

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**HOUSE BILL 2308
RATIFIED BILL**

AN ACT TO AMEND THE LAWS GOVERNING COMMERCIAL DRIVERS
LICENSES IN ORDER TO COMPLY WITH FEDERAL LAW, AS
RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION
OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-17.4 reads as rewritten:

"§ 20-17.4. Disqualification to drive a commercial motor vehicle.

(a) One Year. – Any of the following disqualifies a person from driving a commercial motor vehicle for one year if committed by a person holding a commercial drivers license, or, when applicable, committed while operating a commercial motor vehicle by a person who does not hold a commercial drivers license:

- (1) A first conviction of G.S. 20-138.1, driving while impaired, for a holder of a commercial drivers license that occurred while the person was driving a motor vehicle that is not a commercial motor vehicle.
- (2) A first conviction of G.S. 20-138.2, driving a commercial motor vehicle while impaired.
- (3) A first conviction of G.S. 20-166, hit and run.
- (4) A first conviction of a felony in the commission of which a commercial motor vehicle was used or the first conviction of a felony in which any motor vehicle is used by a holder of a commercial drivers license.
- (5) Refusal to submit to a chemical test when charged with an implied-consent offense, as defined in G.S. 20-16.2.
- (6) A second or subsequent conviction, as defined in G.S. 20-138.2A(d), of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A.
- (7) A civil license revocation under G.S. 20-16.5, or a substantially similar revocation obtained in another jurisdiction, arising out of a charge that occurred while the person was either operating a commercial motor vehicle or while the person was holding a commercial drivers license.
- (8) A first conviction of vehicular homicide under G.S. 20-141.4 or vehicular manslaughter under G.S. 14-18 occurring while the person was operating a commercial motor vehicle.
- (9) Driving a commercial motor vehicle during a period when the person's commercial drivers license is revoked, suspended, cancelled, or the driver is otherwise disqualified from operating a commercial motor vehicle.

(a1) Ten-Day Disqualification. – A person who is convicted for a first offense of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A is disqualified from driving a commercial motor vehicle for 10 days.

(b) Modified Life. – A person who has been disqualified from driving a commercial motor vehicle for a conviction or refusal described in subsection (a) who, as the result of a separate incident, is subsequently convicted of an offense or commits an

act requiring disqualification under subsection (a) is disqualified for life. The Division may adopt guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to 10 years.

(b1) Life Without Reduction. – A person is disqualified from driving a commercial motor vehicle for life, without the possibility of reinstatement after 10 years, if that person is convicted of a third or subsequent violation of G.S. 20-138.2, a fourth or subsequent violation of G.S. 20-138.2A, or if the person refuses to submit to a chemical test a third time when charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle.

(c) Life. – A person is disqualified from driving a commercial motor vehicle for life if that person either uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance, substance or is the holder of a commercial drivers license at the time of the commission of any such felony.

(d) Less Than a Year. – A person is disqualified from driving a commercial motor vehicle for 60 days if that person is convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, arising from separate incidents occurring within a three-year period, committed in a commercial motor vehicle or while holding a commercial drivers license, arising from separate incidents occurring within a three year period. This disqualification shall be in addition to, and shall be served at the end of, any other prior disqualification. For purposes of this subsection, a "serious violation" includes violations of G.S. 20-140(f) and G.S. 20-141(j3).

(e) Three Years. – A person is disqualified from driving a commercial motor vehicle for three years if that person is convicted of an offense or commits an act requiring disqualification under subsection (a) and the offense or act occurred while the person was transporting a hazardous material that required the motor vehicle driven to be placarded.

(f) Revocation Period. – A person is disqualified from driving a commercial motor vehicle for the period during which the person's regular or commercial drivers license is revoked, suspended, or cancelled.

(g) Violation of Out-of-Service Order. – Any person convicted for violating an out-of-service order, except as described in subsection (h) of this section, shall be disqualified as follows:

- (1) A person is disqualified from driving a commercial vehicle for a period of 90 days if convicted of a first violation of an out-of-service order.
- (2) A person is disqualified for a period of one year if convicted of a second violation of an out-of-service order during any 10-year period, arising from separate incidents.
- (3) A person is disqualified for a period of three years if convicted of a third or subsequent violation of an out-of-service order during any 10-year period, arising from separate incidents.

(h) Violation of Out-of-Service Order; Special Rule for Hazardous Materials and Passenger Offenses. – Any person convicted for violating an out-of-service order while transporting hazardous materials or while operating a commercial vehicle designed or used to transport more than 15 passengers, including the driver, shall be disqualified as follows:

- (1) A person is disqualified for a period of 180 days if convicted of a first violation of an out-of-service order.
- (2) A person is disqualified for a period of three years if convicted of a second or subsequent violation of an out-of-service order during any 10-year period, arising from separate incidents.

(i) **Disqualification for Out-of-State Violations.** – The Division shall withdraw the privilege to operate a commercial vehicle of any resident of this State or person transferring to this State upon receiving notice of the person's conviction or Administrative Per Se Notice in another state for an offense that, if committed in this State, would be grounds for disqualification, even if the offense occurred in another jurisdiction prior to being licensed in this State where no action had been taken at that time in the other jurisdiction. The period of disqualification shall be the same as if the offense occurred in this State.

(j) **Disqualification of Persons Without Commercial Drivers Licenses.** – Any person convicted of an offense that requires disqualification under this section, but who does not hold a commercial drivers license, shall be disqualified from operating a commercial vehicle in the same manner as if the person held a valid commercial drivers license.

(k) **Disqualification for Railroad Grade Crossing Offenses.** – Any person convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

- (1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.
- (2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.
- (3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any combination of railroad grade crossing offenses listed in this subsection.

(l) **Disqualification Based on ~~for~~ Testing Positive in a Drug or Alcohol Test.** – Upon receipt of notice of a positive drug or alcohol test, or of refusal to participate in a drug or alcohol test, pursuant to G.S. 20-37.19(c), the Division must disqualify a CDL holder from operating a commercial motor vehicle for a minimum of 30 days and until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 C.F.R. § 382.503.

(m) **Disqualifications of Drivers Who Are Determined to Constitute an Imminent Hazard.** – The Division shall withdraw the privilege to operate a commercial motor vehicle for any resident of this State for a period of 30 days in accordance with 49 C.F.R. § 383.52."

SECTION 2. G.S. 20-37.20A reads as rewritten:

"§ 20-37.20A. Driving record notation for testing positive in a drug or alcohol test.

Upon receipt of notice pursuant to G.S. 20-37.19(c) of positive result in an alcohol or drug test of a person holding a commercial drivers license, and subject to any appeal of the disqualification pursuant to G.S. 20-37.20B, the Division shall place a notation on the driving record of the driver. A notation of a disqualification pursuant to G.S. 20-17.4(l) shall be retained on the record of a person for a period of ~~two~~ three years following the end of any disqualification of that person."

SECTION 3. This act becomes effective December 1, 2008, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 15th day of July, 2008.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2008