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SENATE BILL 239

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING THE FACTORS THAT CAUSE  
PERMANENT DISQUALIFICATION FROM OBTAINING A COMMERCIAL DRIVER'S  
LICENSE.

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

**SECTION 1.** Section 66-5-68 NMSA 1978 (being Laws 1989,  
Chapter 14, Section 17, as amended) is amended to read:

"66-5-68. DISQUALIFICATION.--

A. The department shall disqualify a person from  
driving a commercial motor vehicle for at least thirty days if  
the federal motor carrier safety administration reports to the  
division that the person poses an imminent hazard.

B. The department shall disqualify a person who  
holds a commercial driver's license or who is required to hold  
a commercial driver's license from driving a commercial motor

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1 vehicle for a period of not less than one year, which shall run  
2 concurrently with any revocation or suspension action for the  
3 same offense, if the person:

4 (1) refuses to submit to a chemical test when  
5 requested pursuant to the provisions of the Implied Consent  
6 Act;

7 (2) is twenty-one years of age or more and  
8 submits to chemical testing pursuant to the Implied Consent Act  
9 and the test results indicate an alcohol concentration of eight  
10 one hundredths or more;

11 (3) submits to chemical testing pursuant to  
12 the Implied Consent Act and the test results indicate an  
13 alcohol concentration of four one hundredths or more if the  
14 person is driving a commercial motor vehicle;

15 (4) is less than twenty-one years of age and  
16 submits to chemical testing pursuant to the Implied Consent Act  
17 and the test results indicate an alcohol concentration of two  
18 one hundredths or more; or

19 (5) is convicted of a violation of:

20 (a) driving a motor vehicle while under  
21 the influence of intoxicating liquor or drugs in violation of  
22 Section 66-8-102 NMSA 1978, an ordinance of a municipality of  
23 this state or the law of another state;

24 (b) leaving the scene of an accident  
25 involving a commercial motor vehicle driven by the person in

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1 violation of Section 66-7-201 NMSA 1978 or an ordinance of a  
2 municipality of this state or the law of another state;

3 (c) using a motor vehicle in the  
4 commission of a felony;

5 (d) driving a commercial motor vehicle  
6 after the driver's commercial driver's license is revoked,  
7 suspended, disqualified or canceled for violations while  
8 operating a commercial motor vehicle; or

9 (e) causing a fatality in the unlawful  
10 operation of a motor vehicle pursuant to Section 66-8-101 NMSA  
11 1978.

12 C. The department shall disqualify a person from  
13 driving a commercial motor vehicle for a period of not less  
14 than three years if any of the violations specified in  
15 Subsection B of this section occur while transporting a  
16 hazardous material required to be placarded.

17 D. The department shall disqualify a person from  
18 driving a commercial motor vehicle for life if convicted of two  
19 or more violations of any of the offenses specified in  
20 Subsection B of this section, or any combination of those  
21 offenses, arising from two or more separate incidents, but the  
22 secretary may issue regulations establishing guidelines,  
23 including conditions, under which a disqualification for life  
24 under this subsection may be reduced to a period of not less  
25 than ten years. This subsection applies only to those offenses

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1 committed after July 1, 1989.

2 E. The department shall disqualify a person from  
3 driving a commercial motor vehicle for life if the person  
4 ~~[uses]~~ is convicted of using a ~~[commercial]~~ motor vehicle in  
5 the commission of any felony involving the manufacture,  
6 distribution or dispensing of a controlled substance ~~[or the~~  
7 ~~possession with intent to manufacture, distribute or dispense a~~  
8 ~~controlled substance]~~.

9 F. The department shall disqualify a person from  
10 driving a commercial motor vehicle for a period of not less  
11 than sixty days if convicted of two serious traffic violations  
12 or one hundred twenty days if convicted of three serious  
13 traffic violations, if the violations were committed while  
14 driving a commercial motor vehicle, arising from separate  
15 incidents occurring within a three-year period.

16 G. The department shall disqualify a person from  
17 driving a commercial motor vehicle for a period of:

18 (1) not less than one hundred eighty days nor  
19 more than two years if the person is convicted of a first  
20 violation of an out-of-service order while transporting  
21 hazardous materials required to be placarded pursuant to the  
22 federal Hazardous Materials Transportation Act or while  
23 operating a motor vehicle designed to transport more than  
24 fifteen passengers, including the driver;

25 (2) not more than one year if the person is

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1 convicted of a first violation of an out-of-service order; or  
2 (3) not less than three years nor more than  
3 five years if, during any ten-year period, the person is  
4 convicted of any subsequent violations of out-of-service  
5 orders, in separate incidents, while transporting hazardous  
6 materials required to be placarded pursuant to that act or  
7 while operating a motor vehicle designed to transport more than  
8 fifteen passengers, including the driver.

9 H. The department shall disqualify a person from  
10 driving a commercial motor vehicle for sixty days if:

11 (1) the person has been convicted of two  
12 serious traffic violations in separate incidents within a  
13 three-year period in a motor vehicle other than a commercial  
14 motor vehicle; and

15 (2) the second conviction results in  
16 revocation, cancellation or suspension of the person's  
17 commercial driver's license or noncommercial motor vehicle  
18 driving privileges for sixty days.

19 I. The department shall disqualify a person from  
20 driving a commercial motor vehicle for one hundred twenty days,  
21 in addition to any other period of disqualification, if:

22 (1) the person has been convicted of more than  
23 two serious traffic violations within a three-year period in a  
24 motor vehicle other than a commercial motor vehicle; and

25 (2) the third or a subsequent conviction

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1 results in the revocation, cancellation or suspension of the  
2 person's commercial driver's license or noncommercial motor  
3 vehicle driving privileges.

4 J. When a person is disqualified from driving a  
5 commercial motor vehicle, any commercial driver's license held  
6 by that person is invalidated without a separate proceeding of  
7 any kind and the driver is not eligible to apply for a  
8 commercial driver's license until the period of time for which  
9 the driver was disqualified has elapsed.

10 K. The department shall disqualify a person from  
11 driving a commercial motor vehicle for not less than:

12 (1) sixty days if the person is convicted of a  
13 first violation of a railroad-highway grade crossing violation;

14 (2) one hundred twenty days if, during any  
15 three-year period, the person is convicted of a second  
16 railroad-highway grade crossing violation in a separate  
17 incident; and

18 (3) one year if, during any three-year period,  
19 the person is convicted of a third or subsequent railroad-  
20 highway grade crossing violation in a separate incident.

21 L. After disqualifying, suspending, revoking or  
22 canceling a commercial driver's license, the department shall,  
23 within ten days, update its records to reflect that action.

24 After disqualifying, suspending, revoking or canceling a  
25 nonresident commercial driver's privileges, the department

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1 shall, within ten days, notify the licensing authority of the  
2 state that issued the commercial driver's license.

3 M. When disqualifying, suspending, revoking or  
4 canceling a commercial driver's license, the department shall  
5 treat a conviction received in another state in the same manner  
6 as if it was received in this state.

7 N. The department shall post and enforce any  
8 disqualification sent by the federal motor carrier safety  
9 administration to the department that indicates that a  
10 commercial motor vehicle driver poses an imminent hazard.

11 O. The federal transportation security  
12 administration of the department of homeland security shall  
13 provide for an appeal of a disqualification for a commercial  
14 driver's license hazardous materials endorsement on the basis  
15 of a background check, and the department shall provide to a  
16 hazardous materials applicant a copy of the procedures  
17 established by the transportation security administration, on  
18 request, at the time of application.

19 P. New Mexico shall conform to the federal  
20 transportation security administration of the department of  
21 homeland security rules and shall "look back" or review a  
22 maximum of seven years for a background check."

23 **SECTION 2. EFFECTIVE DATE.**--The effective date of the  
24 provisions of this act is July 1, 2014.