

As Amended by House Committee

Session of 2004

SENATE BILL No. 383

By Committee on Transportation

1-28

10 AN ACT amending the Kansas uniform commercial drivers' license act;
11 relating to hazardous materials endorsement; amending K.S.A. 2003
12 Supp. 8-2,128 and repealing the existing section.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) Beginning April 1, 2004, **or upon final deter-**
16 **mination by the transportation security administration of the date**
17 **for implementation of the requirements of 49 C.F.R. 1572, which-**
18 **ever is later**, the division shall not issue, renew, upgrade or transfer a
19 hazardous materials endorsement for a commercial driver's license to any
20 person authorizing that person to operate a commercial motor vehicle
21 transporting a hazardous material in commerce unless the individual com-
22 plies with the requirements of 49 C.F.R. 1572.

23 (b) At least 180 days before the expiration date of a commercial
24 driver's license or hazardous materials endorsement, the division shall
25 notify the holder of a hazardous materials endorsement that the person
26 must pass a transportation security administration security screening pro-
27 cess, 49 C.F.R. 1572, as part of any application for renewal of the haz-
28 ardous materials endorsement. The notice must advise the person that,
29 in order to expedite the security screening process, the person should file
30 a renewal application as soon as possible, but not later than 90 days before
31 the date of expiration of the endorsement. Any person who does not
32 successfully complete the security screening process, shall not be issued
33 a hazardous materials endorsement.

34 (c) An individual must submit fingerprints, in a form and manner
35 specified by the division, when such individual applies to obtain, renew
36 or transfer a hazardous materials endorsement for a commercial driver's
37 license. A fee not to exceed \$100 shall be charged to such individual for
38 collecting the fingerprints and generating the individual's criminal history.

39 (d) The divisions shall revoke a person's hazardous materials endorse-
40 ment if the person does not meet the standards for security threat as-
41 sessment under 49 C.F.R. 1572.

42 (e) The provisions of this section shall be a part of and supplemental
43 to the Kansas uniform commercial drivers' license act.

- 1 Sec. 2. K.S.A. 2003 Supp. 8-2,128 is hereby amended to read as fol-
2 lows: 8-2,128. As used in this act:
- 3 (a) “Alcohol” means any substance containing any form of alcohol
4 including, but not limited to, ethanol, methanol, propanol and
5 isopropanol;
- 6 (b) “alcohol concentration” means:
- 7 (1) The number of grams of alcohol per 100 milliliters of blood; or
8 (2) the number of grams of alcohol per 210 liters of breath;
- 9 (c) “commercial driver’s license” means a commercial license issued
10 pursuant to K.S.A. 8-234b, and amendments thereto;
- 11 (d) “commercial driver license system” means the information system
12 established pursuant to the commercial motor vehicle safety act of 1986
13 to serve as a clearinghouse for locating information related to the licensing
14 and identification of commercial motor vehicle drivers;
- 15 (e) “instruction permit” means a permit issued pursuant to K.S.A. 8-
16 294, and amendments thereto;
- 17 (f) “commercial motor vehicle” means a motor vehicle designed or
18 used to transport passengers or property, if:
- 19 (1) The vehicle has a gross vehicle weight rating of 26,001 or more
20 pounds or such lesser rating, as determined by rules and regulations
21 adopted by the secretary, but shall not be more restrictive than the federal
22 regulation;
- 23 (2) the vehicle is designed to transport 16 or more passengers, in-
24 cluding the driver; or
- 25 (3) the vehicle is transporting hazardous materials and is required to
26 be placarded in accordance with 49 C.F.R. 172, subpart F;
- 27 (g) “controlled substance” means any substance so classified under
28 K.S.A. 65-4101, and amendments thereto;
- 29 (h) “conviction” means an unvacated adjudication of guilt or a deter-
30 mination that a person has violated or failed to comply with the law and
31 in a court of original jurisdiction or an administrative proceeding, an un-
32 vacated forfeiture of bail or collateral deposited to secure the person’s
33 appearance in court, a plea of guilty or nolo contendere accepted by the
34 court, the payment of a fine or court cost, or violation of a condition of
35 release without bail, regardless of whether the penalty is rebated, sus-
36 pended or probated;
- 37 (i) “disqualification” means a prohibition against driving a commer-
38 cial motor vehicle, including the suspension, revocation or cancellation of
39 the privilege to drive a commercial motor vehicle;
- 40 (j) “drive” means to drive, operate or be in physical control of a motor
41 vehicle in any place open to the general public for purposes of vehicular
42 traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-
43 2,145, and amendments thereto, “drive” includes operation or physical

- 1 control of a motor vehicle anywhere in the state;
- 2 (k) “driver” means any person who drives, operates or is in physical
3 control of a commercial motor vehicle, in any place open to the general
4 public for purposes of vehicular traffic, or who is required to hold a com-
5 mercial driver’s license;
- 6 (l) “driver’s license” means any driver’s license or any other license
7 or permit to operate a motor vehicle issued under, or granted by, the
8 laws of this state, including:
- 9 (1) Any temporary license or instruction;
- 10 (2) the privilege of any person to drive a motor vehicle whether or
11 not such person holds a valid license; or
- 12 (3) any nonresident’s operating privilege;
- 13 (m) “employer” means any person, including the United States, a
14 state or a political subdivision of a state, who owns or leases a commercial
15 motor vehicle or assigns a person to drive a commercial motor vehicle;
- 16 (n) “endorsement” means an authorization to an individual’s com-
17 mercial driver’s license required to permit the individual to operate cer-
18 tain types of commercial motor vehicles;
- 19 (o) “felony” means any offense under state or federal law that is pun-
20 ishable by death or imprisonment for a term exceeding one year;
- 21 (p) “gross vehicle weight rating” means the value specified by the
22 manufacturer as the maximum loaded weight of a single or a combination
23 (articulated) vehicle. The gross vehicle weight rating of a combination
24 (articulated) vehicle (commonly referred to as the “gross combination
25 weight rating”) is the gross vehicle weight rating of the power unit plus
26 the gross vehicle weight rating of the towed unit or units;
- 27 (q) “hazardous materials” has the meaning as that found in section
28 103 of the hazardous materials transportation act, 49 U.S.C. 1801 *et seq.*;
- 29 (r) “motor vehicle” means every vehicle which is self-propelled, and
30 every vehicle which is propelled by electric power obtained from over-
31 head trolley wires but not operated upon rails, except vehicles moved solely
32 by human power and motorized wheel chairs;
- 33 (s) “out-of-service order” means a temporary prohibition against driv-
34 ing a commercial motor vehicle, which is imposed when a driver has any
35 measured or detected alcohol concentration while on duty, or operating,
36 or in physical control of a commercial motor vehicle or a declaration by
37 an authorized enforcement officer of a federal, state, Canadian, Mexican
38 or local jurisdiction that a driver, a commercial motor vehicle or a motor
39 carrier operation, is out-of-service pursuant to 49 C.F.R. Part 386.72,
40 392.5, 395.13, 396.9 or such compatible laws, or the North American out-
41 of-service criteria;
- 42 (t) “residence” means the place which is adopted by a person as the
43 person’s place of habitation and to which, whenever the person is absent,

- 1 the person has the intention of returning. When a person eats at one
2 place and sleeps at another, the place where the person sleeps shall be
3 considered the person's residence;
- 4 (u) "secretary" means the secretary of the Kansas department of
5 revenue;
- 6 (v) "serious traffic violation" means:
- 7 (1) Excessive speeding, is defined as 15 miles per hour or more over
8 the posted speed limit;
- 9 (2) reckless driving, as defined under K.S.A. 8-1566, and amend-
10 ments thereto;
- 11 (3) a violation of any state or local law relating to motor vehicle traffic
12 control, other than a parking violation, arising in connection with an ac-
13 cident or collision resulting in death to any person;
- 14 (4) changing lanes of traffic illegally or erratically, as defined under
15 K.S.A. 8-1548, and amendments thereto;
- 16 (5) following another vehicle too closely, as defined under K.S.A. 8-
17 1523, and amendments thereto;
- 18 (6) a violation of subsection (a) of K.S.A. 8-2,132, and amendments
19 thereto; or
- 20 (7) any other violation of a state or local law relating to motor vehicle
21 traffic control, other than a parking violation, which the secretary deter-
22 mines by rule and regulation to be serious;
- 23 (w) "state" means a state of the United States and the District of
24 Columbia;
- 25 (x) "state of domicile" means that state where a person has such per-
26 son's true, fixed and permanent home and principal residence and to
27 which such person has the intention of returning whenever such person
28 is absent;
- 29 (y) "tank vehicle" means any commercial motor vehicle that is de-
30 signed to transport any liquid or gaseous material within a tank that is
31 either permanently or temporarily attached to the vehicle or the chassis.
32 Such vehicles include, but are not limited to, cargo tanks, as defined in
33 49 C.F.R. 171. However, this definition does not include portable tanks
34 having a rated capacity under 1,000 gallons;
- 35 (z) "United States" means the 50 states and the District of Columbia;
- 36 (aa) "division" means the division of vehicles of the Kansas depart-
37 ment of revenue;
- 38 (bb) "director" means the director of the division of vehicles of the
39 Kansas department of revenue;
- 40 (cc) "foreign country" means any jurisdiction other than the United
41 States;
- 42 (dd) "nonresident commercial driver's license" means a license is-
43 sued pursuant to K.S.A. 8-2,148, and amendments thereto;

1 (ee) “fatality” means the death of a person as a result of a motor
2 vehicle accident;

3 (ff) “noncommercial motor vehicle” means a motor vehicle or com-
4 bination of motor vehicles not defined by the term commercial motor
5 vehicle in subsection (f);

6 (gg) “school bus” means a commercial motor vehicle used to trans-
7 port preprimary, primary or secondary school students from home to
8 school, from school to home or to and from school-sponsored events.
9 School bus does not include a bus used as a common carrier;

10 (hh) *“revoke” means the process by which the division cancels, sus-
11 pends, withdrawals, annuls or disqualifies a hazardous material
12 endorsement.*

13 Sec. 3. K.S.A. 2003 Supp. 8-2,128 is hereby repealed.

14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the Kansas register.