

FIRST REGULAR SESSION

SENATE BILL NO. 432

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Read 1st time February 5, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1489S.021

AN ACT

To repeal sections 302.700, 307.177, and 307.400, RSMo, and to enact in lieu thereof three new sections relating to commercial motor vehicles, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 302.700, 307.177, and 307.400, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 302.700, 307.177, and 307.400, to read as follows:

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial Driver's License Act".

2. When used in sections 302.700 to 302.780, the following words and phrases mean:

(1) "Alcohol", any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;

(2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters of blood or the number of grams of alcohol per two hundred ten liters of breath or the number of grams of alcohol per sixty-seven milliliters of urine;

(3) "Commercial driver's instruction permit", a permit issued pursuant to section 302.720;

(4) "Commercial driver's license", a license issued by this state to an individual which authorizes the individual to operate a commercial motor vehicle;

(5) "Commercial driver's license information system", the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(6) "Commercial motor vehicle", a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one pounds or more;

(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal regulation;

(c) If the vehicle is designed to transport more than fifteen passengers, including the driver; or

(d) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801 et seq.);

(7) "Controlled substance", any substance so classified under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time;

(8) "Conviction", an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or prorated;

(9) "Director", the director of revenue or his authorized representative;

(10) "Disqualification", a withdrawal of the privilege to drive a commercial motor vehicle;

(11) "Drive", to drive, operate or be in physical control of a commercial motor vehicle;

(12) "Driver", any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license;

(13) "Driving under the influence of alcohol", the commission of any one or more of the following acts in a commercial motor vehicle:

(a) Driving a commercial motor vehicle with the alcohol concentration of four one-hundredths of a percent or more as prescribed by the secretary or such other alcohol concentration as may be later determined by the secretary by regulation;

(b) Driving while intoxicated in violation of any federal or state law, or in violation of a county or municipal ordinance;

(c) Driving with excessive blood alcohol content in violation of any federal or state law, or in violation of a county or municipal ordinance;

(d) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance; or

(e) Having any state, county or municipal alcohol-related enforcement contact, as defined in subsection 3 of section 302.525;

(14) "Driving under the influence of a controlled substance", the commission of any one or more of the following acts in a commercial motor vehicle:

(a) Driving a commercial motor vehicle while under the influence of any substance so classified under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time;

(b) Driving a commercial motor vehicle while in a drugged condition in violation of any federal or state law or in violation of a county or municipal ordinance; or

(c) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance;

(15) "Employer", any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to operate such a vehicle;

(16) "Farm vehicle", a commercial motor vehicle controlled and operated by a farmer used exclusively for the transportation of agricultural products, farm machinery, farm supplies, or a combination of these, within one hundred fifty miles of the farm, other than one which requires placarding for hazardous materials as defined in this section, or used in the operation of a common or contract motor carrier, except that a farm vehicle shall not be a commercial motor vehicle when the total combined gross weight rating does not exceed twenty-six thousand one pounds when transporting fertilizers as defined in subdivision (19) of this subsection;

(17) "Felony", any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;

(18) "Gross vehicle weight rating" or "GVWR", the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single or a combination vehicle[, or registered gross weight, whichever is greater]. The GVWR of a combination 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;

(19) "Hazardous materials", hazardous materials as specified in section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). Fertilizers, including but not limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel shall not be considered hazardous materials when transported by a farm vehicle provided all other provisions of this definition are followed;

(20) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks;

(21) "Out of service", a temporary prohibition against the operation of a commercial motor vehicle by a particular driver, or the operation of a particular commercial motor vehicle, or the operation of a particular motor carrier;

(22) "Out-of-service order", a declaration by the Federal Highway Administration, or any

authorized enforcement officer of a federal, state, Commonwealth of Puerto Rico, Canadian, Mexican or any local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier operation, is out of service;

(23) "Secretary", the Secretary of Transportation of the United States;

(24) "Serious traffic violation", driving a commercial motor vehicle in such a manner that the driver receives a conviction for:

(a) Excessive speeding, as defined by the secretary by regulation;

(b) Careless, reckless or imprudent driving which includes, but shall not be limited to, any violation of section 304.016, RSMo, any violation of section 304.010, RSMo, or any other violation of state law, or any county or municipal ordinance while driving a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property, or improper or erratic traffic lane changes, or following the vehicle ahead too closely, but shall not include careless and imprudent driving by excessive speed;

(c) A violation of any state law or county or municipal ordinance regulating the operation of motor vehicles arising out of an accident or collision which resulted in death to any person, other than a parking violation; or

(d) Any other violation of a state law or county or municipal ordinance regulating the operation of motor vehicles, other than a parking violation, as prescribed by the secretary by regulation;

(25) "State", a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada;

(26) "United States", the fifty states and the District of Columbia.

307.177. 1. It is unlawful for any person to operate any bus, truck, truck-tractor and trailer combination, or other commercial motor vehicle and trailer upon any highway of this state, whether intrastate transportation or interstate transportation, [transporting materials defined and classified as hazardous by the United States Department of Transportation pursuant to Title 49 of the Code of Federal Regulations,] **unless such transportation is conducted in accordance with the hazardous material regulations established by the United States Department of Transportation pursuant to Title 49, Code of Federal Regulations,** as such regulations have been and may periodically be amended[, unless such vehicle is equipped with the equipment required by and be operated in accordance with safety and hazardous materials regulations for such vehicles as adopted by the United States Department of Transportation].

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988.

3. Failure to comply with the requirements of this section may result in the commercial motor vehicle and trailer and driver of such vehicle and trailer being placed out of service. Criteria used for placing drivers and vehicles out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Violation of this section shall be deemed a class A misdemeanor.

307.400. 1. It is unlawful for any person to operate any commercial motor vehicle licensed for more than twelve thousand pounds, **as defined in Title 49, Code of Federal Regulations, Part 390.5**, either singly or in combination with a trailer, as both vehicles are defined in section 301.010, RSMo, **and in Title 49, Code of Federal Regulations, Part 390.5**, unless such vehicles are equipped and operated as required by Parts 390 through 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended, whether intrastate transportation or interstate transportation. Members of the Missouri state highway patrol are authorized to enter the cargo area of a commercial motor vehicle or trailer to inspect the contents when reasonable grounds exist to cause belief that the vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations. The director of the department of public safety is hereby authorized to further regulate the safety of commercial motor vehicles and trailers as he deems necessary to govern and control their operation on the public highways of this state by promulgating and publishing rules and regulations consistent with this chapter. Any such rules shall, in addition to any other provisions deemed necessary by the director, require:

(1) Every commercial motor vehicle and trailer and all parts thereof to be maintained in a safe condition at all times;

(2) Accidents arising from or in connection with the operation of commercial motor vehicles and trailers to be reported to the department of public safety in such detail and in such manner as the director may require.

Except for the provisions of subdivisions (1) and (2) of this subsection, the provisions of this section shall not apply to any commercial motor vehicle operated in intrastate commerce and licensed for a gross weight of sixty thousand pounds or less when used exclusively for the transportation of solid waste or forty-two thousand pounds or less when the license plate has been designated for farm use by the letter "F" as authorized by the Revised Statutes of Missouri, unless such vehicle is transporting hazardous materials as defined in Title 49, Code of Federal Regulations.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by

this state as chauffeurs to operate commercial motor vehicles on May 13, 1988. Persons who are otherwise qualified and licensed to operate a commercial motor vehicle in this state may operate such vehicle intrastate at the age of eighteen years or older, except that any person transporting hazardous material must be at least twenty-one years of age.

3. Commercial motor vehicles and drivers of such vehicles may be placed out of service if the vehicles are not equipped and operated according to the requirements of this section. Criteria used for placing vehicles and drivers out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to any vehicle owned or operated by any public utility, rural electric cooperative or other public service organization, or to the driver of such vehicle, while providing restoration of essential utility services during emergencies and operating intrastate. For the purposes of this subsection, the term "essential utility services" means electric, gas, water, telephone and sewer services.

5. Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in this state if such transportation:

(1) Is limited to an area within a one hundred air mile radius from the source of the commodities or the distribution point for the farm supplies; and

(2) Is conducted during the planting and harvesting season within this state, as defined by the department of public safety by regulation.

6. The provisions of Part 395.8, Title 49, Code of Federal Regulations, relating to recording of a driver's duty status, shall not apply to drivers engaged in agricultural operations referred to in subsection 5 of this section, if the motor carrier who employs the driver maintains and retains for a period of six months accurate and true records showing:

(1) The total number of hours the driver is on duty each day; and

(2) The time at which the driver reports for, and is released from, duty each day.

7. Violation of any provision of this section or any rule promulgated as authorized therein is a class B misdemeanor.

8. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.