

HOUSE BILL 2330

By Harmon

AN ACT to amend Tennessee Code Annotated, Title 55,  
relative to motor vehicles and Title 65, Chapter 15,  
relative to motor carriers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-301, is amended by adding the following as new subsection (d):

(d) The provisions of subsection (b) shall not apply to any person who holds any class of driver license and who is charged with any violation, except a parking violation, while operating a commercial motor vehicle.

SECTION 2. Tennessee Code Annotated, Section 55-10-412 (d), is amended by deleting the language "point zero two (.02) nor more than point zero five (.05)" in the second sentence and substituting instead the language "two-hundredths of one percent (.02 %) nor more than five -hundredths of one percent (.05 %)".

SECTION 3. Tennessee Code Annotated, Section 55-50-102(1), is amended by deleting the subsection in its entirety and substituting instead the following:

(1) "Administrator" means the Federal motor carrier safety administrator, the chief executive of the Federal motor carrier safety administration, an agency within the department of transportation.

SECTION 4. Tennessee Code Annotated, Section 55-50-102(12)(A)(iii), is amended by deleting the current language and substituting instead the following:

(iii) Is of any size and is used in the transportation of hazardous materials, as defined in this section;

SECTION 5. Tennessee Code Annotated, Section 55-50-102(12)(B)(iii), is amended by deleting the current language and substituting instead the following:

(iii) Vehicles operated for military purposes by active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel. This exception is not applicable to U.S. Reserve technicians.

SECTION 6. Tennessee Code Annotated, Section 55-50-102(15), is amended by deleting the subsection in its entirety and substituting instead the following:

(15) "Conviction" means an un-vacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an un-vacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the 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.

SECTION 7. Tennessee Code Annotated, Section 55-50-102, is amended by adding the following as a new appropriately designated subsection and renumbering the remaining subsections accordingly:

( ) "DHS Secretary" means the Secretary of Homeland Security of the United States.

SECTION 8. Tennessee Code Annotated, Section 55-50-102, is amended by adding the following as a new appropriately designated subsection and renumbering the remaining subsections accordingly:

( ) “Domicile” means a person’s fixed, permanent and principal home for legal purposes and to which he/she has the intention of returning whenever he/she is absent.

SECTION 9. Tennessee Code Annotated, Section 55-50-102, is amended by adding the following as a new appropriately designated subsection and renumbering the remaining subsections accordingly:

( ) “Full legal name” means an individual’s first name, middle name(s), and last name or surname, without use of initials or nicknames.

SECTION 10. Tennessee Code Annotated, Section 55-50-102(25), is amended in the second sentence by deleting the words “or registered weight rating”.

SECTION 11. Tennessee Code Annotated, Section 55-50-102(26), is amended in the second sentence by deleting the words “or registered vehicle weight”.

SECTION 12. Tennessee Code Annotated, Section 55-50-102(27), is amended by deleting the current language and substituting the following:

(27) “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.

SECTION 13. Tennessee Code Annotated, Section 55-50-102(44), is amended by deleting the punctuation “;” and substituting instead the following punctuation and language:

, or has taken action to establish Tennessee as principal place of domicile;

SECTION 14. Tennessee Code Annotated, Section 55-50-102(49), is amended by deleting the language in its entirety and substituting instead the following:

(49) “State” means:

(A) for the purposes of commercial driver licenses, a State of the United States and the District of Columbia;

(B) for all other purposes, a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SECTION 15. Tennessee Code Annotated, Section 55-50-204, is amended by adding the following as a new subsection (c) and renumbering the existing subsections accordingly:

(c)

(1) The department shall record and maintain as part of the driver history of persons holding or required to hold commercial driver licenses all convictions, disqualifications and other licensing actions for violations of any state or local law relating to motor vehicle traffic control (other than a parking violation) committed in any type of vehicle, in Tennessee or any other state.

(2) The department shall make driver history information required by this subsection available to the users designated in subsection (c)(4) of this section, or to their authorized agent, within ten (10) days of:

(A) Receiving the conviction or disqualification information from another State; or,

(B) The date of the conviction, if it occurred in the same State.

(3) The department shall retain on the driver history record all convictions, disqualifications and other licensing actions for violations for at least 3 years or longer as required under 49 CFR § 384.231(d).

(4) Only the following users or their authorized agents may receive the designated information:

(A) States: All information on all driver records.

(B) Secretary of Transportation: All information on all driver records.

(C) Driver: Only information related to that driver's record.

(D) Motor Carrier or Prospective Motor Carrier: After notification to a driver, all information related to that driver's, or prospective driver's, record.

SECTION 16. Tennessee Code Annotated Section 55-50-302, is amended by adding the following as a new subsection (g):

(g)

(1) The department shall not issue or renew a hazardous materials endorsement unless a Determination of No Security Threat has been issued in conformance with 49 CFR part 1572.

(2) The department shall revoke a current hazardous materials endorsement upon receipt of an Initial or Final Determination of Security Threat in accordance with 49 CFR part 1572.

SECTION 17. Tennessee Code Annotated, Section 55-50-304(1), is amended by deleting the current language and substituting instead the following:

(1)

(A) Any member of the armed forces while operating a motor vehicle owned or leased by any branch of the armed services of the United States;

(B) Any individual who is operating a CMV for military purposes, including active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel. This exception is not applicable to U.S. Reserve technicians.

SECTION 18. Tennessee Code Annotated, Section 55-50-331, is amended by adding the following as a new appropriately designated numbered subsection:

( )

(1) Notwithstanding any other provision of the law to the contrary, the department is required to issue driver licenses and photo identification licenses that comply with Federal Public Law No. 109-13, otherwise known as the REAL ID Act of 2005, and any other subsequent federal requirements relative to the issuance of driver licenses and photo identification licenses.

(2) Any non-photo bearing driver license issued under the provisions of § 55-50-323 and § 55-50-335, and any non-expiring photo identification license issued under the provisions of § 55-50-323 and § 55-50-336, shall be issued in compliance with the federal regulations of 6 CFR Part 37 for non-REAL ID compliant licenses.

SECTION 19. Tennessee Code Annotated, Section 55-50-403, is amended by adding the following new subsections:

(3) In which the driver, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or

(4) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

SECTION 20. Tennessee Code Annotated, Section 55-50-404(d), is amended by deleting the current language and substituting instead the following:

(d) A commercial driver license may not be issued to a person during a period in which the person is disqualified from operating a commercial motor vehicle, or while the person's driver license is suspended, revoked or cancelled in any state; nor may a commercial driver license be issued to a person unless the person first surrenders all

previously issued driver licenses, either commercial or non-commercial, issued by any state. The department shall electronically notify the state of issuance that the license has been turned into the department and should be cancelled.

SECTION 21. Tennessee Code Annotated, Section 55-50-405(a), is amended by deleting the following language:

“Any person who operates a commercial motor vehicle without a valid commercial motor vehicle driver license in possession, or while driving privileges are suspended, revoked or cancelled, or while disqualified from operating a commercial motor vehicle shall be punished as follows:”

SECTION 22. Tennessee Code Annotated, Section 55-50-405(a)(1)(A), is amended by deleting the current language in its entirety and substituting instead the following:

(A) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance, or with a blood alcohol concentration (B.A.C.) of four-hundredths of one percent (.04 %) or greater;

SECTION 23. Tennessee Code Annotated, Section 55-50-405(a)(7), is amended by deleting the current language in its entirety and substituting instead the following:

(7) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for one hundred eighty (180) days if the driver is convicted of a first violation of an out-of-service order. The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for two (2) years if, during any ten-year period, the driver is convicted of two (2) violations of out-of-service orders in separate incidents. The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for three (3) years if, during any ten (10)

year period, the driver is convicted of three (3) or more violations of out-of-service orders in separate incidents;

SECTION 24. Tennessee Code Annotated, Section 55-50-405(g), is amended by deleting the word “section” and substituting instead the word “title”.

SECTION 25. Tennessee Code Annotated, Section 55-50-407(b), is amended by deleting the second sentence and substituting instead the following:

The department shall also request all information pertaining to the driving record of the person from all other states in which the person has been licensed to drive during the immediate preceding ten (10) years, and from the National Driver Register.

SECTION 26. Tennessee Code Annotated, Section 55-50-407(c), is amended by deleting the language “thirty (30) days” and substituting instead the language “ten (10) days”.

SECTION 27. Tennessee Code Annotated, Section 55-50-408, is amended by deleting the language “point zero four (.04)” and substituting instead the words and figures “four-hundredths of one percent (.04%)”.

SECTION 28. Tennessee Code Annotated, Section 65-15-106, is amended by adding the following as a new subsection (e):

(e) The department is authorized to apply for federal funds which may be available, and conduct any new entrant audits and review and compliance inspections as may be required by regulations promulgated by the United States department of transportation.

SECTION 29. Tennessee Code Annotated, Section 65-15-128(a)(3), is amended by deleting the current language in its entirety and substituting the following:

(3) Require the operators of its motor vehicles to submit to physical examination every two (2) years, in accordance with regulations promulgated by the United States department of transportation;



SECTION 30. This act shall take effect November 1, 2009, the public welfare requiring it.