CHAPTER 39-06.2
COMMERCIAL DRIVER'S LICENSES

39-06.2-01. Uniform Commercial Driver's License Act.

The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 [title XII of Pub. L. 99-570, 49 U.S.C. 2701, repealed] and Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106-159; 113 Stat. 1748; 49 U.S.C. 113 et seq.] and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

1. Permitting commercial drivers to hold only one license;
2. Disqualifying commercial drivers who have committed certain serious traffic violations or other specified offenses; and
3. Strengthening commercial driver's licensing and testing standards.

This chapter is a remedial law which should be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general driver's licensing provisions, this chapter prevails. Where this chapter is silent, the general driver's licensing provisions apply.

39-06.2-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
   a. The number of grams of alcohol per one hundred milliliters of blood;
   b. The number of grams of alcohol per two hundred ten liters of breath; or
   c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial learner's permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
   a. If the gross combination weight rating or gross combination weight is twenty-six thousand one pounds [11793.86 kilograms] or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross vehicle weight of more than ten thousand pounds [4536 kilograms], whichever is greater;
   b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds [11793.40 kilograms], whichever is greater;
   c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
   d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
8. "Conviction" means an unvacated adjudication of guilt, or a determination that an individual has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the individual's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
9. "Covered farm vehicle" means a straight truck or articulated vehicle:

a. Registered in a state with a licensed plate or other designation issued by the state of registration which allows law enforcement officials to identify it as a farm vehicle;
b. Operated by the owner or operator of a farm or ranch or an employee or family member of an owner or operator of a farm or ranch;
c. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
d. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions a, b, and c of this subsection by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.
e. Meeting the requirements of subdivisions a, b, c, and d of this subsection:
   (1) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of twenty-six thousand one pounds [11793.86 kilograms] or less may utilize the exemptions in 40 CFR 390.39 anywhere in the United States; or
   (2) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, or more than twenty-six thousand one pounds [11793.86 kilograms] may utilize the exemptions in 40 CFR 390.39 anywhere in the state of registration or across the state lines within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

10. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
11. "Downgrade" means:
    a. A state allows the driver to change the driver's self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;
    b. A state allows the driver to change the driver's self-certification to intrastate only, if the driver qualifies under the state's physical qualification requirements for intrastate only;
    c. A state allows the driver to change the driver's certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification; or
    d. A state removes the commercial driver's license privilege from the driver's license.
12. "Drive" means to drive, operate, or be in physical control of a motor vehicle.
13. "Driver" means an individual who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
14. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
15. "Drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and includes any controlled substance.
16. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
17. "Employer" means 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 an individual to drive a commercial motor vehicle.
18. "Fatality" means the death of an individual as a result of a motor vehicle accident.
19. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
20. "Foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States or a citizen of a foreign country who operates a commercial motor vehicle in the United States.
21. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

22. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle. The gross vehicle weight rating of a combination or articulated vehicle, commonly referred to as the "gross combination weight rating", is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
23. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
24. "Imminent hazard" means the existence of a condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately or a condition relating to hazardous materials which presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
25. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the federal communications commission in 47 CFR 20.3. The term does not include two-way and citizens band radio services.
26. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.
27. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
28. "Nondomiciled commercial driver's license" means a commercial driver's license or a commercial learner's permit issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).
29. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
30. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
    a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
    b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of an individual or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;
    c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
    d. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial learner's permit;
    e. Driving a commercial motor vehicle without a commercial driver's license or commercial learner's permit in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license or commercial learner's permit on the date the citation was issued, is not guilty of this offense;
    f. Driving a commercial motor vehicle without the proper class of commercial driver's license, endorsement, or commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported;
    g. Violating a state or local law or ordinance prohibiting texting while driving; or
    h. Violating a state law or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a commercial motor vehicle.

31. "State" means a state of the United States or the District of Columbia.
32. "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within one or more tanks having an individual rated capacity of more than one hundred nineteen gallons [450.46 liters] and an aggregate rated capacity of one thousand gallons [3785.41 liters] or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons [3785.41 liters] or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.
33. "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes short message service, electronic mail, instant messaging, a command or request to access a worldwide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include:
    a. Pressing a single button to initiate or terminate a voice communication using a mobile telephone;
    b. Inputting, selecting, or reading information on a global positioning system or navigation system; or
    c. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smartphones, citizens' band radios, or music players, for a purpose that is not otherwise prohibited in 49 CFR part 383.
34. "Third-party skills test examiner" means an individual employed by a third-party tester who is authorized by the state to administer the skills tests in 49 CFR part 383, subparts G and H.
35. "Third-party tester" means a person, including another state, a motor carrier, a private driver training facility or other private institution, or a political subdivision authorized by the state to employ skills test examiners to administer the skills tests in 49 CFR part 383, subparts G and H.
36. "United States" means the fifty states and the District of Columbia.
37. "Use a hand-held mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seatbelt that is installed under 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

39-06.2-03. Limitation on number of driver's licenses.

No person who drives a commercial motor vehicle may have more than one driver's license.

39-06.2-04. Notification required by driver.

1. Notification of convictions.
    a. To state: Any driver holding a commercial driver's license issued by this state who is convicted of violating any state or local ordinance relating to motor vehicle traffic control in any other state or any federal, provincial, territorial, or municipal law of Canada, other than parking violations, must notify the director in the manner specified by the director within thirty days of the date of conviction.
    b. To employers: Any driver holding a commercial driver's license issued by this state who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state or any federal, provincial, territorial, or municipal law of Canada, other than parking violations, must notify the driver's employer in writing of the conviction within thirty days of the date of conviction.
2. Notification of suspensions, revocations, and cancellations. Any driver whose commercial driver's license is suspended, revoked, or canceled by any state, or who

loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out-of-service order, must notify the employer of that fact before the end of the business day following the day the driver received notice of that fact.

3. Notification of previous employment. Any person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:
   a. A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;
   b. The dates between which the applicant drove for each employer; and
   c. The reason for leaving that employer.

   The applicant must certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

39-06.2-05. Employer responsibilities.

1. Each employer shall require the applicant to provide the information specified in section 39-06.2-04.
2. No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:
   a. In which the driver's commercial driver's license is suspended, revoked, or canceled by any state or in which the driver is currently disqualified from driving a commercial vehicle or subject to an out-of-service order in any state; or
   b. In which the driver has more than one driver's license.

39-06.2-06. Commercial driver's license required.

1. Except when driving under a commercial learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, an individual may not drive a commercial motor vehicle on the highways of this state unless the individual holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the individual is driving. This subsection does not apply:
   a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.
   b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.
   c. When the vehicle is being driven for military purposes, subject to any limitations imposed by 49 CFR part 383.3(c).
   d. When the vehicle being driven is a covered farm vehicle as defined in this chapter.
2. No person may drive a commercial motor vehicle on the highways of this state while the person's driving privilege is suspended, revoked, or canceled, while subject to a disqualification.
3. The provisions of this chapter are waived, as to farm-to-market operations by farmers, but limited to those operators of a farm vehicle that is:
   a. Controlled and operated by a farmer.
   b. Used to transport either agricultural products, including trees, farm machines, farm supplies, or both, to or from a farm.
   c. Not used in the operations of a common or contract carrier.
   d. Used within one hundred fifty miles [241.40 kilometers] of the person's farm.
4. The provisions of this chapter are waived as to an individual employed by and operating a vehicle at the request of and within a political subdivision, with a population of less than three thousand, during an emergency declared by that political subdivision for the removal of snow and ice. This waiver only applies when the regularly employed driver is unavailable or the employing political subdivision determines that additional assistance is required.

5. Pursuant to the limitations imposed by 49 CFR part 383.3, the required knowledge and skills tests may be waived and a restricted commercial driver's license issued for a single period of one hundred eighty days or two periods of ninety days within a twelve-month period to employees of agrichemical businesses, custom harvesters, farm retail outlets and suppliers, including retailers and suppliers of trees, and livestock feeders.

39-06.2-07. Commercial driver's license qualification standards.

1. An individual may not be issued a commercial driver's license unless that individual is a resident of this state; has passed a knowledge and skills test that may include a skills test administered by another state or skills test results electronically submitted by another state, for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 CFR part 383, subparts G and H; and has satisfied all other requirements of state and federal law, including the Commercial Motor Vehicle Safety Act. The tests must be prescribed and conducted by the director. The applicant shall pay the fee listed in section 39-06.2-19 for each of the tests.
2. The director may authorize third-party testing, if:
   a. The test is the same as that which would otherwise be administered by this state; and
   b. The third party has entered an agreement with this state which complies with requirements of 49 CFR part 383.75.
3. The director may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR part 383.77.
4. A commercial driver's license or commercial learner's permit may not be issued to an individual while the individual is subject to a disqualification from driving a commercial motor vehicle or while the individual's driver's license is suspended, revoked, or canceled in any state. A commercial driver's license may not be issued to an individual who has a commercial driver's license issued by any other state unless the individual first surrenders all licenses from other states. The director shall notify the issuing state of the surrender of the license.
5. An individual who has been a resident of this state for thirty days may not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
6. a. A commercial learner's permit may be issued to an individual who holds a valid class D operator's license who has passed the vision and written tests required for an equivalent commercial driver's license.
   b. The commercial learner's permit may not be issued for a period to exceed one hundred eighty days. The commercial learner's permit may be renewed for an additional one hundred eighty days without requiring the individual to retake the knowledge test. After this initial period, the director may issue a letter of authority that authorizes the applicant to drive to a driver's license office, complete the road test, and return home, or the individual may retake the knowledge test and be issued another commercial learner's permit valid for one hundred eighty days. The holder of a permit, unless otherwise disqualified, may drive a commercial motor vehicle only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. A holder of a permit is not eligible for a license until that individual has had the permit issued for at least fourteen days.

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial learner's permit must include the following:
   a. The full name and current mailing address of the applicant;

b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
c. Date of birth;
d. The applicant's social security number, unless the application is for a nondomiciled commercial driver's license and the applicant is a resident of a foreign jurisdiction;
e. The applicant's signature;
f. The certifications including those required by 49 CFR part 383.71;
g. Any other information required by the director; and
h. A consent to release driving record information.

2. The application must be accompanied by an application fee listed in section 39-06.2-19. The application must contain any other information as the director may require to improve identity security. The director may require an applicant for a commercial license or commercial learner's permit to provide a social security card and proof of residence address.
3. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made under section 39-06-18.
4. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

39-06.2-08.1. Commercial driver's license medical certification requirements.

1. The director may issue a commercial learner's permit or commercial driver's license to a North Dakota resident who meets the medical qualification and certification requirements pursuant to the limitations of 49 CFR parts 383 and 391.
2. Every individual who makes application for a commercial learner's permit or commercial driver's license shall certify that the individual meets the qualification requirements contained in 49 CFR part 391 or certify that the individual's commercial transportation is entirely in intrastate commerce and is not subject to 49 CFR part 391.
3. The application will contain the following categories to comply with the commercial driver's certification requirements:
   a. Interstate and subject to 49 CFR part 391.
   b. Interstate, but operating exclusively in transportation or operations excepted under 49 CFR part 390.3(f), 391.2, 391.68, or 398.3.
   c. Intrastate and subject to state driver's qualification requirements.
   d. Intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification requirements.
4. Every individual who makes application for or holds a commercial learner's permit or commercial driver's license shall submit a copy of the individual's medical certificate to the director unless the commercial transportation is not subject to 49 CFR part 391.
5. The director will downgrade or remove the commercial driving privilege from the license if the medical certificate expires and the driver does not change the driver's certification if the driver is no longer subject to 49 CFR part 391.
6. If the driver provides a current medical certification, the director shall upgrade without retesting the license of a driver which was downgraded under this section.

39-06.2-09. Commercial driver's license.

1. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. The license must include the following information:
   a. The name and residential address of the individual;
   b. The individual's color photograph;
   c. A physical description of the individual, including sex, height, and eye color;
   d. Date of birth;

e. A distinguishing number assigned to the individual;
f. The individual's signature;
g. The class or type of commercial motor vehicle or vehicles which the individual is authorized to drive together with any endorsements or restrictions;
h. The name of this state; and
i. The dates between which the license is valid.

2. The director may issue a nondomiciled commercial driver's license under the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "nondomiciled" in accordance with 49 CFR 383.153(c).

3. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to the operator of a farm vehicle if the vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm and is not used in the operations of a common or contract carrier.
   a. The classifications of commercial driver's licenses are:
      (1) A class A license. This license allows the operation of any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], if the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
      (2) A class B license. This license allows the operation of a single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and this vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
      (3) A class C license. This license allows the operation of a single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
         (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
         (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.
   b. Endorsements and restrictions include:
      (1) "H" that authorizes the driver to drive a vehicle transporting hazardous materials.
      (2) "T" that authorizes driving double and triple trailers.
      (3) "P" that authorizes driving vehicles carrying passengers.
      (4) "N" that authorizes driving tank vehicles.
      (5) "X" that authorizes driving combinations of tank vehicles and hazardous material vehicles.
      (6) "S" that authorizes driving a schoolbus.
   c. Other restrictions may be placed upon a commercial driver's license, under section 39-06-17. The applicant shall pay a fee listed in section 39-06.2-19 for each endorsement.

4. Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the individual has been licensed.

5. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the individual.
6. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
7. An individual applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, and provide updated information and required certifications. For an applicant to retain a hazardous materials endorsement, the applicant must take and pass the written test for a hazardous materials endorsement.
8. A class A, B, or C license may not be issued to an individual under eighteen years of age, except a class A, B, or C type license specially restricted to use for custom harvest purposes must be issued to an individual at least sixteen years of age who satisfactorily completes the appropriate examinations.

39-06.2-09.1. Nondomiciled commercial license.

1. The department may issue a nondomiciled commercial driver's license to an applicant who does not present a social security card as required by section 39-06.2-08 but who otherwise meets the requirements for a nondomiciled commercial driver's license. A license issued under this subsection is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended. The department shall renew without a skills or knowledge test a nondomiciled commercial license that has been expired for a duration not longer than one year.
2. The fee for a nondomiciled commercial driver's license is listed in section 39-06.2-19.

39-06.2-10. Disqualification and cancellation.

1. An individual is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:
   a. Driving a commercial motor vehicle under the influence of alcohol or drugs;
   b. Leaving the scene of an accident involving a commercial motor vehicle driven by the individual in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-09;
   c. Using a commercial motor vehicle in the commission of any felony as defined in this chapter;
   d. Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle; or
   e. Driving or being in actual physical control of a commercial motor vehicle while the alcohol concentration of the individual's blood, breath, or urine is four one-hundredths of one percent or more by weight.

   If any of the above violations occurred while transporting a hazardous material required to be placarded, the individual is disqualified for a period of not less than three years.
2. An individual is disqualified for a period of not less than sixty days for providing false information to the department related to the issuance of a commercial permit or commercial license or for a period of not less than one year if convicted of fraud related to the issuance of a commercial driver's permit or license.
3. An individual is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, 8, 10, or 12, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed while operating a commercial motor vehicle after July 1, 1989, may be considered in applying this subsection. Only offenses committed while operating a noncommercial motor vehicle after August 1, 2003, may be considered in applying this subsection.
4. The director may adopt rules under section 39-06.2-14, establishing guidelines, including conditions, under which a disqualification for life under subsections 3, 9, 11, and 13 may be reduced to a period of not less than ten years.

5. An individual is disqualified from driving a commercial motor vehicle for life who 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.
6. An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.
7. Disqualification for railroad-highway grade crossing violation:
   a. A driver who is convicted of driving a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to any one of the following six offenses at a railroad-highway grade crossing is disqualified for the period of time specified in subdivision b:
      (1) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
      (2) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
      (3) For drivers who are always required to stop, failing to stop before driving onto the crossing;
      (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
      (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; and
      (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.
   b. Duration of disqualification for a railroad-highway grade crossing violation:
      (1) A driver is disqualified for not less than sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.
      (2) A driver is disqualified for not less than one hundred twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.
      (3) A driver is disqualified for not less than one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.
8. For a first conviction of driving while under the influence of alcohol or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
9. For a second or subsequent conviction of driving while under the influence or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for life.
10. For a first conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
11. For a second or subsequent conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for life.
12. For a first conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
13. For a second or subsequent conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for life.

14. For a conviction for using a vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance while operating a commercial motor vehicle or a noncommercial motor vehicle, a holder of a commercial driver's license or learner's permit must be disqualified from operating a commercial motor vehicle for life.
15. An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of any combination of two serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
16. An individual is disqualified from driving a commercial motor vehicle for a period of not less than one hundred twenty days if convicted of any combination of three or more serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and any of the convictions results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
17. Before suspending, revoking, or disqualifying a driver under this section, the director must provide the driver with notice of opportunity for hearing, in accordance with section 39-06-33, and the hearing requested must be held in accordance with section 39-06-33.
18. After suspending, revoking, disqualifying, or canceling a commercial driver's license, the director shall update the director's records to reflect that action within ten days. After suspending, revoking, or canceling a nondomiciled commercial driver's privileges, the director shall notify the licensing authority of the state that issued the commercial driver's license or commercial learner's permit within ten days.
19. A foreign commercial driver is subject to disqualification under this section.

39-06.2-10.1. Prohibited alcohol offenses for commercial motor vehicle drivers.

Any person who drives or is in actual physical control of a commercial motor vehicle within this state with an alcohol concentration of at least four one-hundredths of one percent by weight must, in addition to any other sanctions which may be imposed under this code, be disqualified from driving a commercial motor vehicle under section 39-06.2-10.

39-06.2-10.2. Implied consent requirements for commercial motor vehicle drivers.

1. A person who drives or is in actual physical control of a commercial motor vehicle within this state is deemed to have given consent to take a test or tests of that person's blood, breath, or urine for the purpose of determining that person's alcohol concentration, or the presence of other drugs. The result of any test administered within two hours of driving or being in actual physical control of a commercial motor vehicle is that person's alcohol concentration. The test must be conducted pursuant to the provisions of section 39-20-07.
2. A test or tests may be administered at the direction of a law enforcement officer who, after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in the driver's system.
3. A person requested to submit to a test as provided in subsection 1 or 5 must be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in that person being immediately placed out of service for a period of twenty-four hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year under section 39-06.2-10.
4. If the person refuses testing, or submits to a test that discloses an alcohol concentration of at least four one-hundredths of one percent by weight, the law enforcement officer must submit a certified report to the director certifying that the test was requested pursuant to subsection 1 or 5 and that the person refused to submit to testing, or submitted to a test under subsection 1 which disclosed an alcohol concentration of at least four one-hundredths of one percent by weight.

5. A person who drives or is in actual physical control of a commercial motor vehicle within this state is deemed to have given consent to an onsite alcohol screening test under section 39-20-14.
6. Upon receipt of the certified report of a law enforcement officer submitted under subsection 4, the director must disqualify the driver from driving a commercial motor vehicle under section 39-06.2-10.

39-06.2-10.3. Action following test result for a resident driver.

If a person submits to a test under section 39-06.2-10.2 and the test shows that person to have an alcohol concentration of at least four one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a commercial motor vehicle, the following procedures apply:

1. When a breath sample test result derived under section 39-20-07 reveals a resident driver to have an alcohol concentration of at least four one-hundredths of one percent by weight, the law enforcement officer shall immediately issue the driver an out-of-service order as provided for in section 39-06.2-10.9. If the driver then has valid driving privileges, the law enforcement officer must issue to the driver a temporary driver's permit, in accordance with section 39-06.2-10.8.
2. If a test administered under section 39-06.2-10.2 was by a urine or blood sample and the person tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the sample by the director of the state crime laboratory or the director's designee showing that person had an alcohol concentration of at least four one-hundredths of one percent by weight, either proceed in accordance with subsection 1 during that person's reappearance within the officer's jurisdiction or notify a law enforcement agency having jurisdiction where the person lives. On that notification, that law enforcement agency shall immediately issue to that person a temporary driver's permit according to section 39-06.2-10.8.
3. The halting officer, within five days of the issuance of the temporary driver's permit, shall forward to the director a certified written report in the form required by the director and the person's commercial driver's license taken under subsection 1 or 2. If the person was issued a temporary driver's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1, that the person was lawfully detained, that the person was tested for alcohol concentration under this chapter, and that the results of the test show that the person had an alcohol concentration of at least four one-hundredths of one percent by weight. In addition to the commercial driver's license and report, the law enforcement officer must forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.

39-06.2-10.4. Action following test result or refusal of testing by nonresident driver.

If a driver licensed in another state refuses, in this state, a test provided under section 39-06.2-10.2 or submits to a test under section 39-06.2-10.2, and the test results show an alcohol concentration of at least four one-hundredths of one percent by weight, the following procedures apply:

1. When a breath sample test result, derived under section 39-20-07, reveals the driver to have alcohol concentration of at least four one-hundredths of one percent by weight, the halting officer, without taking possession of the person's out-of-state driver's license, shall inform the driver of the test results and issue an out-of-service order according to section 39-06.2-10.9 and a temporary driver's permit according to section 39-06.2-10.8.
2. When a urine or blood sample test result, derived under section 39-20-07, reveals an alcohol concentration of at least four one-hundredths of one percent by weight, the

halting officer shall mail the person a temporary driver's permit issued according to section 39-06.2-10.8 and a notice as provided under section 39-06.1-07.

3. The law enforcement officer, within five days of issuing the temporary driver's permit, shall forward to the director a certified written report in the form required by the director and a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer. If the person was issued a temporary driver's permit because of the person's refusal to submit to a test under sections 39-06.2-10.2 and 39-20-14, the report must include information as provided in section 39-06.2-10.3. If the person was issued a temporary driver's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1, that the person was lawfully detained, that the person was tested for alcohol concentration under this chapter, and that the results of the test show that the person had an alcohol concentration of at least four one-hundredths of one percent by weight.

39-06.2-10.5. Revocation of privilege to drive commercial motor vehicle upon refusal to submit to testing.

If a person refuses to submit to testing under section 39-06.2-10.2, the law enforcement officer shall immediately take possession of the person's driver's license and issue to that person a temporary driver's permit. The director, upon the receipt of that person's driver's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary driver's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1 or, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully detained, and that the person had refused to submit to the screening test under section 39-06.2-10.2, shall revoke that person's commercial driver's license or permit to drive and any nondomiciled commercial driver's privilege for the appropriate period under section 39-06.2-10, or if the person is a resident without a commercial driver's license or permit, the director shall deny to the person the issuance of a commercial driver's license or permit for the appropriate period under section 39-06.2-10 after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's driver's license the director shall give credit for time in which the person was without a driver's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary driver's permit.

39-06.2-10.6. Administrative hearing on request.

1. Before issuing an order of suspension, revocation, or disqualification under section 39-06.2-10, the director shall afford that person an opportunity for a hearing as provided by section 39-20-05, if the person mails a request for the hearing to the director within ten days after the date of issuance of the temporary driver's permit.
2. If the issue to be determined by the hearing concerns license suspension for operating a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle in violation of section 39-06.2-10.1, whether the person was lawfully detained, whether the person was tested in accordance with section 39-06.2-10.2, and whether the test results show the person had an alcohol concentration of at least four one-hundredths of one percent by

weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the office of the director of the state crime laboratory or the director's designee, or a certified copy of the checklist and test records from a certified breath test operator establish prima facie the alcohol concentration shown therein. Whether the person was warned that the privilege to drive might be suspended based on the results of the test is not an issue.

3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-06.2-10.2, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-06.2-10.2 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle in violation of section 39-06.2-10.1, whether the person was lawfully detained, and whether that person refused to submit to the test or tests. The scope of a hearing for refusing to submit to a test under subsection 3 of section 39-06.2-10.4 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. Whether the person was warned that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.
4. At a hearing under this section, the regularly kept records of the director and the state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and the state crime laboratory:
   a. Any copy of a certified copy of an analytical report of a blood or urine sample received by the director from the director of the state crime laboratory or the director's designee or a law enforcement officer, a certified copy of the checklist and test records received by the director from a certified breath test operator; and
   b. Any copy of a certified copy of a certificate of the director of the state crime laboratory or the director's designee relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration received by the director from the director of the state crime laboratory or the director's designee, that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website.
5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-06.2-10.2 or that the person had an alcohol concentration of at least four one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary driver's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's commercial driver's license by regular mail to the address on file with the director under section 39-06.2-08.
6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's

determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. On the date for which the hearing is scheduled, the hearing officer shall mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-06.2-10.7.

39-06.2-10.7. Judicial review.

Any person whose commercial driver's license or privilege has been suspended, revoked, or denied by the decision of the hearing officer under section 39-06.2-10.6 may appeal within seven days after the date of the hearing under section 39-06.2-10.6 as shown by the date of the hearing officer's decision, section 28-32-42 notwithstanding, by serving on the director and filing a notice of appeal and specifications of error in the district court in the county where the events occurred for which the demand for a test was made, or in the county in which the administrative hearing was held. The court shall set the matter for hearing, and the petitioner shall give twenty days' notice of the hearing to the director and to the hearing officer who rendered the decision. Neither the director nor the court may stay the decision pending decision on appeal. Within twenty days after receipt of the notice of appeal, the director or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It is the record on which the appeal must be determined. No additional evidence may be heard. The court shall affirm the decision of the director or hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the director or hearing officer. The court may direct that the matter be returned to the director or hearing officer for rehearing and the presentation of additional evidence.

39-06.2-10.8. Temporary driver's permit.

A temporary driver's permit extends driving privileges for twenty-five days, unless earlier terminated by the decision of a hearing officer under section 39-06.2-10.6. The law enforcement officer must sign and note the date of issuance on the temporary driver's permit. The temporary driver's permit serves as the director's official notification to the driver of the director's intent to revoke, suspend, or deny driving privileges in this state. No temporary driver's permit may be issued for the period covered by an out-of-service order.

39-06.2-10.9. Out-of-service order - Rules.

The director shall adopt rules for the issuance and enforcement of out-of-service orders. The rules must be in accordance with the standards and requirements of the federal Commercial Motor Vehicle Safety Act of 1986 [Pub. L. 99-570; 100 Stat. 3207-179; 49 App. U.S.C. 2708] and 49 CFR parts 383 and 392.

39-06.2-11. License reissuance - Class D license.

The director may issue a class D driver's license to a driver suspended, revoked, or disqualified under this chapter when:

1. The suspension, revocation, or disqualification arises from a violation under this chapter which would not require similar sanctions under chapter 39-06, 39-06.1, or 39-20.
2. The period of suspension, revocation, or disqualification imposed for a violation under this chapter is greater than that which could have been imposed under chapter 39-06, 39-06.1, or 39-20 for the same violation, and the period of suspension or revocation provided for under chapter 39-06, 39-06.1, or 39-20 has been satisfied under the existing suspension or revocation.

39-06.2-12. Notification of traffic convictions.

Within ten days after receiving a report of the conviction of any nondomiciled holder of a commercial driver's license for any violation of state or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the director shall notify the driver's licensing authority in the licensing state of the conviction.

39-06.2-13. Driving record information to be furnished.

Repealed by S.L. 1991, ch. 421, § 1.

39-06.2-13.1. Driving record information to be provided.

Notwithstanding any other provision of law and upon payment of a fee listed in section 39-06.2-19, the director shall provide full information regarding the driving record of an individual who has been issued a commercial driver's license to an employer or to a prospective employer if the individual has given written consent to the prospective employer for this information.

39-06.2-14. Rulemaking authority.

The director may, pursuant to chapter 28-32, adopt any rules necessary to carry out the provisions of this chapter.

39-06.2-15. Authority to enter agreements.

The director may enter into or make agreements, arrangements, or declarations to carry out the provisions of this chapter.

39-06.2-16. Reciprocity.

1. Notwithstanding any other provision of law, an individual may drive a commercial motor vehicle in this state if the individual has a valid commercial driver's license or commercial learner's permit issued by any state, province or territory of Canada, or licencia federal de conductor issued by Mexico in accordance with the minimum federal standards for the issuance of a commercial motor vehicle driver's license, if the individual's license or permit is not suspended, revoked, or canceled, and if the individual is not disqualified from driving a commercial motor vehicle.
2. The director must give all out-of-state convictions full faith and credit if the driver is licensed by this state at the time of the conviction or becomes licensed by this state at a later time and treat them for sanctioning purposes under this chapter as if they occurred in this state. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

39-06.2-17. Hours of service exemption - Transportation of agricultural commodities.

Federal regulations and the provisions of chapter 39-32 governing maximum driving and on-duty time do not apply to a driver transporting agricultural commodities or farm supplies, including farm equipment and machinery, for agricultural purposes in this state during planting and harvesting seasons from January first through December thirty-first, if the transportation 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.

39-06.2-18. Imminent hazard disqualification - Records.

A disqualification imposed in accordance with the provisions of 49 CFR part 383.52 relating to notification from the federal motor carrier safety administration that the driver is disqualified from driving a commercial motor vehicle and is determined to constitute an imminent hazard becomes a part of the driver's record maintained by the director.

39-06.2-19. Fees - Deposit in highway fund.

1. All money received under this chapter must be paid monthly to the highway fund in the state treasury.

2. The fee for:
    a. A commercial driver's license test is five dollars.
    b. An application for a commercial driver's license or permit is fifteen dollars.
    c. Each endorsement is three dollars.
    d. A nonresident commercial driver's license is twenty dollars.
    e. The driving record for an employer or prospective employer is three dollars.