

HOUSE No. 3980

The Commonwealth of Massachusetts



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July 19, 2019

To the Honorable Senate and House of Representatives,

I am filing for your consideration the enclosed bill, “An Act to Promote Commercial Driver Safety.” The recent tragic deaths of seven individuals in Randolph, New Hampshire have called attention to the Commonwealth’s regulation of commercial driver’s licenses. While there is no question that the Registry of Motor Vehicles failed to act as it was required to prior to that incident, my Administration’s review has revealed a broader need to strengthen the Commonwealth’s laws regulating commercial driver’s licenses to ensure that only safe and qualified drivers are authorized to operate the largest vehicles on our roads.

This legislation proposes several safety-focused provisions that will raise Massachusetts’s standards for commercial driver’s licenses above the minimum requirements of federal law. To begin with, under the proposed legislation, applicants for commercial driver’s licenses will have to demonstrate a history of good driving and will be ineligible for licensure if they have been suspended or disqualified from driving at any time in the past three years. The bill also proposes to raise suspension periods for operators with commercial driver’s licenses who commit multiple, serious traffic violations: it raises the minimum suspension period from 60 to 120 days for drivers who commit two serious traffic violations during a three-year period, and raises the minimum suspension period from 120 to 240 days for drivers who commit three serious violations in that window.

In addition, to ensure that both employers and the Registry of Motor Vehicles are informed in a timely manner of convictions that impact a driver's eligibility to hold a commercial driver's license, the bill would require drivers to provide next day notification to employers and the Registry if they are convicted of violating any state or local motor vehicle traffic law or if they have their right to operate a motor vehicle revoked or suspended by any state. For the first time, a commercial driver would be penalized for failing to notify an employer or the Registry of such suspensions or revocations.

This legislation would also require any employer hiring commercial drivers to sign up for the state's Driver Verification System, a free service that provides automatic notification to employers when an employee's commercial driver's license status changes. This service has been in operation in Massachusetts for over ten years and gives employers next-day notification if an employee's license has been suspended or revoked and when an employee's commercial driver's license expires.

The bill also aligns various provisions of our state statute governing commercial driver licensing with the relevant minimum federal requirements to eliminate any technical gaps between state law and the federal regulations that our state statutes implement. While Chapter 90F of the General Laws already empowers the Registrar to write regulations that conform to and keep pace with changes in federal requirements, for purposes of clarity and consistency, it is important that our requirements be captured in both statute and regulation. Among these updates is a provision that makes texting while driving a commercial motor vehicle a serious traffic violation that can result in a mandatory license suspension. This legislation also requires that a driver use only hands-free operation of electronic devices while driving a commercial motor vehicle, a provision that is consistent with the road safety legislation I filed in January. In response to a recent change in federal law, we have also incorporated a new provision that mandates a lifetime suspension for any driver who uses a commercial motor vehicle in the commission of a crime involving human trafficking.

This bill will enhance roadway safety by improving the tools the Commonwealth has to ensure that only qualified, responsible, and safe drivers are operating commercial motor vehicles on the roads. I urge your prompt enactment of this legislation.

Sincerely,

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to promote commercial driver safety.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to improve safety measures relating to the licensing of commercial vehicle drivers in the Commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 4A of Chapter 89 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by adding the following sentence:-

3 A violation of this section while operating a commercial motor vehicle shall be deemed
4 an “improper or erratic lane change” as included within the definition of “serious traffic
5 violation” in section 1 of chapter 90F.

6 SECTION 2. Chapter 90 of the General Laws, as appearing in the 2018 Official Edition,
7 is hereby amended by inserting after section 2I the following section:-

8 Section 2J. The registrar shall refuse to register, and shall suspend or revoke if already
9 registered, a commercial motor vehicle if the registrar has received notice, in any form which the
10 registrar deems appropriate, including electronic transmissions, that the commercial motor

11 carrier attempting to register a commercial motor vehicle has been prohibited from operating in
12 interstate commerce by a federal agency with authority to do so under federal law.

13 SECTION 3. Section 7D of said chapter 90, as so appearing, is hereby amended by
14 striking out, in line 2, the words “and (16)” and inserting thereof the words:- , (16) and (17).

15 SECTION 4. Said Chapter 90, as so appearing, is hereby amended by inserting after
16 section 13C the following section:-

17 Section 13D. (a) No operator of a commercial motor vehicle shall use a mobile electronic
18 device while operating a commercial motor vehicle unless the person is using the device in
19 hands-free mode. No operator of a commercial motor vehicle shall touch or hold in either hand a
20 mobile electronic device while operating a commercial motor vehicle except to perform a single
21 tap or swipe to activate, deactivate or initiate hands-free mode. No operator of a commercial
22 motor vehicle shall use a mobile electronic device or other device capable of accessing the
23 internet to: (i) compose, send or read an electronic message; (ii) access social media; (iii) use
24 camera functions, including video calls; (iv) watch videos not intended for navigation purposes;
25 (v) review or input information on a mobile electronic device; or (vi) manually input information
26 into a global positioning system or navigation device while operating a commercial motor
27 vehicle. Nothing in this section shall prohibit the use of a display which enhances the operator’s
28 view to maneuver the commercial motor vehicle or to perform a single tap or swipe to activate,
29 deactivate or initiate a command to a global positioning system or navigation device or function.
30 An operator of a commercial motor vehicle who holds a mobile electronic device to or in the
31 immediate proximity of the operator’s head, in the operator’s hand or on the operator’s lap while
32 operating a commercial motor vehicle shall be presumed to be in violation of this section. For the

33 purposes of this section, an operator shall not be considered to be operating a commercial motor
34 vehicle if the vehicle is stationary and not located in part of a roadway intended for travel by a
35 motor vehicle or bicycle.

36 (b) Whoever violates this section shall be punished by a fine of \$100 for a first offense,
37 by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense
38 within 6 years of the first offense. A third or subsequent violation of this section shall be a
39 surchargeable incident under section 113B of chapter 175 or under a motor vehicle liability
40 policy as defined by section 34A that is issued pursuant to said chapter 175. In addition to fines
41 pursuant to this subsection, an operator who commits a second or third or subsequent offense
42 under this section shall be required to complete a program selected by the registrar of motor
43 vehicles that encourages a change in driver behavior and attitude about distracted driving. This
44 subsection shall not be construed as authorizing the seizure or forfeiture of a hand-held mobile
45 telephone or a mobile electronic device. A violation of this section shall be deemed a “serious
46 traffic violation” as defined in section 1 of chapter 90F.

47 (c) Documentary or other evidence that the use of a mobile electronic device was for
48 emergency purposes and that no other person in the vehicle was capable of using a mobile
49 electronic device shall be an affirmative defense to an alleged violation of this section. For the
50 purposes of this section, “emergency purposes” shall mean that the operator used the mobile
51 electronic device for voice communication with another person to report: (i) that the commercial
52 motor vehicle was disabled; (ii) that medical attention or assistance was required; (iii) that police
53 or fire department intervention or some other emergency service was necessary for the safety of
54 the operator or to otherwise ensure the safety of the passengers; (iv) that a disabled vehicle or an
55 accident was present in the roadway; (v) that police or fire department intervention or some other

56 emergency service was necessary for the safety of a pedestrian in or near the roadway; or (vi)
57 that police intervention was necessary due to a motor vehicle being operated in a manner that
58 pose a threat to the safety of travelers on the roadway or to pedestrians.

59 (d) This section shall not apply to public safety personnel or emergency first responders
60 using a mobile electronic device while operating an emergency services vehicle and engaged in
61 the performance of their duties as emergency services personnel.

62 SECTION 5. The first sentence of section 15 of said chapter 90, as so appearing, is
63 hereby amended by striking out, in line 1, the word "Except", and inserting in place thereof, the
64 following words:- (a) Except.

65 SECTION 6. Said section 15 of said chapter 90, as so appearing, is hereby further
66 amended by adding the following subsection:-

67 (b) In addition to the above, an operator of a commercial motor vehicle who has a
68 commercial driver license as defined in section 1 of chapter 90F or who is required to have a
69 commercial driver license, including the operator of a school bus, and who fails to take the
70 appropriate action as provided in clauses (1) through (6) of this subsection when approaching a
71 railroad grade crossing shall be subject to the penalties contained in this section and the periods
72 of disqualification contained in subparagraph (4) of paragraph E ½ of section 9 of chapter 90F.
73 The violations are:

74 (1) the operator is not required to always stop, but fails to slow down and check that
75 tracks are clear of an approaching train;

76 (2) the operator is not required to always stop, but fails to stop before reaching the
77 crossing, if the tracks are not clear;

78 (3) the operator is always required to stop, but fails to stop before driving onto the
79 crossing;

80 (4) the operator fails to have sufficient space to drive completely through the crossing
81 without stopping;

82 (5) the operator fails to obey a traffic control device or the directions of an
83 enforcement official at the crossing; or

84 (6) the operator fails to negotiate a crossing because of insufficient undercarriage
85 clearance.

86 SECTION 7. Section 22 of said chapter 90, as so appearing, is hereby amended by
87 inserting after subsection (j) the following subsection:-

88 (k) The registrar shall suspend or revoke the certificate of registration of any commercial
89 motor vehicle issued under this chapter if the registrar receives notice in any form which the
90 registrar deems appropriate, including electronic transmissions, that the commercial motor
91 carrier responsible for its safety has been prohibited from operating in interstate commerce by a
92 federal agency with authority to do so under federal law. Notice to the registrant shall be as
93 provided in subsection (d).

94 SECTION 8. Section 1 of chapter 90F of the General Laws, as so appearing, is hereby
95 amended by inserting after the definition of "Commerce", the following definition:-

96 “Commercial Driver’s License” (CDL), a license issued in accordance with the standards
97 contained in federal regulations at 49 C.F.R. Part 383 and in this chapter to an individual which
98 authorizes the individual to operate a class of commercial motor vehicle.

99 SECTION 9. Said section 1 of said chapter 90F, as so appearing, is hereby further
100 amended by striking out the definition of “Conviction” and inserting in place thereof the
101 following definition:-

102 “Conviction”, an unvacated adjudication of guilt; a determination that a person has
103 violated or failed to comply with the law in a court of original jurisdiction or by an
104 administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the
105 person's appearance in court; a plea of guilty or nolo contendere accepted by the court; the
106 payment of a fine or court cost; violation of a condition of release without bail, regardless of
107 whether the penalty is rebated, suspended or probated; a disposition under sections 24D and 24E
108 of chapter 90; an admission to sufficient facts; a continuance without a finding; a court-ordered
109 assignment to an alcohol or controlled substance education, treatment or rehabilitation program;
110 a refusal to submit to a chemical test or analysis of one’s breath or blood when requested by law
111 enforcement in the enforcement of motor vehicle safety laws; a determination by chemical test or
112 analysis that a person has had a percentage, by weight, of alcohol in their blood of 0.04 or more
113 while operating a commercial motor vehicle or a concentration of 0.08 or more while operating
114 any motor vehicle.

115 SECTION 10. Said section 1 of said chapter 90F, as so appearing, is hereby further
116 amended by striking out the definition of “Serious traffic violation” and inserting in place thereof
117 the following definition:-

118 “Serious traffic violation”, improper or erratic traffic lane changes; following the vehicle
119 ahead too closely or excessive speeding, as those violations are defined by the United States
120 Department of Transportation by regulation; any violation of a state or local law relating to
121 motor vehicle traffic control (other than a parking violation) that arises in connection with a fatal
122 accident; driving recklessly, as defined by state or local law or regulation, including but not
123 limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of
124 persons or property; driving a commercial motor vehicle without obtaining a commercial driver
125 license or commercial vehicle learner’s permit; driving a commercial motor vehicle without
126 having a commercial driver license or commercial vehicle learner’s permit in possession; driving
127 a commercial motor vehicle without the proper class or endorsement; manually composing,
128 sending or reading an electronic message while operating a commercial motor vehicle in
129 violation of section 13D of chapter 90; using a mobile electronic device while operating a
130 commercial motor vehicle in violation of said section 13D said chapter 90; and any other
131 violations of state law relating to motor vehicle traffic control which the registry determines by
132 regulation to be serious, as well as offenses listed in regulations which the registrar may
133 promulgate to reflect the definition of a serious traffic violation contained in any applicable
134 federal statute or regulation.

135 SECTION 11. Section 2 of said chapter 90F, as so appearing, is hereby amended by
136 adding the following paragraph:-

137 An applicant for a commercial driver’s license shall be a duly licensed motor vehicle
138 operator for a period of 3 continuous years immediately prior to his or her application. An
139 applicant shall not be eligible to obtain a commercial driver’s license if his or her operator’s

140 license or right to operate has been suspended or revoked by any state within 3 years prior to the
141 date of application.

142 SECTION 12. Section 3 of said chapter 90F, as so appearing, is hereby amended by
143 inserting, after the word “vehicles” in line 6, the following words:- within one business day of
144 receiving notice of such conviction.

145 SECTION 13. Said section 3 of said chapter 90F is hereby further amended by striking
146 out, in line 12, the words “thirty days of the date of conviction” and inserting in place thereof the
147 following words:- one business day of receiving notice of such conviction.

148 SECTION 14. Said section 3 of said chapter 90F, as so appearing, is hereby amended by
149 striking out paragraph (B) and inserting in place thereof the following paragraph:-

150 (B) Notification of suspensions, revocations and cancellations. Each driver whose driver
151 license is suspended, revoked, or cancelled by any state, who loses the privilege to drive a
152 commercial motor vehicle in any state for any period, or who is disqualified from driving a
153 commercial motor vehicle for any period, shall notify his employer and the registrar of motor
154 vehicles of that fact before the end of the business day following the day the driver received
155 notice of that fact. Any driver who violates the provisions of this paragraph shall be subject to a
156 civil penalty of \$500 in addition to any other administrative action that the registrar of motor
157 vehicles may impose as a consequence of the underlying suspension, revocation, or cancellation.

158 SECTION 15. Paragraph (C) of section 4 of said chapter 90F, as so appearing, is hereby
159 amended by striking out, in line 17, the words “\$2,750 to \$11,000” and inserting in place thereof
160 the following words:- \$5,591 to \$30,956.

161 SECTION 16. Said section 4 of said chapter 90F, as so appearing, is hereby amended by
162 adding the following paragraph:-

163 (E) Each employer shall participate in the Registrar's Driver Verification System, which
164 allows an employer to track the license status of employees who operate commercial motor
165 vehicles and which notifies employers of any change in an employee's commercial driver's
166 license status.

167 SECTION 17. Section 6 of said chapter 90F, as so appearing, is hereby amended by
168 striking out the eighth paragraph and inserting in place thereof the following paragraph:-

169 A learner's permit to operate a commercial motor vehicle shall not be valid for more than
170 180 days when originally issued. A learner's permit to operate a commercial motor vehicle may
171 be renewed once for an additional 180 days without requiring the holder of the learner's permit
172 to operate a commercial motor vehicle to retake the general and endorsement knowledge tests.
173 The learner's permit to operate a commercial motor vehicle may be renewed up to 60 days
174 before the initial expiration or up to 30 days after the initial expiration. The issuance of a
175 learner's permit to operate a commercial motor vehicle is a precondition to the initial issuance of
176 a commercial driver's license and is also a precondition to the upgrade of a commercial driver's
177 license if such upgrade requires a skills test. A holder of a learner's permit to operate a
178 commercial motor vehicle is not eligible to take a commercial driver's license skills test within
179 the first 14 days following the initial issuance of the learner's permit to operate a commercial
180 motor vehicle. The holder of a learner's permit to operate a commercial motor vehicle may drive
181 a commercial motor vehicle on a highway only when accompanied by the holder of a valid
182 license to operate a commercial motor vehicle for the type of vehicle driven who occupies a seat

183 beside the individual for the purpose of giving instruction in driving the commercial motor
184 vehicle.

185 SECTION 18. Said section 6 of said chapter 90F, as so appearing, is hereby further
186 amended by adding the following two paragraphs:-

187 In addition to the above, no person shall be issued a special license or permit, or a
188 provisional, temporary or hardship license or permit to drive a commercial motor vehicle during
189 a period in which the person is disqualified from operating a commercial motor vehicle or after
190 the person's noncommercial driving privilege has been revoked, suspended or cancelled, or when
191 any type of driver's license held by such person is suspended, revoked or cancelled by the state
192 in which the driver is licensed for any state or local law related to motor vehicle traffic control
193 other than parking violations.

194 A person shall not be issued a CDL or learner's permit to operate a commercial motor
195 vehicle on a limited basis on the grounds of hardship.

196 SECTION 19. Section 7 of said chapter 90F, as so appearing, is hereby amended by
197 striking out, in line 7, the words "weight and eye and hair color," and inserting in place thereof
198 the following words:- eye color.

199 SECTION 20. Paragraph (A) of section 9 of said chapter 90F, as so appearing, is hereby
200 amended by striking out subparagraph (2) and inserting in place thereof the following
201 subparagraph:-

202 (2) Operating a commercial motor vehicle while the person has a percentage, by weight,
203 of alcohol in their blood of 0.04 or more;

204 SECTION 21. Said paragraph (A) of said section 9 of said chapter 90F, as so appearing,
205 is hereby further amended by inserting after subparagraph (5) the following 3 subparagraphs:-

206 (6) Operating any motor vehicle while the person has a percentage, by weight, of alcohol
207 in their blood of 0.08 or more;

208 (7) Driving a commercial motor vehicle when, as a result of prior violations committed
209 while operating a commercial motor vehicle, the person's commercial driver's license is
210 revoked, suspend, or canceled, or the person is disqualified from operating a commercial motor
211 vehicle;

212 (8) Causing a fatality through the negligent operation of a commercial motor vehicle,
213 including but not limited to the crimes of motor vehicle manslaughter, homicide by motor
214 vehicle, and negligent homicide.

215 SECTION 22. Said section 9 of said chapter 90F, as so appearing, is hereby further
216 amended by striking out paragraph (D) and inserting in place thereof the following paragraph:-

217 (D) Any person shall be disqualified from operating a commercial motor vehicle for life
218 who uses a commercial motor vehicle in the commission of (i) any felony involving the
219 manufacture, distribution, or dispensing of a controlled substance, or possession with intent to
220 manufacture, distribute or dispense a controlled substance; or (ii) any felony involving
221 trafficking in persons or organs as prohibited by sections 50, 51, or 53 of chapter 265 or any
222 felony involving an act or practice of severe forms of trafficking in persons, as defined in 22
223 U.S.C. 7102(11).

224 SECTION 23. Said section 9 of said chapter 90F, as so appearing, is hereby further
225 amended by striking out paragraph (E) and inserting in place thereof the following paragraph:-

226 (E) Any person shall be disqualified from operating a commercial motor vehicle for a
227 period of not less than 120 days if convicted of 2 serious traffic violations, or 240 days if
228 convicted of 3 serious traffic violations, committed in the operation of a commercial motor
229 vehicle arising from separate incidents occurring within a 3-year period. The disqualification
230 period under this paragraph shall be imposed in addition to any other previously imposed period
231 of disqualification.

232 SECTION 24. Clause (i) of subparagraph (1) of paragraph (E 1/2) of said section 9 of
233 said chapter 90F, as so appearing, is hereby amended by striking out the words “ninety days”
234 and inserting in place thereof the following words:- one hundred and eighty days or more than
235 one year.

236 SECTION 25. Clause (ii) of said subparagraph (1) of said paragraph (E1/2) of said
237 section 9 of said chapter 90F, as so appearing, is hereby amended by striking out the words “one
238 year” and inserting in place thereof the following words:- two years or more than five years.

239 SECTION 26. Clause (iii) of said subparagraph (1) of said paragraph (E1/2) of said
240 section 9 of said chapter 90F, as so appearing, is hereby amended by inserting after the words
241 “three years” the following words:- or more than five years.

242 SECTION 27. Clause (i) of subparagraph (2) of said paragraph (E1/2) of said section 9
243 of said chapter 90F, as so appearing, is hereby amended by inserting after the word “days”, the
244 following words:- or more than two years.

245 SECTION 28. Clause (ii) of said subparagraph (2) of said paragraph (E1/2) of said
246 section 9 of said chapter 90F, as so appearing, is hereby amended by inserting after the words
247 “three years”, the following words:- or more than five years.

248 SECTION 29. Subparagraph (3) of said paragraph (E1/2) of said section 9 of said
249 chapter 90F, as so appearing, is hereby amended by striking out, in line 67, the words “\$1,100
250 and not more than \$2,750” and inserting in place thereof the following words:- \$3,096 for a first
251 violation and not less than \$6,192 for a second or subsequent violation.

252 SECTION 30. Subparagraph (4) of said paragraph (E1/2) of said section 9 of said chapter
253 90F, as so appearing, is hereby amended by inserting after the word “in”, in line 70, the
254 following words:- subsection (b) of section 15 of chapter 90 or in.

255 SECTION 31. Said section 9 of said chapter 90F, as so appearing, is hereby amended by
256 adding the following paragraph:-

257 (I) The registrar may suspend or revoke without a hearing any commercial driver’s
258 license issued under this chapter whenever the holder thereof (i) has committed a violation of the
259 motor vehicle laws of a nature which would give the registrar reason to believe that continuing
260 operation by such holder is and will be so seriously improper as to constitute an immediate threat
261 to the public safety; or (ii) has committed two or more serious traffic violations within the prior
262 twelve month period. Upon such suspension or revocation, the registrar shall forthwith send
263 written notice thereof to the licensee. Such notice shall specify the time and place of the
264 violation or violations. The registrar may order the license of such operator to be delivered to
265 him; and the license shall not be reissued unless, upon examination or investigation, or after a
266 hearing, the registrar determines that the operator shall again be permitted to operate. Said

267 operator shall be entitled to a hearing within thirty days of the suspension or revocation, and the
268 registrar shall so advise him in the notice of suspension or revocation.