

HOUSE BILL No. 2583

By Committee on Transportation

Requested by Representative VanHouden on behalf of Representative Brantley

1-28

1 AN ACT concerning drivers' licenses; relating to commercial drivers'
2 licenses and the Kansas uniform commercial drivers' license act;
3 modifying the definition of commercial motor vehicle in the uniform
4 act; requiring commercial motor vehicle drivers' license holders to
5 possess certain identification documents and proficiency of the English
6 language while operating a commercial motor vehicle; establishing
7 fines for violations of such provisions on commercial motor vehicle
8 employers and nonresident commercial driver's license holders;
9 amending K.S.A. 8-2,128, 8-2,131, 8-2,132, 8-2,141, 8-2,148 and 8-
10 2,152 and repealing the existing sections.

11

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

13 New Section 1. (a) Any driver in Kansas shall have in such driver's
14 immediate possession at all times when operating a commercial motor
15 vehicle a valid, unexpired:

16 (1) Commercial driver's license issued by Kansas or any state in
17 accordance with the minimum federal standards as determined by the
18 federal motor carrier safety administration for the issuance of commercial
19 motor vehicle drivers' licenses; or

20 (2) physical copy of:

21 (A) A commercial driver's license issued by a province or territory of
22 Canada or Mexico under reciprocal license agreements or a foreign
23 country that tests drivers and issues commercial drivers' licenses in
24 accordance with or under standards similar to the minimum federal
25 standards, as determined by the federal motor carrier safety administration;

26 (B) work visa; and

27 (C) verified proof of citizenship issued by the foreign country that
28 issued the commercial driver's license.

29 (b) For purposes of subsection (a)(2)(C), proof of citizenship means
30 presentation of any valid, unexpired:

31 (1) Passport;

32 (2) certified copy of a birth certificate; or

33 (3) certificate of naturalization issued by the United States
34 department of homeland security.

35 (c) (1) A driver who violates the requirements of subsection (a) shall

1 be prohibited from operating a commercial motor vehicle in Kansas until
2 such time that the driver can meet such requirements. Any driver found to
3 be operating a commercial motor vehicle in Kansas while prohibited for
4 violating subsection (a) shall be guilty of a class B nonperson
5 misdemeanor.

6 (2) Fines collected by courts pursuant to this subsection shall be
7 remitted to the state treasurer in accordance with the provisions of K.S.A.
8 75-4215, and amendments thereto. Upon receipt of each such remittance,
9 the state treasurer shall deposit the entire amount in the state treasury to
10 the credit of the human trafficking victim assistance fund as established in
11 K.S.A. 75-758, and amendments thereto.

12 (d) An employer shall be notified by law enforcement of the location
13 of a commercial motor vehicle involved in a violation of subsection (a).
14 Upon an employer's presentation of a driver who meets all requirements to
15 operate such commercial motor vehicle in Kansas, the employer shall take
16 possession of the commercial motor vehicle. If the employer is unable to
17 present such a driver within 12 hours after being notified of the violation,
18 the owner of any cargo being transported by the employer's commercial
19 motor vehicle shall be notified by such employer and allowed to arrange
20 for the transfer of the cargo to another vehicle or employer. The state of
21 Kansas and the owner of the cargo shall not be liable for the expenses for
22 any reasonable action to transfer the cargo to another commercial vehicle
23 or employer.

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

26 New Sec. 2. (a) (1) A driver in Kansas shall demonstrate
27 proficiency of the English language when operating a commercial motor
28 vehicle sufficient to:

- 29 (A) Converse with the general public;
30 (B) understand highway traffic signs and signals in the English
31 language;
32 (C) respond to official inquiries; and
33 (D) make entries on reports and records.

34 (2) An English language proficiency assessment shall be used to
35 determine violations of this subsection. Such assessment shall require
36 drivers to respond in English without the use of any translation tools,
37 interpreters or cell phone applications. Such assessment shall include, but
38 not be limited to, an evaluation of the driver's ability to:

- 39 (A) Understand and respond to questions about trip details and
40 destinations, current duty status and hours of service, vehicle equipment
41 and maintenance, shipping documents and cargo information; and
42 (B) recognize, read and understand common highway traffic signs
43 included in the most recent edition of the manual on uniform traffic control

1 devices for streets and highways.

2 (b) (1) A driver who fails to meet the requirements of subsection (a)
3 shall be prohibited from operating a commercial motor vehicle in Kansas
4 until such time that the driver can meet such requirements. Any driver
5 found to be operating a commercial motor vehicle in Kansas while
6 prohibited for violating subsection (a) shall be guilty of a class B
7 nonperson misdemeanor.

8 (2) Fines collected by courts pursuant to this subsection shall be
9 remitted to the state treasurer in accordance with the provisions of K.S.A.
10 75-4215, and amendments thereto. Upon receipt of each such remittance,
11 the state treasurer shall deposit the entire amount in the state treasury to
12 the credit of the human trafficking victim assistance fund as established in
13 K.S.A. 75-758, and amendments thereto.

14 (c) An employer shall be notified by law enforcement of the location
15 of a commercial motor vehicle involved in a violation of subsection (a).
16 Upon an employer's presentation of a driver who meets all requirements to
17 operate such commercial motor vehicle in Kansas, the employer shall take
18 possession of the commercial motor vehicle. If the employer is unable to
19 present such a driver within 12 hours after being notified of the violation,
20 the owner of any cargo being transported by the employer's commercial
21 motor vehicle shall be notified by such employer of the inability to present
22 such a driver and allowed to arrange for the transfer of the cargo to another
23 vehicle or employer. The state of Kansas and the owner of the cargo shall
24 not be liable for the expenses for any reasonable action to transfer the
25 cargo to another commercial vehicle or employer.

26 (d) The provisions of this section shall be a part of and supplemental
27 to the Kansas uniform commercial drivers' license act.

28 Sec. 3. K.S.A. 8-2,128 is hereby amended to read as follows: 8-2,128.
29 As used in this act:

30 (a) "Alcohol" means any substance containing any form of alcohol,
31 including, but not limited to, ethanol, methanol, propanol and isopropanol;

32 (b) "alcohol concentration" means:

33 (1) The number of grams of alcohol per 100 milliliters of blood; or

34 (2) the number of grams of alcohol per 210 liters of breath;

35 (c) "commercial driver's license" means a commercial license issued
36 pursuant to K.S.A. 8-234b, and amendments thereto;

37 (d) "commercial driver license system" means the information system
38 established pursuant to the commercial motor vehicle safety act of 1986 to
39 serve as a clearinghouse for locating information related to the licensing
40 and identification of commercial motor vehicle drivers;

41 (e) "instruction permit" means a permit issued pursuant to K.S.A. 8-
42 294, and amendments thereto;

43 (f) "commercial motor vehicle" means a motor vehicle ~~designed or~~

1 ~~used or combination of motor vehicles used in commerce to transport~~
2 ~~passengers or property; if the motor vehicle is a:~~

3 ~~(1) The vehicle has a gross vehicle weight rating of 26,001 or more~~
4 ~~pounds or such lesser rating, as determined by rules and regulations~~
5 ~~adopted by the secretary, but shall not be more restrictive than the federal~~
6 ~~regulation Combination Vehicle (Group A) having a gross combination~~
7 ~~weight rating or gross combination weight, whichever is greater, of 26,001~~
8 ~~pounds or more inclusive of a towed unit or units with a gross vehicle~~
9 ~~weight rating or gross vehicle weight, whichever is greater, of more than~~
10 ~~10,000 pounds;~~

11 ~~(2) the vehicle is designed to transport 16 or more passengers,~~
12 ~~including the driver Heavy Straight Vehicle (Group B) having a gross~~
13 ~~vehicle weight rating or gross vehicle weight, whichever is greater, of~~
14 ~~26,001 pounds or more; or~~

15 ~~(3) the vehicle is transporting hazardous materials and is required to~~
16 ~~be placarded in accordance with 49 C.F.R. § 172, subpart F Small~~
17 ~~Vehicle (Group C) that does not meet Group A or Group B requirements~~
18 ~~but either is:~~

19 ~~(A) Designed to transport 16 or more passengers, including the~~
20 ~~driver; or~~

21 ~~(B) of any size and is used in the transportation of hazardous~~
22 ~~materials as defined by this section;~~

23 ~~(g) "controlled substance" means any substance so classified under~~
24 ~~K.S.A. 21-5701, and amendments thereto;~~

25 ~~(h) "conviction" means an unvacated adjudication of guilt or a~~
26 ~~determination that a person has violated or failed to comply with the law~~
27 ~~and in a court of original jurisdiction or an administrative proceeding, an~~
28 ~~unvacated forfeiture of bail or collateral deposited to secure the person's~~
29 ~~appearance in court, a plea of guilty or nolo contendere accepted by the~~
30 ~~court, the payment of a fine or court cost, or violation of a condition of~~
31 ~~release without bail, regardless of whether the penalty is rebated,~~
32 ~~suspended or probated;~~

33 ~~(i) "disqualification" means any of the following:~~

34 ~~(1) The suspension, revocation, or cancellation of a commercial~~
35 ~~driver's license by the state or jurisdiction of issuance;~~

36 ~~(2) any withdrawal of a person's privileges to drive a commercial~~
37 ~~motor vehicle by a state or other jurisdiction as the result of a violation of~~
38 ~~state or local law relating to motor vehicle traffic control, other than~~
39 ~~parking, vehicle weight or vehicle defect violations;~~

40 ~~(3) a determination by the federal motor carrier safety administration~~
41 ~~that a person is not qualified to operate a commercial motor vehicle under~~
42 ~~49 C.F.R. § 391;~~

43 ~~(j) "drive" means to drive, operate or be in physical control of a motor~~

1 vehicle in any place open to the general public for purposes of vehicular
2 traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-
3 2,145, and amendments thereto, "drive" includes operation or physical
4 control of a motor vehicle anywhere in the state;

5 (k) "driver" means any person who drives, operates or is in physical
6 control of a commercial motor vehicle, in any place open to the general
7 public for purposes of vehicular traffic, or who is required to hold a
8 commercial driver's license;

9 (l) "driver's license" means any driver's license or any other license or
10 permit to operate a motor vehicle issued under, or granted by, the laws of
11 this state, including:

12 (1) Any temporary license or instruction;

13 (2) the privilege of any person to drive a motor vehicle whether or not
14 such person holds a valid license; or

15 (3) any nonresident's operating privilege;

16 (m) "employer" means any person, including the United States, a
17 state or a political subdivision of a state, who owns or leases a commercial
18 motor vehicle or assigns a person to drive a commercial motor vehicle;

19 (n) "endorsement" means an authorization to an individual's
20 commercial driver's license required to permit the individual to operate
21 certain types of commercial motor vehicles;

22 (o) "felony" means any offense under state or federal law that is
23 punishable by death or imprisonment for a term exceeding one year;

24 (p) "gross vehicle weight rating" means the value specified by the
25 manufacturer as the maximum loaded weight of a single or a combination
26 (articulated) vehicle. The gross vehicle weight rating of a combination
27 (articulated) vehicle (commonly referred to as the "gross combination
28 weight rating") is the gross vehicle weight rating of the power unit plus the
29 gross vehicle weight rating of the towed unit or units;

30 (q) "hazardous materials" means any material that has been
31 designated as hazardous under 49 U.S.C. § 5103 and is required to be
32 placarded under subpart F of 49 C.F.R. part 172 or any quantity of a
33 material listed as a select agent or toxin in 42 C.F.R. part 73;

34 (r) "motor vehicle" means every vehicle ~~which~~ that is self-propelled,
35 and every vehicle ~~which~~ that is propelled by electric power obtained from
36 overhead trolley wires but not operated upon rails, except vehicles moved
37 solely by human power and motorized wheel chairs;

38 (s) "out-of-service order" means a temporary prohibition against
39 driving a commercial motor vehicle, which is imposed when a driver has
40 any measured or detected alcohol concentration while on duty, or
41 operating, or in physical control of a commercial motor vehicle or a
42 declaration by an authorized enforcement officer of a federal, state,
43 Canadian, Mexican or local jurisdiction that a driver, a commercial motor

1 vehicle or a motor carrier operation, is out-of-service pursuant to 49 C.F.R.
2 part 386.72, 392.5, 395.13, 396.9 or such compatible laws, or the North
3 American out-of-service criteria;

4 (t) "residence" means the place ~~which~~ *that* is adopted by a person as
5 the person's place of habitation and ~~to which~~ *where*, whenever the person
6 is absent, the person has the intention of returning. When a person eats at
7 one place and sleeps at another, the place where the person sleeps shall be
8 considered the person's residence;

9 (u) "secretary" means the secretary of the Kansas department of
10 revenue;

11 (v) "serious traffic violation" means:

12 (1) Excessive speeding, is defined as 15 miles per hour or more over
13 the posted speed limit;

14 (2) reckless driving, as defined under K.S.A. 8-1566, and
15 amendments thereto;

16 (3) a violation of any state or local law relating to motor vehicle
17 traffic control, other than a parking violation, arising in connection with an
18 accident or collision resulting in death to any person;

19 (4) changing lanes of traffic illegally or erratically, as defined under
20 K.S.A. 8-1548, and amendments thereto;

21 (5) following another vehicle too closely, as defined under K.S.A. 8-
22 1523, and amendments thereto;

23 (6) a violation of subsection (a) of K.S.A. 8-2,132, and amendments
24 thereto; or

25 (7) any other violation of a state or local law relating to motor vehicle
26 traffic control, other than a parking violation, ~~which~~ *that* the secretary
27 determines by rule and regulation to be serious;

28 (w) "state" means a state of the United States and the District of
29 Columbia;

30 (x) "state of domicile" means that state where a person has such
31 person's true, fixed and permanent home and principal residence and ~~to~~
32 ~~which~~ *where* such person has the intention of returning whenever such
33 person is absent;

34 (y) "tank vehicle" means a tank vehicle, as defined in 49 C.F.R. §
35 383.5, as in effect on the date of this act or such later version as adopted by
36 rules and regulations of the secretary pursuant to K.S.A. 8-2,140, and
37 amendments thereto;

38 (z) "United States" means the 50 states and the District of Columbia;

39 (aa) "division" means the division of vehicles of the Kansas
40 department of revenue;

41 (bb) "director" means the director of the division of vehicles of the
42 Kansas department of revenue;

43 (cc) "foreign country" means any jurisdiction other than the United

1 States;

2 (dd) "nonresident commercial driver's license" means a license issued
3 pursuant to K.S.A. 8-2,148, and amendments thereto;

4 (ee) "fatality" means the death of a person as a result of a motor
5 vehicle accident;

6 (ff) "noncommercial motor vehicle" means a motor vehicle or
7 combination of motor vehicles not defined by the term commercial motor
8 vehicle in subsection (f);

9 (gg) "school bus" means a commercial motor vehicle used to
10 transport preprimary, primary or secondary school students from home to
11 school, from school to home or to and from school-sponsored events.
12 "School bus" does not include a bus used as a common carrier; and

13 (hh) *"gross vehicle weight" means the weight of the vehicle without*
14 *load plus the weight of any load on such vehicle. The gross vehicle weight*
15 *of a combination (articulated) vehicle (commonly referred to as the "gross*
16 *combination weight") is the gross vehicle weight of the power unit plus the*
17 *gross vehicle weight of the towed unit or units.*

18 Sec. 4. K.S.A. 8-2,131 is hereby amended to read as follows: 8-2,131.

19 (a) An employer shall require the applicant to provide the information
20 specified in subsection (c) of K.S.A. 8-2,130, and amendments thereto.

21 (b) No employer shall knowingly allow, require, permit or authorize a
22 driver to drive a commercial motor vehicle:

23 (1) During any period in which the driver has a driver's license
24 suspended, revoked or canceled by a state; has lost the privilege to drive a
25 commercial motor vehicle in a state or has been disqualified from driving
26 a commercial motor vehicle;

27 (2) during any period in which the driver has more than one driver's
28 license, except during the ten-day period beginning on the date the
29 employee is issued a driver's license;

30 (3) during any period in which the employee, the motor vehicle such
31 employee is driving or the motor carrier operation is subject to an out-of-
32 service order; ~~or~~

33 (4) in violation of a federal, state or local law or regulation pertaining
34 to railroad-highway grade crossings;

35 (5) *in violation of section 1(a), and amendments thereto; or*

36 (6) *in violation of section 2(a), and amendments thereto.*

37 Sec. 5. K.S.A. 8-2,132 is hereby amended to read as follows: 8-2,132.

38 (a) ~~On and after April 1, 1992,~~ Except when driving under a commercial
39 class A, B or C or class A or B instruction permit or a valid class C license
40 and accompanied by the holder of a commercial driver's license valid for
41 the vehicle being driven, no person may drive a commercial motor vehicle
42 unless the person has a valid commercial driver's license and is in
43 immediate possession thereof and applicable endorsements valid for the

1 vehicle they are driving, ~~except that~~ *in accordance with section 1, and*
2 *amendments thereto.* No person charged with violating this subsection
3 shall be convicted if such person produces in court or the office of the
4 arresting officer a commercial driver's license issued to such person and
5 valid at the time of the arrest.

6 (b) No person shall drive a commercial motor vehicle while their
7 driving privilege is suspended, revoked or canceled or while subject to a
8 disqualification.

9 (c) No person shall drive a commercial motor vehicle in violation of
10 an out-of-service order.

11 (d) Any commercial driver in violation of this section shall be guilty
12 of a class B misdemeanor.

13 Sec. 6. K.S.A. 8-2,141 is hereby amended to read as follows: 8-2,141.
14 *Subject to the requirements of sections 1 and 2, and amendments thereto,*
15 notwithstanding any law to the contrary, a person may drive a commercial
16 motor vehicle if the person has a commercial driver's license issued by any
17 state in accordance with the minimum federal standards for the issuance of
18 commercial motor vehicle drivers' licenses or by a foreign ~~jurisdiction~~
19 ~~which country that~~ tests drivers and issues commercial drivers' licenses in
20 accordance with or under standards similar to the minimum federal
21 standards, as determined by the federal motor carrier safety administration,
22 if the person is not suspended, revoked or canceled; and ~~if~~ the person is not
23 disqualified from driving a commercial motor vehicle, or subject to an out-
24 of-service order.

25 Sec. 7. K.S.A. 8-2,148 is hereby amended to read as follows: 8-2,148.
26 (a) The division may issue a nonresident commercial driver's license to an
27 applicant who is at least 18 years of age and employed by a Kansas
28 employer but is a resident of a foreign country for the operation of any
29 commercial class of vehicles if such person has passed a knowledge and
30 skills test pursuant to K.S.A. 8-2,133, and amendments thereto. Any
31 person who is applying for a nonresident commercial driver's license shall
32 be subject to the provisions of K.S.A. 8-2,125 through 8-2,145, and
33 amendments thereto;

34 (b) A nonresident commercial driver's license issued pursuant to
35 subsection (a) shall contain on the face of the license the statement
36 "nonresident commercial driver's license" or "nonresident CDL";

37 (c) Any such license issued pursuant to subsection (a) ~~shall be valid~~
38 ~~only for the period expire when the period that~~ the nonresident is
39 authorized to be employed in the United States *expires*. The fee for a
40 nonresident commercial driver's license will be the same as for a resident
41 commercial driver's license;

42 (d) If the nonresident applicant is the holder of a nonresident
43 commercial driver's license issued by another state, such license shall be

1 surrendered to the state of Kansas at the time a Kansas nonresident
2 commercial driver's license is issued;

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

5 Sec. 8. K.S.A. 8-2,152 is hereby amended to read as follows: 8-2,152.

6 (a) A driver who is convicted of violating an out-of-service order shall be
7 subject to a civil penalty of not less than \$1,100 nor more than \$2,750, in
8 addition to any disqualification under K.S.A. 8-2,142, and amendments
9 thereto.

10 (b) An employer who is convicted of violating ~~subsection (b)(3) of~~
11 K.S.A. 8-2,131(b)(3), and amendments thereto, shall be subject to a civil
12 penalty of not less than \$2,750 nor more than \$11,000.

13 (c) An employer who is convicted of a violation of ~~subsection (b)(4)~~
14 ~~of~~ K.S.A. 8-2,131(b)(4), and amendments thereto, shall be subject to a
15 civil penalty of not less than \$2,750 nor more than \$11,000.

16 (d) *An employer who is convicted of a violation of K.S.A. 8-2,131(b)*
17 *(5), and amendments thereto, shall be subject to a civil penalty of \$3,000.*

18 (e) *An employer who is convicted of a violation of K.S.A. 8-2,131(b)*
19 *(6), and amendments thereto, shall be subject to a civil penalty of \$3,000.*

20 (f) Civil penalties shall be enforced and collected by an attorney for
21 the division of vehicles in the appropriate district court.

22 ~~(e)~~(g) Civil penalties shall be remitted in accordance with the
23 provisions of K.S.A. 75-4215, and amendments thereto, to the state
24 treasurer. Upon receipt of each such remittance, the state treasurer shall
25 deposit the entire amount in the state treasury to the credit of the state
26 highway fund.

27 ~~(f)~~(h) The provisions of this section shall be a part of and
28 supplemental to the Kansas uniform commercial drivers' license act.

29 Sec. 9. K.S.A. 8-2,128, 8-2,131, 8-2,132, 8-2,141, 8-2,148 and 8-
30 2,152 are hereby repealed.

31 Sec. 10. This act shall take effect and be in force from and after its
32 publication in the statute book.