

## HOUSE BILL No. 2606

By Committee on Transportation

Requested by Zach Denney on behalf of the Department of Revenue

1-30

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

5

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

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

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

11 (b) "alcohol concentration" means:

12 (1) The number of grams of alcohol per 100 milliliters of blood; or  
13 (2) the number of grams of alcohol per 210 liters of breath;

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

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

20 (e) "instruction permit" means a permit issued pursuant to K.S.A. 8-  
21 294, and amendments thereto;

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

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

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

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

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

34 (h) "conviction" means an unvacated adjudication of guilt or a  
35 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.