

HOUSE BILL No. 2606

By Committee on Transportation

Requested by Zach Denney on behalf of the Department of Revenue

1-30

AN ACT concerning motor vehicles; relating to the Kansas uniform commercial drivers' license act; modifying the definition of conviction in the uniform act; amending K.S.A. 8-2,128 and repealing the existing section.

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

Section 1. K.S.A. 8-2,128 is hereby amended to read as follows: 8-2,128. As used in this act:

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

(b) "alcohol concentration" means:

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

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

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

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

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

(f) "commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:

(1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;

(2) the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. § 172, subpart F;

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

(h) "conviction" means an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law

1 and in a court of original jurisdiction or an administrative proceeding, an
2 unvacated forfeiture of bail or collateral deposited to secure the person's
3 appearance in court, a plea of guilty or nolo contendere accepted by the
4 court, the payment of a fine or court cost, or violation of a condition of
5 release without bail, regardless of whether the penalty is rebated,
6 suspended or probated;

7 (i) "disqualification" means any of the following:

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

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

14 (3) a determination by the federal motor carrier safety administration
15 that a person is not qualified to operate a commercial motor vehicle under
16 49 C.F.R. § 391;

17 (j) "drive" means to drive, operate or be in physical control of a motor
18 vehicle in any place open to the general public for purposes of vehicular
19 traffic. For purposes of K.S.A. 8-2,137, 8-2,138, 8-2,142, 8-2,144 and 8-
20 2,145, and amendments thereto, "drive" includes operation or physical
21 control of a motor vehicle anywhere in the state;

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

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

29 (1) Any temporary license or instruction;

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

32 (3) any nonresident's operating privilege;

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

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

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

41 (p) "gross vehicle weight rating" means the value specified by the
42 manufacturer as the maximum loaded weight of a single or a combination
43 (articulated) vehicle. The gross vehicle weight rating of a combination

1 (articulated) vehicle (commonly referred to as the "gross combination
2 weight rating") is the gross vehicle weight rating of the power unit plus the
3 gross vehicle weight rating of the towed unit or units;

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

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

12 (s) "out-of-service order" means a temporary prohibition against
13 driving a commercial motor vehicle, ~~which~~ that is imposed when a driver
14 has any measured or detected alcohol concentration while on duty, or
15 operating, or in physical control of a commercial motor vehicle or a
16 declaration by an authorized enforcement officer of a federal, state,
17 Canadian, Mexican or local jurisdiction that a driver, a commercial motor
18 vehicle or a motor carrier operation, is out-of-service pursuant to 49 C.F.R.
19 part 386.72, 392.5, 395.13, 396.9 or such compatible laws, or the North
20 American out-of-service criteria;

21 (t) "residence" means the place ~~which~~ that is adopted by a person as
22 the person's place of habitation and ~~to which~~ where, whenever the person
23 is absent, the person has the intention of returning. When a person eats at
24 one place and sleeps at another, the place where the person sleeps shall be
25 considered the person's residence;

26 (u) "secretary" means the secretary of the Kansas department of
27 revenue;

28 (v) "serious traffic violation" means:

29 (1) Excessive speeding, *which* is defined as 15 miles per hour or more
30 over the posted speed limit;

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

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

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

38 (5) following another vehicle too closely, as defined under K.S.A. 8-
39 1523, and amendments thereto;

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

42 (7) any other violation of a state or local law relating to motor vehicle
43 traffic control, other than a parking violation, ~~which~~ that the secretary

1 determines by rule and regulation to be serious;

2 (w) "state" means a state of the United States and the District of
3 Columbia;

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

8 (y) "tank vehicle" means a tank vehicle, as defined in 49 C.F.R. §
9 383.5, as in effect on the date of this act or such later version as adopted by
10 rules and regulations of the secretary pursuant to K.S.A. 8-2,140, and
11 amendments thereto;

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

13 (aa) "division" means the division of vehicles of the Kansas
14 department of revenue;

15 (bb) "director" means the director of the division of vehicles of the
16 Kansas department of revenue;

17 (cc) "foreign country" means any jurisdiction other than the United
18 States;

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

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

23 (ff) "noncommercial motor vehicle" means a motor vehicle or
24 combination of motor vehicles not defined by the term commercial motor
25 vehicle in subsection (f); *and*

26 (gg) "school bus" means a commercial motor vehicle used to
27 transport preprimary, primary or secondary school students from home to
28 school, from school to home or to and from school-sponsored events.
29 "School bus" does not include a bus used as a common carrier.

30 Sec. 2. K.S.A. 8-2,128 is hereby repealed.

31 Sec. 3. This act shall take effect and be in force from and after its
32 publication in the statute book.