

SENATE BILL No. 533

By Committee on Federal and State Affairs

2-22

1 AN ACT concerning drivers' licenses; relating to commercial drivers'
2 licenses; prohibiting prosecuting attorneys from concealing certain
3 traffic violations from the CDLIS driver report; increasing the period of
4 disqualification length for certain offenses; amending K.S.A. 2021
5 Supp. 8-2,142 and 8-2,150 and repealing the existing sections.

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

8 Section 1. K.S.A. 2021 Supp. 8-2,142 is hereby amended to read as
9 follows: 8-2,142. (a) A person is disqualified from driving a commercial
10 motor vehicle for a period of not less than one year upon a first occurrence
11 of any one of the following:

12 (1) While operating a commercial motor vehicle:

13 (A) The person is convicted of violating K.S.A. 8-2,144, and
14 amendments thereto;

15 (B) the person is convicted of violating K.S.A. 8-2,132(b), and
16 amendments thereto;

17 (C) the person is convicted of causing a fatality through the negligent
18 operation of a commercial motor vehicle;

19 (D) the person's test refusal or test failure, as defined in subsection
20 (m); or

21 (E) the person is convicted of a violation identified in subsection (a)
22 (2)(A); or

23 (2) while operating a noncommercial motor vehicle:

24 (A) The person is convicted of a violation of K.S.A. 8-1567, and
25 amendments thereto, or of a violation of an ordinance of any city in this
26 state, a resolution of any county in this state or any law of another state,
27 which ordinance or law declares to be unlawful the acts prohibited by that
28 statute; or

29 (B) the person's test refusal or test failure, as defined in K.S.A. 8-
30 1013, and amendments thereto; or

31 (3) while operating any motor vehicle:

32 (A) The person is convicted of leaving the scene of an accident; or

33 (B) the person is convicted of a felony, other than a felony described
34 in subsection (e), while using a motor vehicle to commit such felony.

35 (b) If any offenses, test refusal or test failure specified in subsection
36 (a) occurred in a commercial motor vehicle while transporting a hazardous

1 material required to be placarded, the person is disqualified for a period of
2 not less than three years.

3 (c) A person shall be disqualified for life upon the second or a
4 subsequent occurrence of any offense, test refusal or test failure specified
5 in subsection (a), or any combination thereof, arising from two or more
6 separate incidents.

7 (d) The secretary of revenue may adopt rules and regulations
8 establishing guidelines, including conditions, under which a
9 disqualification for life under subsection (c) may be reduced to a period of
10 not less than 10 years.

11 (e) A person is disqualified from driving a commercial motor vehicle
12 for life who uses a commercial motor vehicle or noncommercial motor
13 vehicle in the commission of any felony involving the manufacture,
14 distribution or dispensing of a controlled substance, or possession with
15 intent to manufacture, distribute or dispense a controlled substance.

16 (f) A person is disqualified from driving a commercial motor vehicle
17 for a period of not less than 60 days if convicted of two serious traffic
18 violations, or 120 days if convicted of three or more serious traffic
19 violations, committed in a commercial motor vehicle arising from separate
20 incidents occurring within a three-year period. Any disqualification period
21 under this paragraph shall be in addition to any other previous period of
22 disqualification. The beginning date for any three-year period within a ten-
23 year period, required by this subsection, shall be the issuance date of the
24 citation which resulted in a conviction.

25 (g) A person is disqualified from driving a commercial motor vehicle
26 for a period of not less than 60 days if convicted of two serious traffic
27 violations, or 120 days if convicted of three or more serious traffic
28 violations, committed in a noncommercial motor vehicle arising from
29 separate incidents occurring within a three-year period, if such convictions
30 result in the revocation, cancellation or suspension of the person's driving
31 privileges.

32 (h) (1) A person who is convicted of operating a commercial motor
33 vehicle in violation of an out-of-service order shall be disqualified from
34 driving a commercial motor vehicle for a period of not less than:

35 (A) ~~Ninety~~ *One hundred and eighty* days nor more than one year, if
36 the driver is convicted of a first violation of an out-of-service order;

37 (B) ~~one year~~ *two years* nor more than five years if the person has one
38 prior conviction for violating an out-of-service order in a separate incident
39 and such prior offense was committed within the 10 years immediately
40 preceding the date of the present violation; or

41 (C) three years nor more than five years if the person has two or more
42 prior convictions for violating out-of-service orders in separate incidents
43 and such prior offenses were committed within the 10 years immediately

1 preceding the date of the present violation.

2 (2) A person who is convicted of operating a commercial motor
3 vehicle in violation of an out-of-service order while transporting a
4 hazardous material required to be placarded under 49 U.S.C. § 5101 et seq.
5 or while operating a motor vehicle designed to transport more than 15
6 passengers, including the driver, shall be disqualified from driving a
7 commercial motor vehicle for a period of not less than:

8 (A) One hundred and eighty days nor more than two years if the
9 driver is convicted of a first violation of an out-of-service order; or

10 (B) three years nor more than five years if the person has a prior
11 conviction for violating an out-of-service order in a separate incident and
12 such prior offense was committed within the 10 years immediately
13 preceding the date of the present violation.

14 (i) (1) A person who is convicted of operating a commercial motor
15 vehicle in violation of a federal, state or local law or regulation pertaining
16 to one of the following six offenses at a railroad-highway grade crossing
17 shall be disqualified from driving a commercial motor vehicle for the
18 period of time specified in paragraph (2):

19 (A) For persons who are not required to always stop, failing to slow
20 down and check that the tracks are clear of an approaching train;

21 (B) for persons who are not required to always stop, failing to stop
22 before reaching the crossing, if the tracks are not clear;

23 (C) for persons who are always required to stop, failing to stop before
24 driving onto the crossing;

25 (D) for all persons failing to have sufficient space to drive completely
26 through the crossing without stopping;

27 (E) for all persons failing to obey a traffic control device or the
28 directions of an enforcement official at the crossing; or

29 (F) for all persons failing to negotiate a crossing because of
30 insufficient undercarriage clearance.

31 (2) A driver shall be disqualified from driving a commercial motor
32 vehicle for not less than:

33 (A) Sixty days if the driver is convicted of a first violation of a
34 railroad-highway grade crossing violation;

35 (B) one hundred and twenty days if, during any three-year period, the
36 driver is convicted of a second railroad-highway grade crossing violation
37 in separate incidents; or

38 (C) one year if, during any three-year period, the driver is convicted
39 of a third or subsequent railroad-highway grade crossing violation in
40 separate incidents.

41 (j) After suspending, revoking or canceling a commercial driver's
42 license, the division shall update its records to reflect that action within 10
43 days. After suspending, revoking or canceling a nonresident commercial

1 driver's privileges, the division shall notify the licensing authority of the
2 state which issued the commercial driver's license or nonresident
3 commercial driver's license within 10 days. The notification shall include
4 both the disqualification and the violation that resulted in the
5 disqualification, suspension, revocation or cancellation.

6 (k) Upon receiving notification from the licensing authority of
7 another state, that it has disqualified a commercial driver's license holder
8 licensed by this state, or has suspended, revoked or canceled such
9 commercial driver's license holder's commercial driver's license, the
10 division shall record such notification and the information such
11 notification provides on the driver's record.

12 (l) Upon suspension, revocation, cancellation or disqualification of a
13 commercial driver's license under this act, the license shall be immediately
14 surrendered to the division if still in the licensee's possession. If otherwise
15 eligible, and upon payment of the required fees, the licensee may be issued
16 a noncommercial driver's license for the period of suspension, revocation,
17 cancellation or disqualification of the commercial driver's license under
18 the same identifier number.

19 (m) As used in this section, "test refusal" means a person's refusal to
20 submit to and complete a test requested pursuant to K.S.A. 8-2,145, and
21 amendments thereto; "test failure" means a person's submission to and
22 completion of a test which determines that the person's alcohol
23 concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and
24 amendments thereto.

25 Sec. 2. K.S.A. 2021 Supp. 8-2,150 is hereby amended to read as
26 follows: 8-2,150. (a) A driver or a holder of a commercial driver's license
27 may not enter into a diversion agreement in lieu of further criminal
28 proceedings that would prevent such person's conviction for any violation,
29 in any type of motor vehicle, of a state or local traffic control law, except a
30 parking violation, from appearing on the person's record, whether the
31 person was convicted for an offense committed in the state where the
32 person is licensed or another state.

33 (b) For purposes of subsection (a), a person shall be considered a
34 holder of a commercial driver's license if the person was a holder of a
35 commercial driver's license at the time the person was arrested or was
36 issued a citation and shall remain a holder of a commercial driver's license
37 even if the person surrenders the commercial driver's license after the
38 arrest or citation.

39 (c) *(1) A prosecuting attorney as defined in K.S.A. 22-2202, and*
40 *amendments thereto, shall not mask or defer imposition of judgment or*
41 *allow an individual to enter into a diversion program that would prevent a*
42 *commercial learner's permit or commercial driver's license holder's*
43 *conviction from appearing on the CDLIS driver record of any violation of*

1 *a state or local traffic control law that occurred in any type of motor*
2 *vehicle. The provisions of this subsection shall apply regardless of whether*
3 *the driver was convicted for an offense committed in the state where the*
4 *driver is licensed or in any another state.*

5 *(2) The provisions of this subsection shall not apply to parking,*
6 *vehicle weight or vehicle defect violations.*

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

9 Sec. 3. K.S.A. 2021 Supp. 8-2,142 and 8-2,150 are hereby repealed.

10 Sec. 4. This act shall take effect and be in force from and after its
11 publication in the statute book.