

HOUSE BILL 269

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO DRIVER'S LICENSES; REQUIRING THE MOTOR VEHICLE
DIVISION OF THE TAXATION AND REVENUE DEPARTMENT TO USE REPORTS
FROM THE FEDERAL COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL
CLEARINGHOUSE IN ISSUING, RENEWING, UPGRADING, DOWNGRADING AND
TRANSFERRING COMMERCIAL DRIVER'S LICENSES OR COMMERCIAL
LEARNER'S PERMITS; PROVIDING CONTENT TO BE INCLUDED ON
COMMERCIAL LEARNER'S PERMITS AND COMMERCIAL DRIVER'S LICENSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the New Mexico Commercial
Driver's License Act is enacted to read:

"[NEW MATERIAL] COMMERCIAL DRIVER'S LICENSE, COMMERCIAL
LEARNER'S PERMIT AND COMMERCIAL DRIVER'S PERMIT ELIGIBILITY--
DIVISION TO RECEIVE RECORDS FROM THE FEDERAL COMMERCIAL
DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE--COMMERCIAL

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1 DRIVER'S LICENSE DOWNGRADE PROCEDURES.--

2 A. As used in this section:

3 (1) "commercial driver's license downgrade"
4 means the division's removal of the commercial driver's license
5 or commercial driver's permit privilege from a driver's
6 license;

7 (2) "commercial driver's license drug and
8 alcohol clearinghouse" means the federal motor carrier safety
9 administration database that requires employers and service
10 agents to report information to and to query regarding drivers
11 who are subject to United States department of transportation
12 controlled substance and alcohol testing regulations;

13 (3) "qualified" means the passage of the drug
14 or alcohol test; and

15 (4) "not qualified" means a failure or refusal
16 of the drug or alcohol test.

17 B. The division shall request all commercial
18 driver's drug test results from the commercial driver's license
19 drug and alcohol clearinghouse that determine whether the
20 commercial driver is qualified or not qualified as required by
21 the federal motor carrier safety administration. Pursuant to
22 this section, if a commercial driver's drug or alcohol test
23 results indicate that the commercial driver is prohibited from
24 operating a commercial motor vehicle, the division shall refuse
25 a request for:

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1 (1) issuance or renewal of a commercial
2 learner's permit or a commercial driver's license;

3 (2) an upgrade of a commercial learner's
4 permit to a commercial driver's license; and

5 (3) transfer of an out-of-state commercial
6 driver's license to this state.

7 C. The division shall request commercial driver's
8 license drug and alcohol clearinghouse records of an applicant
9 for a commercial driver's license at the time of issuance.

10 Pursuant to this subsection, if the records indicate that the
11 commercial driver's license applicant is prohibited from
12 operating a commercial motor vehicle, the division shall refuse
13 to:

14 (1) renew the commercial driver's license or H
15 endorsement;

16 (2) advance a commercial driver's permit;

17 (3) issue an upgrade of the commercial
18 driver's license to include an H endorsement; and

19 (4) issue, renew, transfer or upgrade a
20 non-domiciled commercial driver's permit or commercial driver's
21 license.

22 D. The division shall downgrade a commercial
23 driver's license or commercial driver's permit to a class D
24 noncommercial license upon receiving a commercial driver's
25 license drug and alcohol clearinghouse record that indicates

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1 that a commercial driver's license or commercial driver's
2 permit holder is prohibited from operating a commercial motor
3 vehicle. The division shall complete and record on the
4 commercial driver's license information system driver record
5 within sixty days of the division's receipt of the record.

6 E. The division shall amend a driver's eligibility
7 to operate a commercial motor vehicle if the division finds
8 that a condition resulting in a restriction on a commercial
9 driver's license or a commercial learner's permit no longer
10 exists or was erroneous. Pursuant to this subsection, the
11 division shall:

12 (1) terminate the commercial driver's license
13 downgrade process without removing the commercial driver's
14 license or commercial learner's permit privilege from the
15 driver's license if the division finds that the commercial
16 driver's license or commercial learner's permit holder is no
17 longer prohibited from operating a commercial motor vehicle;

18 (2) allow reinstatement of a commercial
19 driver's license or commercial learner's permit privilege to
20 the driver's license of a downgraded driver record upon
21 notification from the federal motor carrier safety
22 administration that the driver is no longer prohibited from
23 operating a commercial motor vehicle; or

24 (3) reinstate a commercial driver's license or
25 commercial learner's permit privilege to the driver's license,

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1 expunge a commercial driver's license downgrade from the
2 commercial driver's license information system driver record
3 and, if applicable, expunge from the motor vehicle record any
4 reference to prohibited status upon notice from the federal
5 motor carrier safety administration that the driver was
6 erroneously identified as prohibited from operating a
7 commercial motor vehicle."

8 SECTION 2. Section 65-3-14 NMSA 1978 (being Laws 2007,
9 Chapter 151, Section 1, as amended) is amended to read:

10 "65-3-14. DRUG AND ALCOHOL TESTING PROGRAM--REPORT OF
11 POSITIVE TEST.--

12 A. A motor carrier shall have an in-house drug and
13 alcohol testing program that meets the requirements of 49
14 C.F.R. part 382 or be a member of a consortium, as defined in
15 49 C.F.R. part 382.107, that provides testing that meets the
16 requirements of 49 C.F.R. part 382.

17 B. A person or entity specified in 49 C.F.R. part
18 382.103, who is not explicitly excepted by New Mexico law, is
19 subject to the provisions of this section and shall report
20 positive test results or a refusal to submit to a test pursuant
21 to provisions in this section. A refusal to submit to a pre-
22 employment test shall not be considered a violation of this
23 section.

24 C. When a person or entity specified in 49 C.F.R.
25 part 382.103 determines that a positive test result is valid,

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1 the person or entity shall report the findings to the motor
2 vehicle division of the taxation and revenue department. The
3 motor vehicle division shall enter the report of a positive
4 test result or refusal to submit to a test on the reported
5 person's motor vehicle record so that it can be contained in
6 the commercial driver's license information system pursuant to
7 the New Mexico Commercial Driver's License Act.

8 D. The division shall keep the report of a positive
9 test result or the refusal to submit to a test in the motor
10 vehicle record of the driver for five years from the time the
11 report was received by the motor vehicle division.

12 E. The division shall seek reports from the federal
13 commercial driver's license drug and alcohol clearinghouse for
14 actions relating to commercial driver's licenses or commercial
15 driver's permits."

16 SECTION 3. Section 66-5-64 NMSA 1978 (being Laws 1989,
17 Chapter 14, Section 13, as amended) is amended to read:

18 "66-5-64. COMMERCIAL DRIVER'S LICENSE AND COMMERCIAL
19 LEARNER'S PERMIT--CONTENT.--The commercial driver's license
20 shall be marked "commercial driver's license" or "CDL". [~~It~~]
21 The commercial learner's permit shall be marked "commercial
22 learner's permit" or "CLP", and shall state: "This permit is
23 invalid unless accompanied by a New Mexico driver's license.".
24 A commercial driver's license or commercial learner's permit
25 shall include, but not be limited to, the following

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- 1 information:
- 2 A. the person's name and current New Mexico
- 3 physical [~~or mailing~~] address;
- 4 B. the person's full face or front-view color
- 5 photograph;
- 6 C. a physical description of the person, including
- 7 sex, height, weight and eye color;
- 8 D. the person's date of birth;
- 9 E. the person's signature;
- 10 F. the class or type of commercial motor vehicle
- 11 that the person is authorized to drive, together with any
- 12 endorsements or restrictions;
- 13 G. the name of this state; and
- 14 H. the dates between which the license or permit is
- 15 valid."

16 SECTION 4. EFFECTIVE DATE.--The effective date of the

17 provisions of this act is January 1, 2024.