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HOUSE BILL 862

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Daniel P. Silva

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES; PROVIDING FOR COMPLIANCE WITH FEDERAL REGULATIONS REGARDING CONVICTION FOR VIOLATION OF TRAFFIC LAWS; REQUIRING DOMICILE IN NEW MEXICO TO RECEIVE A COMMERCIAL DRIVER'S LICENSE; AMENDING AND ENACTING SECTIONS OF THE NEW MEXICO COMMERCIAL DRIVER'S LICENSE ACT.

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] VIOLATION CONVICTIONS--IMPROPER TO MASK, DEFER OR DIVERT.--No person shall mask or defer imposition of judgment of a conviction of a traffic control law violation, except a parking violation, committed by a holder of a commercial driver's license or allow a holder of a commercial driver's license to enter a diversion program upon conviction

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1 of a traffic control law violation, except a parking violation,
2 that would prevent a commercial driver's license holder's
3 conviction, in any motor vehicle, from appearing on the
4 licensee's driving record, regardless of the state in which the
5 conviction occurred."

6 Section 2. Section 66-5-54 NMSA 1978 (being Laws 1989,
7 Chapter 14, Section 3, as amended) is amended to read:

8 "66-5-54. DEFINITIONS.--As used in the New Mexico
9 Commercial Driver's License Act:

10 A. "commerce" means:

11 (1) trade, traffic or transportation within
12 the jurisdiction of the United States between a place in New
13 Mexico and a place outside of New Mexico, including a place
14 outside of the United States; and

15 (2) trade, traffic or transportation in the
16 United States that affects any trade, traffic or transportation
17 described in Paragraph (1) of this subsection;

18 B. "commercial driver's license information system"
19 means the information system created pursuant to the federal
20 Commercial Motor Vehicle Safety Act of 1986 that contains
21 information pertaining to operators of commercial motor
22 vehicles;

23 C. "commercial motor vehicle" means a motor vehicle
24 or combination of motor vehicles used in commerce to transport
25 passengers or property if the motor vehicle:

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1 (1) has a gross combination weight rating of
2 more than twenty-six thousand pounds inclusive of a towed unit
3 with a gross vehicle weight rating of more than ten thousand
4 pounds;

5 (2) has a gross vehicle weight rating of more
6 than twenty-six thousand pounds;

7 (3) is designed to transport sixteen or more
8 passengers, including the driver; or

9 (4) is of any size and is used in the
10 transportation of hazardous materials, which requires the motor
11 vehicle to be placarded under applicable law;

12 D. "director" means the director of the motor
13 vehicle division of the department;

14 E. "disqualification" means:

15 (1) a suspension, revocation or cancellation
16 of a commercial driver's license by the state or jurisdiction
17 that issued the commercial driver's license;

18 (2) a withdrawal of a person's privileges to
19 drive a commercial motor vehicle by a state or other
20 jurisdiction as the result of a violation of state or local law
21 relating to motor vehicle control other than a parking, vehicle
22 weight or vehicle defect violation; and

23 (3) a determination by the federal motor
24 carrier safety administration that a person is not qualified to
25 operate a motor vehicle;

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1 F. "division" means the motor vehicle division of
2 the department;

3 G. "driving a commercial motor vehicle while under
4 the influence of alcohol" means:

5 (1) driving a commercial motor vehicle while
6 the driver has an alcohol concentration in the driver's blood
7 or breath of four one hundredths or more;

8 (2) driving a commercial motor vehicle while
9 the driver is under the influence of intoxicating liquor; or

10 (3) refusal to submit to chemical tests
11 administered pursuant to Section 66-8-107 NMSA 1978;

12 H. "employee" means an operator of a commercial
13 motor vehicle, including full-time, regularly employed drivers;
14 casual, intermittent or occasional drivers; leased drivers; and
15 independent owner-operator contractors, while in the course of
16 operating a commercial motor vehicle, who is either directly
17 employed by or under lease to an employer;

18 I. "employer" means a person, including the United
19 States, a state and a political subdivision of a state or their
20 agencies or instrumentalities, that owns or leases a commercial
21 motor vehicle or assigns employees to operate such a vehicle;

22 J. "fatality" means the death of a person as a
23 result of a motor vehicle accident;

24 K. "gross combination weight rating" means the
25 value specified by the manufacturer as the loaded weight of a

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1 combination vehicle. In the absence of a value specified by
2 the manufacturer, gross combination weight rating shall be
3 determined by adding the gross vehicle weight rating of the
4 power unit and the total weight of the towed unit or units and
5 any load thereon;

6 L. "gross vehicle weight rating" means the value
7 specified by the manufacturer as the loaded weight of a single
8 vehicle;

9 M. "imminent hazard" means a condition that
10 presents a substantial likelihood that death, serious illness,
11 severe personal injury or a substantial endangerment to health,
12 property or the environment will occur before the reasonable
13 foreseeable completion date of a formal proceeding to lessen
14 the risk of that death, illness, injury or endangerment;

15 N. "noncommercial motor vehicle" means a motor
16 vehicle or combination of motor vehicles that is not a
17 commercial motor vehicle;

18 O. "nonresident commercial driver's license" means
19 a commercial driver's license issued by another state to a
20 person domiciled in that state or by a foreign country to a
21 person domiciled in that country;

22 P. "out-of-service order" means a declaration by an
23 authorized enforcement officer of a federal, state, Canadian,
24 Mexican or local jurisdiction that a driver, a commercial motor
25 vehicle or a motor carrier operation is temporarily prohibited

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1 from operating;

2 Q. "railroad-highway grade crossing violation"
3 means a violation of a provision of Section 66-7-341 or
4 66-7-343 NMSA 1978 or a violation of federal or local law or
5 rule pertaining to stopping at or crossing a railroad-highway
6 grade crossing; [~~and~~]

7 R. "serious traffic violation" means conviction of
8 any of the following if committed when operating a motor
9 vehicle:

10 (1) speed of fifteen miles or more per hour
11 above the posted limits;

12 (2) reckless driving as defined by Section
13 66-8-113 NMSA 1978 or a municipal ordinance or the law of
14 another state;

15 (3) homicide by vehicle, as defined in Section
16 66-8-101 NMSA 1978;

17 (4) injury to pregnant woman by vehicle as
18 defined in Section 66-8-101.1 NMSA 1978 or a municipal
19 ordinance or the law of another state;

20 (5) any other violation of law relating to
21 motor vehicle traffic control, other than a parking violation,
22 that the secretary determines by regulation to be a serious
23 traffic violation. "Serious traffic violation" does not
24 include a vehicle weight or vehicle defect violation;

25 (6) improper or erratic lane changes in

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1 violation of Section 66-7-317 NMSA 1978;

2 (7) following another vehicle too closely in
3 violation of Section 66-7-318 NMSA 1978;

4 (8) directly or indirectly causing death or
5 great bodily injury to a human being in the unlawful operation
6 of a motor vehicle in violation of Section 66-8-101 NMSA 1978;

7 (9) driving a commercial motor vehicle without
8 possession of a commercial driver's license in violation of
9 Section 66-5-59 NMSA 1978;

10 (10) driving a commercial motor vehicle
11 without the proper class of commercial driver's license and
12 endorsements pursuant to Section 66-5-65 NMSA 1978 and the
13 Motor Carrier Safety Act for the specific vehicle group
14 operated or for the passengers or type of cargo transported; or

15 (11) driving a commercial motor vehicle
16 without obtaining a commercial driver's license in violation of
17 Section 66-5-59 NMSA 1978; and

18 S. "state of domicile" means that state where a
19 person has a true, fixed and permanent home and principal
20 residence and to which the person has the intention of
21 returning whenever the person has been absent from that state."

22 Section 3. Section 66-5-60 NMSA 1978 (being Laws 1989,
23 Chapter 14, Section 9, as amended) is amended to read:

24 "66-5-60. COMMERCIAL DRIVER'S LICENSE--QUALIFICATIONS--
25 STANDARDS.--

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1 A. The division shall not issue a commercial
2 driver's license to a person unless that person [~~is a resident~~
3 ~~of New Mexico~~] can establish that New Mexico is the state of
4 domicile and has passed a knowledge and skills test for driving
5 a commercial motor vehicle and for related endorsements, has
6 passed a medical fitness test and has satisfied any other
7 requirements of the New Mexico Commercial Driver's License Act.

8 B. The division may authorize a person, including
9 an agency of this or another state, an employer, a private
10 driver-training facility or other private institution or a
11 department, agency or instrumentality of local government to
12 administer the skills test specified by this section.

13 C. The director may waive the requirement of any
14 test specified in this section for a commercial driver's
15 license applicant who complies with the other provisions of the
16 New Mexico Commercial Driver's License Act through any
17 pertinent rules, regulations or contractual agreements with the
18 public education department, other governments or private
19 entities.

20 D. A commercial driver's license applicant shall
21 not take a test specified in this section more than three times
22 within one year.

23 E. If the department determines that a commercial
24 driver's license applicant has committed an offense in taking a
25 test specified in this section, the division shall not issue a

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1 commercial driver's license to that applicant within one year
2 of the department's determination."

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