names of all states where the applicant has been licensed to operate any type of motor vehicle during the previous 10 years.

(8) The ~~application shall be accompanied by the~~ proper fee.

(A) The four-year fee for a commercial driver license shall be \$75.00. The two-year fee shall be \$50.00. In those instances where the applicant surrenders a valid Vermont Class D license, the total fees due shall be reduced by:

~~(A)~~(i) one-quarter of the four-year fee established by section 601 of this title for each remaining full year of validity; or

~~(B)(ii)~~ one-half of the two-year fee paid for each remaining full year of validity.

(B) The fee for a commercial learner's permit is \$12.00.

(9) Proof of citizenship or lawful permanent residency as specified in Table 1 of 49 C.F.R. § 383.71.

(10) Proof of compliance with the Transportation Security Administration requirements codified in 49 C.F.R. part 1572 if the person is applying for a hazardous materials endorsement. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his or her U.S. Citizenship and Immigration Services alien registration number.

(11) For an applicant who certifies that he or she will operate commercial motor vehicles in non-excepted interstate commerce, an original or a copy of a certificate prepared by a medical examiner. Certification status or "certified" will be posted in the Commercial Driver's License Information System driver record for the driver.

(b) When a licensee or permittee changes his or her name, mailing address, or residence or in the case of the loss, mutilation, or destruction of a license or permit, the licensee or permittee shall forthwith notify the ~~commissioner~~ Commissioner and apply in person for a duplicate license or permit in the same manner as set forth in subsection (a) of this section. The fee for a duplicate license or permit shall be \$13.00.

(c) A person ~~who has been a resident of this state~~ for whom Vermont has been his or her state of domicile for more than 30 days shall not drive a commercial motor vehicle under the authority of a commercial driver license or commercial learner's permit issued by another jurisdiction.

(d) ~~Any person who knowingly falsifies information or certifications required under subsection (a) of this section shall have his or her commercial driver license revoked. Such persons may reapply for a commercial driver license no sooner than 60 days after the revocation. [Repealed.]~~

§ 4110a. NON-EXCEPTED INTERSTATE OR INTRASTATE STATUS:

CERTIFIED MEDICAL STATUS

(a) On or before January 30, 2014, every person who holds a commercial learner's permit or commercial driver license shall provide the Commissioner the certification required under subdivision 4110(a)(6)(A) of this chapter.

(b) On or before January 30, 2014, existing holders of a commercial learner's permit or commercial driver license who certify to non-excepted interstate driving operations shall provide the Commissioner with an original or a copy of a current medical examiner's certificate. Certification status of "certified" will be posted on the Commercial Driver's License Information System driver record for the driver. Failure to provide the Commissioner a current medical examiner's certificate will result in the posting of "not-certified" status to the Commercial Driver's License Information System driver

record for the driver, and a commercial learner's permit or commercial driver license downgrade will be initiated.

(c) To maintain a medical certification status of "certified," the holder of a commercial driver license or commercial learner's permit who certifies that he or she will operate commercial motor vehicles in non-excepted interstate commerce must provide the State an original or copy of each subsequently issued medical examiner's certificate required under 49 C.F.R. part 391.

§ 4111. COMMERCIAL DRIVER LICENSE

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(b) Classifications, endorsements, and restrictions. Driver licenses may be issued with the following classifications, endorsements, and restrictions:

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(2) Licenses may be issued with appropriate endorsements and restrictions noted thereon. ~~The commissioner~~ Commissioner shall determine the manner of notation. ~~Endorsements and restrictions may include, but are not limited, to those which:~~

~~(A) authorize a driver to drive a vehicle transporting hazardous materials;~~

~~(B) restrict the driver to vehicles not equipped with air brakes when the person either fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes;~~

~~(C) authorize driving motorcycles;~~

- ~~(D) authorize driving tank vehicles;~~
- ~~(E) authorize driving vehicles carrying passengers;~~
- ~~(F) authorize driving Type I or II school buses;~~
- ~~(G) authorize driving Type II school buses;~~
- ~~(H) authorize driving double trailers;~~
- ~~(I) restrict the driver to operation solely within this state. A~~

~~commercial driver license or commercial driver instruction permit with this restriction may be issued to any person who has attained the age of 18 years.~~

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§ 4111a. COMMERCIAL LEARNER'S PERMIT

(a) Contents of permit. A commercial learner's permit shall contain the following:

(1) the prominent statement that the permit is a "Commercial Learner's Permit," except as specified in subsection 4109(a) of this title, and that it is not valid unless accompanied by a valid Vermont operator's license;

(2) the full name, signature, and residential address in Vermont of the person to whom the permit is issued;

(3) physical and other information to identify and describe the person, including the month, day, and year of birth, sex, and height;

(4) the permit holder's state license number;

(5) the name of the state that issued the permit;

(6) the date of issuance and the date of expiration of the permit;

(7) the group or groups of commercial motor vehicles that the permit holder is authorized to operate, indicated as follows:

(A) A for Combination Vehicle;

(B) B for Heavy Straight Vehicle;

(C) C for Small Vehicle;

(8) the endorsements for which the permit holder has qualified, if any, indicated as required under 49 C.F.R. § 383.153(b)(2)(viii); and

(9) the restrictions placed on the permit holder, if any, indicated as follows:

(A) P for No passengers in commercial motor vehicle bus;

(B) X for No cargo in commercial motor vehicle tank vehicle;

(C) L for a No Air brake equipped commercial motor vehicle;

(D) V for medical variance;

(E) M for No Class A passenger vehicle;

(F) N for No Class A and B passenger vehicle;

(G) K for Intrastate only;

(H) Any additional restrictions that apply to the commercial learner's permit driving privilege.

(b) Classifications, endorsements, and restrictions.

(1) The holder of a commercial learner's permit may not operate a commercial motor vehicle transporting hazardous materials.

(2) The holder of a commercial learner's permit may, unless otherwise disqualified, drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver license valid for the type of vehicle driven who occupies a seat beside the individual or, in the case of a vehicle designed to transport more than 15 passengers, who occupies a seat directly behind or in the first row behind the driver and who directly observes and supervises the commercial learner's permit holder for the purpose of giving instruction in driving the commercial motor vehicle.

(3) Endorsements.

(A) A commercial learner's permit holder with a passenger endorsement must have taken and passed the passenger endorsement knowledge test. A commercial learner's permit holder with a passenger endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver license holder accompanying the commercial learner's permit holder as prescribed in subdivision (2) of this subsection. The passenger endorsement must be class specific.

(B) A commercial learner's permit holder with a school bus endorsement must have taken and passed the school bus endorsement knowledge test. A commercial learner's permit holder with a school bus endorsement is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and

the commercial driver license holder accompanying the commercial learner's permit holder as prescribed in subdivision (2) of this subsection.

(C) A commercial learner's permit holder with a tank vehicle endorsement must have taken and passed the tank vehicle endorsement knowledge test. A commercial learner's permit holder with a tank vehicle endorsement may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

(D) All other federal endorsements are prohibited on a commercial learner's permit.

§ 4112. RECORDS NOTIFICATION

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

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

§ 4113. NOTIFICATION OF TRAFFIC CONVICTIONS

When a person who holds a commercial driver license or commercial learner's permit issued by another state is convicted in this ~~state~~ State of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in any type of vehicle, the ~~commissioner~~ Commissioner shall notify the driver licensing authority in the licensing state of the conviction within 10 days.

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§ 4115. RECIPROCITY

(a) Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle in this ~~state~~ State if the person has a valid commercial driver license or commercial learner's permit issued by any state of the United States, any province or territory of Canada in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, or the Licensia Federal de Conductor issued by the Republic of Mexico if the person's license or permit is not suspended, revoked, or canceled and if the person is not disqualified from driving a commercial motor vehicle or subject to an out-of-service order.

(b) The ~~commissioner~~ Commissioner shall give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this chapter as if they occurred in this ~~state~~ State.

(c) The ~~commissioner~~ Commissioner shall record disqualifications and convictions received from other jurisdictions regarding Vermont operators.

§ 4116. DISQUALIFICATION

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(d) A person shall be disqualified from driving a commercial motor vehicle for a period of 60 days if convicted of two serious traffic violations or if convicted of two violations of subsection 4125(c) of this chapter, or 120 days if convicted of ~~three~~ a third or subsequent serious traffic ~~violations~~ violation or if convicted of a third or subsequent violation of subsection 4125(c) of this chapter, arising from separate incidents occurring within a three-year period. A disqualification for 120 days shall be issued to be consecutive with any previous disqualification.

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§ 4116a. SUSPENSION OF OPERATING PRIVILEGE

(a) A person's privilege to operate a commercial motor vehicle in the ~~state~~ State of Vermont shall be suspended for one year, if:

(1) the person is convicted of a first violation of operating, attempting to operate, or being in actual physical control of a commercial motor vehicle on a highway with an alcohol concentration of 0.04 or more, or under the influence, as defined in section 1218 of this title; and

(2) the person's commercial driver license or commercial learner's permit is issued by a state or country that does not have a reciprocity

agreement with the ~~state~~ State of Vermont for the disqualification of commercial driver licenses or permits under section 4115 of this title.

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§ 4118. EFFECTIVE DATE OF DISQUALIFICATION; HEARING

(a) A disqualification from driving a commercial motor vehicle shall be effective on not less than 10 days' notice.

(b) If requested, a hearing on the disqualification shall be conducted under sections 105-107 of this title. ~~The~~ Except as provided in subsection 4124(a) or 4124(c) of this chapter, the scope of the hearing shall be limited to verification of the conviction.

(c) A person aggrieved by a decision resulting from a hearing under this section may have the decision reviewed on the record under Rule 75 of the Vermont Rules of Civil Procedure. The review shall be to the Washington ~~superior court~~ Superior Court or, in the discretion of the licensee, to the ~~superior court~~ Superior Court in the county the licensee resides or has a principal place of business.

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§ 4124. PENALTIES FOR FRAUD; ACTION UPON SUSPECTED FRAUD

(a) If from the check of an applicant's license status and record prior to issuing a commercial learner's permit or commercial driver license or at any time after the commercial learner's permit or commercial driver license is issued, the Commissioner determines that the applicant or holder has

knowingly falsified any information, documentation, or certifications required under this chapter, the Commissioner shall give the applicant or holder notice of his or her findings and an opportunity to show cause why the application, commercial learner's permit, or commercial driver license should not be disqualified for a period of 60 consecutive days. The disqualification shall be effective 10 days after the notice is sent unless the applicant or holder requests a hearing. If after a hearing the Commissioner determines that the applicant or holder has knowingly falsified any information, documentation, or certifications required under this chapter, the Commissioner shall disqualify for a period of 60 consecutive days the person's commercial learner's permit or commercial driver license, his or her pending application, or his or her privilege to operate a commercial motor vehicle.

(b) A person convicted of fraud related to the issuance of a commercial learner's permit or commercial driver license who seeks to renew, transfer, or upgrade the fraudulently obtained commercial learner's permit or commercial driver license shall be disqualified for one year. The disqualification shall be recorded in the person's driving record.

(c) If the Commissioner receives credible information that a commercial learner's permit or commercial driver license holder is suspected but has not been convicted of fraud related to the issuance of his or her commercial learner's permit or commercial driver license, the Commissioner shall require the holder to retake the skills or knowledge test, or both, and send the holder

notice of the same. Within 30 days after notice is sent, the holder shall make an appointment or otherwise schedule to take the next available test. If the holder fails to make an appointment within 30 days, the Commissioner shall disqualify his or her commercial learner's permit or commercial driver license. If the holder fails either the knowledge or skills test or does not take the test, the Commissioner shall disqualify his or her commercial learner's permit or commercial driver license. Once a holder's commercial learner's permit or commercial driver license has been disqualified, he or she must reapply for a commercial learner's permit or commercial driver license under the procedures applicable to all commercial learner's permit or commercial driver license applicants.

§ 4125. TEXTING VIOLATIONS; HANDHELD MOBILE TELEPHONE VIOLATIONS

(a) Definitions. As used in this section, "driving" means operating a commercial motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. "Driving" does not include operating a commercial motor vehicle with or without the motor running when the operator has moved the vehicle to the side of or off a highway and has halted in a location where the vehicle can safely remain stationary.

(b)(1) General Prohibition on Texting. No operator shall engage in texting while driving a commercial motor vehicle.

(2) Exception. Texting while driving is permissible by operators of a commercial motor vehicle when necessary to communicate with law enforcement officials or other emergency services.

(3) No person may be issued traffic complaints alleging a violation of this section and a violation of section 1099 of this title from the same incident.

(c)(1) General Prohibition on Use of Handheld Mobile Telephones. No operator shall use a handheld mobile telephone while driving a commercial motor vehicle.

(2) Exception. Use of a handheld mobile telephone is permissible by operators of a commercial motor vehicle when necessary to communicate with law enforcement officials or other emergency services.

(d) Motor Carriers.

(1) A motor carrier shall not allow or require its drivers to engage in texting while driving a commercial motor vehicle.

(2) A motor carrier shall not allow or require its drivers to use a handheld mobile telephone while driving a commercial motor vehicle.

Sec. 2. 23 V.S.A. § 102(d) is amended to read:

(d) The ~~commissioner~~ Commissioner may authorize background investigations for potential employees that may include criminal, traffic, and financial records checks; provided, however, that the potential employee is notified and has the right to withdraw his or her name from application.

Additionally, employees who are ~~authorized to manufacture or produce~~

involved in the manufacturing or production of operators' licenses and identification cards, including enhanced licenses, or who have the ability to affect the identity information that appears on a license or identification card, or current employees who will be assigned to such positions, shall be subject to appropriate background checks and shall be provided notice of the background check and the contents of that check. These background checks will include a name-based and fingerprint-based criminal history records check using at a minimum the Federal Bureau of Investigation's National Crime Information Center and the Integrated Automated Fingerprint Identification database and state repository records on each covered employee. Employees may be subject to further appropriate security clearance clearances if required by federal law, including background investigations that may include criminal and traffic records checks; and providing proof of United States citizenship. The ~~commissioner~~ Commissioner may, in connection with a formal disciplinary investigation, authorize a criminal or traffic record background investigation of a current employee; provided, however, that the background review is relevant to the issue under disciplinary investigation. Information acquired through the investigation shall be provided to the ~~commissioner~~ Commissioner or designated division director, and must be maintained in a secure manner. If the information acquired is used as a basis for any disciplinary action, it must be given to the employee during any pretermination hearing or contractual grievance hearing to allow the employee an opportunity to respond to or

dispute the information. If no disciplinary action is taken against the employee, the information acquired through the background check shall be destroyed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Date the Governor signed the bill: May 7, 2013