

## CHAPTER 271

AN ACT concerning commercial driver licenses and amending P.L.1990, c.103.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to read as follows:

C.39:3-10.11 Definitions relative to commercial driver licenses.

3. For purposes of this act, a term shall have the meaning set forth in R.S.39:1-1 unless another meaning for the term is set forth in this act, or unless another meaning is clearly apparent from the language or context of this act, or unless the meaning for the term set forth in R.S.39:1-1 is inconsistent with the manifest intent of the Legislature in this act.

For purposes of this act:

"Alcohol concentration" means:

- a. The number of grams of alcohol per 100 milliliters of blood; or
- b. The number of grams of alcohol per 210 liters of breath.

"Commercial driver license" or "CDL" means a license issued in accordance with this act to a person authorizing the person to operate a certain class of commercial motor vehicle.

"Commercial Driver License Information System" or "CDLIS" means the information system established pursuant to the federal "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. s.2701 et seq.) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used or designed to transport passengers or property:

- a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or displays a gross vehicle weight rating of 26,001 or more pounds;
- b. If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- c. If the vehicle is designed to transport 16 or more passengers including the driver;
- d. If the vehicle is designed to transport eight or more but less than 16 persons, including the driver, and is used to transport such persons for hire on a daily basis to and from places of employment;
- e. If the vehicle is transporting or used in the transportation of hazardous materials and is required to be placarded in accordance with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous material placard; or
- f. If the vehicle is operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or is privately operated, and is used for the transportation of children to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education.

The chief administrator may, by regulation, include within this definition such other motor vehicles or combination of motor vehicles as he deems appropriate.

This term shall not include recreation vehicles.

This term shall not include motor vehicles designed to transport eight or more but less than sixteen persons, including the driver, which are owned and operated directly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services and which shall not be used in that capacity at any time to pick up or discharge passengers to any

airline terminal, train station or other transportation center, or for any purpose not directly related to the provision of funeral services.

"Controlled substance" means any substance so classified under subsection (6) of section 102 of the "Controlled Substances Act" (21 U.S.C. s.802), and includes all substances listed on Schedules I through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1 et seq.) as they may be revised from time to time. The term, wherever it appears in this act or administrative regulation promulgated pursuant to this act, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

"Conviction" means a final adjudication that a violation has occurred, a final judgment on a verdict, a finding of guilt in a tribunal of original jurisdiction, or a conviction following a plea of guilty, non vult or nolo contendere accepted by a court. It also includes an unvacated forfeiture of bail, bond or collateral deposited to secure the person's appearance in court, or the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Disqualification" means either:

- a. The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;
- b. A determination by the Federal Motor Carrier Safety Administration under the rules of practice for motor carrier safety contained in 49 C.F.R. s.386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. s.391; or
- c. The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. s.383.51.

"Domicile" means that state where a person has a true, fixed, and permanent home and principal residence and to which the person intends to return whenever the person is absent.

"Driver license" means a license issued by this State or any other jurisdiction to a person authorizing the person to operate a motor vehicle.

"Endorsement" means an authorization to a commercial driver license required to permit the holder of the license to operate certain types of commercial motor vehicles.

"Felony" means any offense under any federal law or the law of a state, including this State, that is punishable by death or imprisonment for a term exceeding one year. The term includes, but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-1 et seq.

"Foreign jurisdiction" means any jurisdiction other than a state of the United States.

"Gross vehicle weight rating" or "GVWR" means the value specified by a manufacturer as the loaded weight of a single or a combination (articulated) vehicle, or the registered gross weight, whichever is greater. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified for the towed unit or units by the manufacturer, the GVWR of a combination (articulated) vehicle is the GVWR of the power unit plus the total weight of the towed unit, including the loads on them.

"Hazardous material" means a substance or material determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and so designated pursuant to the provisions of the "Hazardous Materials Transportation Act" (49 U.S.C. s.1801 et seq.).

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks. The term "motor vehicle" includes motorized bicycles.

"Non-commercial motor vehicle" means a motor vehicle or combination of motor vehicles other than a "commercial motor vehicle" as defined in this section.

"Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. s.386.72, 392.5, 395.13, 396.9, or any compatible law or the North American Uniform Out-of-Service Criteria.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance.

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a commercial driver license applicant operates or expects to operate.

"Serious traffic violation" means conviction for one of the following offenses committed while operating a commercial motor vehicle:

- a. Excessive speeding, involving any single offense for a speed of 15 miles per hour or more above the speed limit;
- b. Reckless driving, as defined by state or local law or regulation, including, but not limited to, offenses of driving a commercial motor vehicle in willful or wanton disregard of the safety of persons or property, including violations of R.S.39:4-96;
- c. Improper or erratic traffic lane changes;
- d. Following a vehicle ahead too closely, including violations of R.S.39:4-89;
- e. A violation, arising in connection with a fatal accident, of state or local law relating to motor vehicle traffic control, other than a parking violation;
- f. Any other violation of a state or local law relating to motor vehicle traffic control determined by the Secretary of the United States Department of Transportation in 49 C.F.R. s.383.5 to be a serious traffic violation;
- g. Driving a commercial motor vehicle without a commercial driver license in the driver's possession; or
- h. Driving a commercial motor vehicle without the proper class of commercial driver license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

This term shall not include vehicle weight or defect violations.

"State" means a state of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by the chief administrator. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

2. Section 10 of P.L.1990, c.103 (C.39:3-10.18) is amended to read as follows:

C.39:3-10.18 Possession of valid commercial driver license mandatory.

10. a. (1) (Deleted by amendment, P.L.2005, c.147).

(2) On and after April 1, 1992, and except when operating under a valid commercial driver examination or learner's permit and accompanied by the holder of a commercial driver license valid for the class or type of vehicle being operated, a person shall not operate a commercial motor vehicle unless the person has been issued and is in possession of a valid commercial driver license and applicable endorsements for the class and type of vehicle being operated. A person shall not operate a commercial motor vehicle if the person is restricted from operating a commercial vehicle of that class or type.

(3) A person violating this subsection shall be fined not less than \$250 or more than \$500, or imprisoned for not more than 60 days, or both. If that person has never been licensed to operate a commercial motor vehicle in this State or any other jurisdiction, the chief administrator shall refuse to issue a license to operate a commercial motor vehicle to that person for a period of 180 days from the date of the conviction. This penalty shall not be applicable in cases where failure to have actual possession of the commercial driver license is due to an administrative or technical error by the commission. If a person charged with a failure to have possession of a valid commercial driver license can exhibit the license to the judge of the court before whom he is summoned to answer to a charge and the license was valid on the day the person was charged, the judge may dismiss the charge. However, the judge may impose court costs.

b. (1) A person who has been refused a commercial driver license, whose commercial motor vehicle driving privilege or any endorsement has been suspended or revoked, who has been prohibited or disqualified from operating a commercial motor vehicle, who is subject to an out-of-service order, or whose driving privilege is suspended or revoked, shall not operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, or disqualification, or during the period of the out-of-service order.

(2) A person who violates this subsection shall, upon conviction, be fined not less than \$500 or more than \$5,000 for each offense, or imprisoned for a term of not more than 90 days, or both; provided, however, a person who operates a commercial motor vehicle during the period of an out-of-service order shall, upon conviction, be fined \$2,500 and may be imprisoned for a term of not more than 90 days. A person who operates a commercial motor vehicle during the period of an out-of-service order shall, upon a second or subsequent conviction of this subsection, be fined \$5,000 and may be imprisoned for a term of not more than 90 days. If a person is involved in an accident resulting in personal injury to another person while operating a commercial motor vehicle in violation of this subsection, the court shall impose both a period of imprisonment for 90 days and a fine of \$5,000.

(3) An employer shall not knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle during the period of refusal, suspension, revocation, prohibition, disqualification, or during the period of the out-of-service order. An employer who is convicted of a violation of this subsection shall be subject to a fine of not less than \$2,750 or more than \$25,000.

In addition, the commercial motor vehicle driving privilege of a person convicted under this subsection shall be suspended in accordance with section 12 of this act.

3. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to read as follows:

C.39:3-10.20 Suspension of commercial motor vehicle driving privilege.

12. a. In addition to the imposition of any other penalty provided by law, the chief administrator shall suspend for not less than one year nor more than three years the commercial motor vehicle driving privilege of a person convicted for a first violation of:

(1) R.S.39:4-50 if the motor vehicle was a commercial motor vehicle or section 5 of this act.

(2) R.S.39:4-129 if the motor vehicle was a commercial motor vehicle operated by the person.

(3) Using a commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

(4) Refusal to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) or section 16 of this act if the motor vehicle was a commercial motor vehicle.

(5) Paragraph (1) of subsection b. of section 10 of this act.

(6) A violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control, other than a parking violation, regardless of whether the motor vehicle operated by the person was a commercial motor vehicle or a non-commercial motor vehicle.

b. If a first violation of any of the violations specified in subsection a. of this section takes place while transporting hazardous material or takes place in a vehicle displaying a hazardous material placard, the chief administrator shall suspend the commercial motor vehicle driving privilege of the person for three years.

c. Subject to the provisions of subsection d. of this section, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person for a second or subsequent violation of any of the offenses specified in subsections a. and j. of this section or any combination of those offenses arising from two or more separate incidents.

d. The chief administrator may issue rules and regulations establishing guidelines, including conditions under which a revocation of commercial motor vehicle driving privilege for life under subsection c. may be reduced to a period of not less than 10 years.

e. Notwithstanding any other provision of law to the contrary, the chief administrator shall revoke for life the commercial motor vehicle driving privilege of a person who uses a commercial motor vehicle or a non-commercial motor vehicle in the commission of a crime involving the manufacture, distribution, or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, or dispense a controlled substance or controlled substance analog. A revocation under this subsection shall not be subject to reduction in accordance with subsection d. of this section.

f. (1) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, and that conviction constitutes the second serious traffic violation committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for 120 days if the conviction constitutes the third or subsequent serious traffic violation, other than a violation arising in connection with a fatal accident as set forth in paragraph (6) of subsection a. of this section, committed in a commercial motor vehicle or non-commercial motor vehicle in this or any other state arising from separate incidents occurring within a three-year period.

(2) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 60 days if the person is convicted of a violation of

R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); or section 10 of P.L.2005, c.147 (C.39:4-128.11). The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than 120 days if the conviction constitutes the second violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within a three-year period. The chief administrator shall suspend the commercial motor vehicle driving privilege for not less than one year if the conviction constitutes the third or subsequent violation of R.S.39:4-128; section 68 of P.L.1951, c.23 (C.39:4-127.1); section 10 of P.L.2005, c.147 (C.39:4-128.11) or any combination of such violations in this or any other state arising from separate incidents occurring within the past three years.

(3) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than one year if the person is convicted of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than two years or more than five years if the conviction constitutes the second conviction in a separate incident in this or any other state within a 10-year period of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes the third or subsequent conviction in a separate incident in this or any other state within a 10-year period of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting nonhazardous materials.

(4) The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than 180 days or more than two years if the person is convicted of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver. The chief administrator shall suspend the commercial motor vehicle driving privilege of a person for a period of not less than three years or more than five years if the conviction constitutes a second or subsequent conviction in a separate incident within a 10-year period in this or any other state of violating a driver, commercial motor vehicle, or motor carrier operation out-of-service order while driving a commercial motor vehicle transporting hazardous materials required to be placarded under Subpart F of 49 C.F.R. s.172, or while operating a vehicle designed to transport 16 or more passengers, including the driver.

g. A court shall make a report to the chief administrator within three days in such form as the chief administrator may require concerning conviction for violation of P.L.1990, c.103 (C.39:3-10.9 et seq.). The chief administrator shall notify the Commercial Driver License Information System of the suspension, revocation, or cancellation. In the case of non-residents, the chief administrator also shall notify the licensing authority of the state which issued the commercial driver license or the state where the person is domiciled. The chief administrator shall provide these notices within 10 days after the suspension, revocation, cancellation, or disqualification.

h. The chief administrator shall in accordance with this section suspend a commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if the person is convicted in another state or foreign jurisdiction of an offense of a substantially similar nature to the offenses specified in subsection a., e., f., g., h., i. or j. of this section. For purposes of this section, a violation such as driving while intoxicated, driving under the influence, or driving while ability is impaired shall be considered substantially similar offenses. For purposes of this section, a violation committed in another state but substantially similar to those enumerated in subsection a., e., f., g., h., i. or j. of this section committed in this State shall be included.

i. Notwithstanding any other provision of law to the contrary, a conviction under this section, or section 5 or 16 of this act, shall not merge with a conviction for a violation of R.S.39:4-50 or section 2 of P.L.1966, c.142 (C.39:4-50.2).

j. In addition to any other penalty provided by law, the chief administrator shall suspend for one year the commercial motor vehicle driving privilege of a person for a first violation of:

- (1) R.S.39:4-50 while operating a non-commercial motor vehicle;
- (2) R.S.39:4-129 while operating a non-commercial motor vehicle;
- (3) Refusing to submit to a chemical test under section 2 of P.L.1966, c.142 (C.39:4-50.2) while operating a non-commercial motor vehicle; or
- (4) Using a non-commercial motor vehicle in the commission of any "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

k. The chief administrator shall in accordance with this section suspend the commercial motor vehicle driving privilege of a person holding, or required to hold, a commercial driver license issued by this State if that person has been disqualified from operating a commercial motor vehicle by the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. s.383.52 because that person's driving has been determined to constitute an imminent hazard.

l. The Motor Vehicle Commission shall maintain records of accidents, convictions, and disqualification for persons holding, or required to hold, a commercial driver license in accordance with 49 C.F.R. s.384.225 and the AAMVANet, Inc.'s "Commercial Driver License Information System State Procedures," as amended and supplemented.

m. Any driver who is found to be in violation of the provisions of paragraph (a) or (b) of 49 C.F.R. s.392.5, relating to the use of alcohol, being under the influence of alcohol, having any measured alcohol concentration or detected presence of alcohol, or possessing alcohol, shall be placed out-of-service immediately for a period of 24 hours.

4. This act shall take effect immediately.

Approved January 17, 2010.