

IN THE SENATE

SENATE BILL NO. 1296

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO COMMERCIAL MOTOR VEHICLES; AMENDING SECTION 49-104, IDAHO CODE,
2 TO REVISE DEFINITIONS AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
3 SECTION 49-240, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN
4 CIRCUMSTANCES FOR FORFEITURE OF BOND; AMENDING SECTION 49-335, IDAHO
5 CODE, TO REVISE PROVISIONS RELATING TO CERTAIN DISQUALIFICATIONS AND
6 PENALTIES; AMENDING SECTION 49-1416, IDAHO CODE, TO REVISE PROVISIONS
7 RELATING TO CERTAIN CITATIONS WHILE OPERATING A COMMERCIAL MOTOR
8 VEHICLE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 49-104, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 49-104. DEFINITIONS -- C. (1) "Cancellation of driver's license"
14 means the annulment or termination by formal action of the department of a
15 person's driver's license because of some error or defect in the driver's
16 license or because the licensee is no longer entitled to the driver's
17 license. The cancellation of a driver's license is without prejudice and
18 after compliance with requirements, the individual may apply for a new
19 driver's license at any time after cancellation.

20 (2) "Caravaning" means the transportation of any motor vehicle into,
21 out of, or within the state operating on its own wheels or in tow for the
22 purpose of sale or offer of sale by any agent, dealer, manufacturer's
23 representative, purchaser, or prospective purchaser, regardless of
24 residence unless the motor vehicle is licensed by the state of Idaho, or is
25 owned by an automobile dealer, duly licensed as a dealer by this state. It
26 shall also be considered as the transportation of property for hire by a
27 motor vehicle upon the highways of this state.

28 (3) "Certificate of liability insurance" means a certificate of
29 liability insurance issued by an insurance company authorized to do
30 business in this state or a certificate of liability insurance issued
31 by the department of insurance which demonstrates current insurance
32 against loss resulting from liability imposed by law for bodily injury
33 or death or damage to property suffered by any person caused by accident
34 and arising out of the operation, maintenance or use of a motor vehicle
35 described in the certificate in an amount not less than that required by
36 section ~~49-1212~~ 49-117(18), Idaho Code, and also demonstrates the current
37 existence of any other coverage required by title 41, Idaho Code, or a
38 certificate of self-insurance issued pursuant to law for each motor vehicle
39 to be registered. A certificate of liability insurance shall contain the
40 information required by the department of insurance, including the name
41 and address of the owner of the motor vehicle and a description of the motor
42 vehicle including identification number if there is one, or a statement

1 that all vehicles owned by a person or entity are covered by insurance, the
2 inception date of coverage, and the name of the insurer. "Certificate of
3 liability insurance" may also include the original contract of liability
4 insurance or a true copy, demonstrating the current existence of the
5 liability insurance described above.

6 (4) "Certification of safety compliance" means that a motor carrier
7 certifies as part of its registration process that it has knowledge of
8 the federal regulations and rules promulgated by the Idaho transportation
9 department and the Idaho state police applicable to motor carriers.

10 (5) "Chains" means metal traction devices required pursuant to section
11 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1)
12 on each side of the tire, connected by not less than nine (9) evenly-spaced
13 chains across the tire tread.

14 (6) "Commercial coach." (See section 39-4301, Idaho Code)

15 (7) "Commercial driver's license" means any class A, class B or class C
16 driver's license as defined in section 49-105, Idaho Code.

17 (8) "Commercial driver license information system (CDLIS)" is the
18 information system established to serve as a clearinghouse for locating
19 information related to the licensing and identification of motor vehicle
20 drivers.

21 (9) "Commercial driver training school" means a business enterprise
22 conducted by an individual, association, partnership, or corporation, for
23 the education and training of persons, either practically or theoretically,
24 or both, to operate or drive motor vehicles, and charging a consideration or
25 tuition for such services.

26 (10) "Commercial vehicle" or "commercial motor vehicle." (See
27 "Vehicle," section 49-123, Idaho Code)

28 (11) "Compliance review" means an on-site examination of motor carrier
29 operations, which may be at the carrier's place of business, including
30 driver's hours of service, vehicle maintenance and inspection, driver
31 qualifications, commercial driver's license requirements, financial
32 responsibility, accidents, hazardous materials, and such other related
33 safety and transportation records to determine safety fitness.

34 (12) "Controlled substance" means any substance so classified under
35 section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and
36 includes all substances listed on schedules I through V, of 21, CFR part
37 1308, as they may be revised from time to time.

38 (13) "Conviction" means:

39 (a) The person has pled guilty or has been found guilty,
40 notwithstanding the form of the judgment or withheld judgment. A
41 conviction for purposes of this title shall also include an infraction
42 judgment.

43 (b) For purposes of disqualification or withdrawal of commercial
44 vehicle driving privileges only, "conviction" means an unvacated
45 adjudication of guilt, or determination that a person has violated or
46 failed to comply with the law in a court of original jurisdiction or by
47 an authorized administrative tribunal, an unvacated forfeiture of bail
48 or collateral deposited to secure the person's appearance in court, a
49 plea of guilty or nolo contendere accepted by the court, the payment
50 of a fine or court cost, or violation of a condition of release without

1 bail, regardless of whether or not the penalty is rebated, suspended or
2 probated.

3 (14) "Crosswalk" means:

4 (a) That part of a highway at an intersection included within the
5 connections of the lateral lines of the sidewalks on opposite sides of
6 the highway measured from the curbs or in the absence of curbs, from
7 the edges of the traversable highway; and in the absence of a sidewalk
8 on one side of the highway, that part of a highway included within the
9 extension of the lateral lines of the existing sidewalk at right angles
10 to the centerline.

11 (b) Any portion of a highway at an intersection or elsewhere distinctly
12 indicated for pedestrian crossing by lines or other markings on the
13 surface.

14 SECTION 2. That Section 49-240, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 49-240. CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND FOR TRAFFIC
17 OFFENSES. (1) Whenever a person has received a written uniform misdemeanor
18 traffic citation, summons or complaint containing a notice to appear before
19 a magistrate, and if the attorney prosecuting the case and the defendant
20 concur that it is in the best interest of justice that the defendant may
21 post and forfeit an amount of the bond agreed upon by the parties, the court
22 shall dismiss the charge. When bond is forfeited under the provisions of
23 this subsection, no violation points, as prescribed in section 49-326,
24 Idaho Code, shall accrue. A forfeiture of bond under the provisions of this
25 subsection shall not be recorded as a conviction, but the proceeds of the
26 bond shall be distributed as court costs and fines as though there were a
27 conviction.

28 (2) The provisions of subsection (1) of this section shall not be
29 available when citations, summons or complaints are written for a violation
30 of the provisions of section 18-8001, 18-8004, 18-8006 or 49-1401, Idaho
31 Code.

32 (3) Whenever a person who ~~holds~~, while operating a commercial motor
33 vehicle or whenever a holder of a class A, B or C license, has received a
34 written uniform traffic citation, summons or complaint containing a notice
35 to appear before a magistrate for an offense arising out of the operation
36 of a motor vehicle, any bond forfeiture shall be treated as though it were a
37 conviction.

38 SECTION 3. That Section 49-335, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 49-335. DISQUALIFICATIONS AND PENALTIES -- COMMERCIAL DRIVER'S
41 LICENSE. (1) Any person who operates a commercial motor vehicle or who
42 holds a class A, B or C driver's license is disqualified from operating
43 a commercial motor vehicle for a period of not less than one (1) year if
44 convicted in the form of a judgment or withheld judgment of a first violation
45 under any state or federal law of:

46 (a) Operating a motor vehicle while under the influence of alcohol or a
47 controlled substance;

1 (b) Operating a commercial motor vehicle while the alcohol
2 concentration of the person's blood, breath or bodily substance is 0.04
3 or more;

4 (c) Leaving the scene of an accident involving a motor vehicle driven by
5 the person;

6 (d) Using a motor vehicle in the commission of any felony;

7 (e) Operating a commercial motor vehicle when the person's class
8 A, B or C commercial driver's license driving privileges were
9 revoked, suspended or canceled, or during a time when such person was
10 disqualified from operating a commercial motor vehicle, if the reason
11 for such revocation, suspension, cancellation or disqualification was
12 the result of a violation that occurred while the person was operating
13 a commercial motor vehicle;

14 (f) Causing a fatality through negligent operation of a commercial
15 motor vehicle, including, but not limited to, the crimes of motor
16 vehicle manslaughter, homicide by motor vehicle and negligent
17 homicide.

18 (2) Any person who operates a commercial motor vehicle or who holds a
19 class A, B or C driver's license is disqualified from operating a commercial
20 motor vehicle for a period of not less than one (1) year if the person refuses
21 to submit to or submits to and fails a test to determine the driver's alcohol,
22 drug or other intoxicating substances concentration while operating a motor
23 vehicle.

24 (3) If any of the offenses specified in subsection (1) or (2) of this
25 section occurred while transporting a hazardous material required to be
26 placarded, the person is disqualified for a period of not less than three (3)
27 years.

28 (4) A person is disqualified for the period of time specified in 49 CFR
29 part 383 if found to have committed two (2) or more of any of the offenses
30 specified in subsection (1) or (2) of this section, or any combination of
31 those offenses, arising from two (2) or more separate incidents.

32 (5) A person is disqualified for the period of time specified in 49 CFR
33 part 383 from operating a commercial motor vehicle who uses a motor vehicle
34 in the commission of any felony involving the manufacture, distribution,
35 or dispensing of a controlled substance, or possession of a controlled
36 substance with the intent to manufacture, distribute or dispense such
37 controlled substance.

38 (6) A person is disqualified from operating a commercial motor vehicle
39 for a period of not less than sixty (60) days if convicted of two (2) serious
40 traffic violations, or one hundred twenty (120) days if convicted of three
41 (3) or more serious traffic violations, committed in a commercial motor
42 vehicle arising from separate incidents occurring within a three (3) year
43 period. A conviction for reckless driving shall be considered a serious
44 traffic violation if committed while operating a commercial motor vehicle or
45 a noncommercial motor vehicle, as specified in 49 CFR part 383.

46 (7) A person who drives, operates, or is in physical control of a
47 commercial motor vehicle within this state while having any detectable
48 amount of alcohol in his system or who refuses to submit to an alcohol test
49 must be placed out of service for twenty-four (24) hours and be subject to the
50 provisions of section 18-8002, Idaho Code.

1 (8) It is unlawful to violate an out-of-service order. A person who
 2 is convicted in the form of a judgment or withheld judgment of a violation
 3 of an out-of-service order while driving a commercial motor vehicle is
 4 disqualified for not less than:

5 (a) One hundred eighty (180) days nor more than one (1) year for a first
 6 conviction;

7 (b) Two (2) years nor more than five (5) years for a second conviction
 8 arising from separate incidents during any ten (10) year period;

9 (c) Three (3) years nor more than five (5) years for three (3) or more
 10 convictions arising from separate incidents during any ten (10) year
 11 period.

12 (9) A person who is convicted in the form of a judgment or withheld
 13 judgment of a violation of an out-of-service order while driving a
 14 commercial motor vehicle and while transporting hazardous materials
 15 required to be placarded under the hazardous materials transportation act,
 16 or while operating motor vehicles designed to transport sixteen (16) or more
 17 people including the driver, is disqualified for not less than:

18 (a) One hundred eighty (180) days nor more than two (2) years for a first
 19 conviction;

20 (b) Three (3) years nor more than five (5) years for subsequent
 21 convictions arising from separate incidents in any ten (10) year
 22 period.

23 (10) A person is disqualified from operating a commercial motor vehicle
 24 if convicted of a railroad grade crossing violation as specified in 49
 25 CFR part 383 or applicable state laws while operating a commercial motor
 26 vehicle. The disqualification shall be for a period of:

27 (a) Sixty (60) days for a first conviction;

28 (b) One hundred twenty (120) days for a second conviction during any
 29 three (3) year period;

30 (c) One (1) year for a third or subsequent conviction during any three
 31 (3) year period.

32 (11) A person is disqualified from operating a commercial motor vehicle
 33 if the federal motor carrier administration has determined the person's
 34 driving constitutes an imminent hazard, as defined in 49 CFR 383.5.

35 (a) An imminent hazard disqualification may not exceed one (1) year in
 36 duration. The driver, or a representative on his or her behalf, may file
 37 an appeal of the disqualification with the assistant administrator,
 38 adjudications counsel, federal motor carrier safety administration.

39 (b) Any imminent hazard disqualification transmitted by the federal
 40 motor carrier safety administration shall become a part of the driver's
 41 record.

42 (c) The imminent hazard disqualification shall run concurrent to any
 43 other existing disqualification.

44 (12) In addition to the disqualification periods in subsections (8) and
 45 (9) of this section, a driver who is convicted of violating an out-of-service
 46 order shall be subject to a civil penalty of not less than two thousand five
 47 hundred dollars (\$2,500) for the first conviction and not less than five
 48 thousand dollars (\$5,000) for any subsequent conviction.

49 SECTION 4. That Section 49-1416, Idaho Code, be, and the same is hereby
 50 amended to read as follows:

1 49-1416. RECORD OF TRAFFIC CASES -- REPORT OF CONVICTIONS TO
2 DEPARTMENT. (1) Every magistrate or judge of a court shall keep or cause to be
3 kept a record of every traffic complaint, traffic citation, or other legal
4 form of traffic charge deposited with or presented to the court, and shall
5 keep a record of every official action by the court in reference thereto,
6 including a record of every conviction, forfeiture resulting from every
7 traffic complaint or citation deposited with or presented to the court.

8 (2) Within ten (10) days after a conviction or forfeiture of bail of a
9 person upon a charge of violating any provision of this title or other law
10 regulating the operation of vehicles on highways, the magistrate of the
11 court or clerk of the court of record in which the conviction was had or
12 bail was forfeited shall prepare and immediately forward to the department,
13 either by paper or electronically, an abstract of the record of the court
14 covering the case in which the person was convicted or forfeited bail. The
15 abstract shall be certified by the person required to prepare the abstract
16 to be true and correct. A report need not be made of any conviction involving
17 the illegal parking or standing of a vehicle.

18 (3) The abstract, whether paper or electronic, shall be made upon
19 a form as prescribed by the supreme court and shall include the name and
20 address of the party charged, the number if any of his driver's license,
21 the registration number of the motor vehicle involved, the nature of the
22 offense, the date of hearing, the plea, the judgment, or whether bail was
23 forfeited, and the amount of the fine or forfeiture as applicable.

24 (4) Every court of record shall also forward a like report to the
25 department upon the conviction of any person of manslaughter or other felony
26 in the commission of which a vehicle was used.

27 (5) Courts shall not mask, defer imposition of judgment, or allow the
28 holder of a commercial driver's license or a person cited while operating
29 a commercial motor vehicle, to enter into a diversion program that would
30 prevent a conviction in any jurisdiction of a violation ~~committed in any type~~
31 ~~of motor vehicle~~ of a state or local traffic control law, excluding a parking
32 violation, from appearing on the driver's record.

33 (6) The failure, refusal, or neglect of any judicial officer to comply
34 with any of the requirements of this section shall constitute misconduct in
35 office and shall be grounds for removal.

36 (7) The department shall keep all abstracts received in either
37 electronic format or on microfilm, and abstracts shall be open to public
38 inspection during reasonable business hours with the exception of personal
39 information which may be exempt from disclosure as otherwise provided by
40 law.