

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 771
SENATE BILL 691

AN ACT TO PROVIDE FOR A COMMERCIAL DRIVER LICENSE SYSTEM,
ENDORSEMENTS TO A COMMERCIAL DRIVER LICENSE, AND
DISQUALIFYING OFFENSES FOR A COMMERCIAL DRIVER LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01 reads as rewritten:

"§ 20-4.01. **Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

- (0.1) Alcohol. – ~~Ethyl~~Any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
- (0.2) Alcohol Concentration. – The concentration of alcohol in a person, expressed either as:
 - a. Grams of alcohol per 100 milliliters of blood; or
 - b. Grams of alcohol per 210 liters of breath.
- (1) Business District. – The territory prescribed as such by ordinance of the Board of Transportation.
- (2) Canceled. – As applied to drivers' licenses and permits, a declaration that a license or permit which was issued through error or fraud is void and terminated.
- (3) Repealed by Session Laws 1979, c. 667, s. 1, effective January 1, 1981.
- (3a) Chemical Analysis. – A test of the breath or blood of a person to determine his alcohol concentration, performed in accordance with G.S. 20-139.1. The term 'chemical analysis' includes duplicate or sequential analyses when necessary or desirable to insure the integrity of test results.
- (3b) Chemical Analyst. – A person granted a permit by the Department of Human Resources under G.S. 20-139.1 to perform chemical analyses.
- (3c) ~~Commercial Motor Vehicle. – A vehicle: (a) which requires the driver to possess a valid Class A or Class B driver's license, or a similar driver's license issued by another state; or (b) which is a school bus, school activity bus, church bus, farm bus, ambulance, volunteer transportation vehicle, activity bus operated for a nonprofit organization when the activity bus is operated for a nonprofit purpose, or a fire fighting vehicle or combination of vehicles when operated by~~

~~any volunteer member of a municipal or rural fire department in the performance of his duty~~ Commercial Driver License (CDL). – A license issued in accordance with the requirements of this Chapter to an individual which authorizes that individual to drive a class of commercial motor vehicle. A 'nonresident commercial driver license (NRCDL)' is issued by a state to an individual who resides in a foreign jurisdiction.

(3d) Commercial Motor Vehicle. – A motor vehicle designed or used to transport passengers or property:

a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal or State regulation;

b. If the vehicle is designed to transport 16 or more passengers, including the driver; or

c. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(4) Commissioner. – The Commissioner of Motor Vehicles.

(5) Dealer. – Every person engaged in the business of buying, selling, distributing, or exchanging motor vehicles, trailers or semitrailers in this State, having an established place of business in this State and being subject to the tax levied by G.S. 105-89.

The terms 'motor vehicle dealer,' 'new motor vehicle dealer,' and 'used motor vehicle dealer' shall have the meaning set forth in G.S. 20-286.

(5a) Disqualification. – A withdrawal of the privilege to drive a commercial motor vehicle.

(6) Division. – The Division of Motor Vehicles acting directly or through its duly authorized officers and agents.

(7) Driver. – The operator of a vehicle, as defined in subdivision (25). The terms 'driver' and 'operator's and their cognates are synonymous.

(7a) Employer. – Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(8) Essential Parts. – All integral and body parts of a vehicle of any type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(9) Established Place of Business. – Except as provided in G.S. 20-286, the place actually occupied by a dealer or manufacturer at which a permanent business of bargaining, trading, and selling motor vehicles is or will be carried on and at which the books, records, and files necessary and incident to the conduct of the business of automobile dealers or manufacturers shall be kept and maintained.

- (10) Explosives. – Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous ~~presses~~ ~~[pressures]~~ pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.
- (11) Farm Tractor. – Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.
- (12) Foreign Vehicle. – Every vehicle of a type required to be registered hereunder brought into this State from another state, territory, or country, other than in the ordinary course of business, by or through a manufacturer or dealer and not registered in this State.
- (12a) Gross Vehicle Weight Rating (GVWR). – ~~The gross vehicle weight is the registered or declared weight of the vehicle. value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle, or the registered gross weight of the vehicle, whichever is greater. If no weight is registered or declared, then the gross vehicle weight is the actual weight of the vehicle.~~ The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units.
- (12b) Hazardous Materials. – Materials designated as hazardous by the United States Secretary of Transportation under 49 U.S.C. § 1803.
- (13) Highway. – The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms 'highway' and 'street' and their cognates are synonymous.
- (14) House Trailer. – Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle.
- (14a) Impairing Substance. – Alcohol, controlled substance under Chapter 90 of the General Statutes, any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances.
- (15) Implement of Husbandry. – Every vehicle which is designed for agricultural purposes and used exclusively in the conduct of agricultural operations.
- (16) Intersection. – The area embraced within the prolongation of the lateral curblines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other.

Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

- (17) License. – Any driver's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this State including:
 - a. Any temporary license or learner's permit;
 - b. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
 - c. Any nonresident's operating privilege.
- (18) Local Authorities. – Every county, municipality, or other territorial district with a local board or body having authority to adopt local police regulations under the Constitution and laws of this State.
- (19) Manufacturer. – Every person, resident, or nonresident of this State, who manufactures or assembles motor vehicles.
- (20) Manufacturer's Certificate. – A certification on a form approved by the Division, signed by the manufacturer, indicating the name of the person or dealer to whom the therein-described vehicle is transferred, the date of transfer and that such vehicle is the first transfer of such vehicle in ordinary trade and commerce. The description of the vehicle shall include the make, model, year, type of body, identification number or numbers, and such other information as the Division may require.
- (21) Metal Tire. – Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.
- (21a) Moped. – A type of passenger vehicle as defined in G.S. 20-4.01(27).
- (22) Motorcycle. – A type of passenger vehicle as defined in G.S. 20-4.01(27).
- (23) Motor Vehicle. – Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in G.S. 20-4.01(27)d1.
- (24) Nonresident. – Any person whose legal residence is in some state, territory, or jurisdiction other than North Carolina or in a foreign country.
- (24a) Offense Involving Impaired Driving. – Any of the following offenses:
 - a. Impaired driving under G.S. 20-138.1.
 - b. Death by vehicle under G.S. 20-141.4 when conviction is based upon impaired driving or a substantially equivalent offense under previous law.

- c. Second degree murder under G.S. 14-17 or involuntary manslaughter under G.S. 14-18 when conviction is based upon impaired driving or a substantially equivalent offense under previous law.
 - d. An offense committed in another jurisdiction substantially equivalent to the offenses in subparagraphs a through c.
 - e. A repealed or superseded offense substantially equivalent to impaired driving, including offenses under former G.S. 20-138 or G.S. 20-139.
 - f. Impaired driving in a commercial motor vehicle under G.S. 20-138.2, except that convictions of impaired driving under G.S. 20-138.1 and G.S. 20-138.2 arising out of the same transaction shall be considered a single conviction of an offense involving impaired driving for any purpose under this Chapter.
A conviction under former G.S. 20-140(c) is not an offense involving impaired driving.
- (25) Operator. – A person in actual physical control of a vehicle which is in motion or which has the engine running. The terms 'operator' and 'driver' and their cognates are synonymous.
- (25a) Out of Service Order. – A temporary prohibition against driving a commercial motor vehicle.
- (26) Owner. – A person holding the legal title to a vehicle, or in the event a vehicle is the subject of a chattel mortgage or an agreement for the conditional sale or lease thereof or other like agreement, with the right of purchase upon performance of the conditions stated in the agreement, and with the immediate right of possession vested in the mortgagor, conditional vendee or lessee, said mortgagor, conditional vendee or lessee shall be deemed the owner for the purpose of this Chapter. For the purposes of this Chapter, the lessee of a vehicle owned by the government of the United States shall be considered the owner of said vehicle.
- (27) Passenger Vehicles. –
- a. Excursion passenger vehicles. – Vehicles transporting persons on sight-seeing or travel tours.
 - b. For hire passenger vehicles. – Vehicles transporting persons for compensation. This classification shall not include vehicles operated as ambulances; vehicles operated by the owner where the costs of operation are shared by the passengers; vehicles operated ~~on behalf of any employer~~ pursuant to a ridesharing arrangement as defined in G.S. 136-44.21; vehicles transporting students for the public school system under contract with the State Board of Education or vehicles leased to the United States of America or any of its agencies on a nonprofit basis; or vehicles used for human service or volunteer transportation.

- c. Common carriers of passengers. – Vehicles operated under a franchise certificate issued by the Utilities Commission for operation on the highways of this State between fixed termini or over a regular route for the transportation of persons or property for compensation.
 - d. Motorcycles. – Vehicles having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and motor-driven bicycles, but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, three-wheeled vehicles while being used by law-enforcement agencies and mopeds as defined in subdivision d1 of this subsection.
 - d1. Moped. – Vehicles having two or three wheels and operable pedals and equipped with a motor which does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.
 - e. U-drive-it passenger vehicles. – Vehicles rented or leased to be operated by the lessee. This shall not include vehicles of nine-passenger capacity or less which are leased for a term of one year or more to the same person or vehicles leased or rented to public school authorities for driver-training instruction.
 - f. Ambulances. – Vehicles equipped for transporting wounded, injured, or sick persons.
 - g. Private passenger vehicles. – All other passenger vehicles not included in the above definitions.
- (28) Person. – Every individual, firm, partnership, association, corporation, governmental agency, or combination thereof of whatsoever form or character.
- (29) Pneumatic Tire. – Every tire in which compressed air is designed to support the load.
- (30) Private Road or Driveway. – Every road or driveway not open to the use of the public as a matter of right for the purpose of vehicular traffic.
- (31) Property-Hauling Vehicles. –
- a. Exempt for-hire vehicles. – Vehicles used for the transportation of property for hire but not licensed as common carriers or contract carriers of property under franchise certificates or permits issued by the Utilities Commission or by the Interstate Commerce Commission; provided, that the term 'for hire' shall include every arrangement by which the owner of a vehicle uses, or permits such vehicle to be used, for the transportation

of the property of another for compensation, subject to the following exemptions:

1. The transportation of farm crops or products, including logs, bark, pulp, and tannic acid wood delivered from farms and forest to the first or primary market, and the transportation of wood chips from the place where wood has been converted into chips to their first or primary market.
 2. The transportation of perishable foods which are still owned by the grower while being delivered to the first or primary market by an operator who has not more than one truck, truck-tractor, or trailer in a for-hire operation.
 3. The transportation of merchandise hauled for neighborhood farmers incidentally and not as a regular business in going to and from farms and primary markets.
 4. The transportation of T.V.A. or A.A.A. phosphate and/or agricultural limestone in bulk which is furnished as a grant of aid under the United States Agricultural Adjustment Administration.
 5. The transportation of fuel for the exclusive use of the public schools of the State.
 6. Vehicles whose sole operation in carrying the property of others is limited to the transportation of the United States mail pursuant to a contract, or the extension or renewal of such contract.
 7. Vehicles leased for a term of one year or more to the same person when used exclusively by such person in transporting his own property.
- b. Common carrier of property vehicles. – Vehicles used for the transportation of property certified by the Utilities Commission or the Interstate Commerce Commission as common carriers.
 - c. Private hauler vehicles. – Vehicles used for the transportation of property not falling within one of the above-defined classifications; provided, self-propelled vehicles equipped with permanent living and sleeping facilities used for camping activities shall be classified as private passenger vehicles.
 - d. Semitrailers. – Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.
 - e. Trailers. – Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including 'pole trailers' or a pair of

wheels used primarily to balance a load rather than for purposes of transportation.

- f. Contract carrier of property vehicles. – Vehicles used for the transportation of property under a franchise permit of a regulated contract carrier issued by the Utilities Commission or the Interstate Commerce Commission.
- (31a) Provisional Licensee. – A person under the age of 18 years.
- (32) Public Vehicular Area. – Any area within the State of North Carolina that is generally open to and used by the public for vehicular traffic, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley, or parking lot upon the grounds and premises of:
- a. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions; or
 - b. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space for customers, patrons, or the public; or
 - c. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, section 13.)

The term 'public vehicular area' shall also include any beach area used by the public for vehicular traffic as well as any road opened to vehicular traffic within or leading to a subdivision for use by subdivision residents, their guests, and members of the public, whether or not the subdivision roads have been offered for dedication to the public. The term 'public vehicular area' shall not be construed to mean any private property not generally open to and used by the public.

- (33) (a) Flood Vehicle.-A motor vehicle that has been submerged or partially submerged in water to the extent that damage to the body, engine, transmission, or differential has occurred.
- (b) Non-U.S.A. Vehicle.-A motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States.
- (c) Reconstructed Vehicle. - A motor vehicle of a type required to be registered hereunder that has been materially altered from original construction due to removal, addition or substitution of new or used essential parts; and includes glider kits and custom assembled vehicles.

- (d) Salvage Motor Vehicle. - Any motor vehicle damaged by collision or other occurrence to the extent that the cost of repairs to the vehicle and rendering the vehicle safe for use on the public streets and highways would exceed seventy-five percent (75%) of its fair retail market value. Repairs shall include the cost of parts and labor. Fair market retail values shall be as found in the NADA pricing Guide Book or other publications approved by the Commissioner.
 - (e) Salvage Rebuilt Vehicle.-A salvage vehicle that has been rebuilt for title and registration.
 - (f) Junk Vehicle. - A motor vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered.
- (33a) Relevant Time after the Driving. - Any time after the driving in which the driver still has in his body alcohol consumed before or during the driving.
 - (34) Resident. - Any person who resides within this State for other than a temporary or transitory purpose for more than six months shall be presumed to be a resident of this State; but absence from the State for more than six months shall raise no presumption that the person is not a resident of this State.
 - (35) Residential District. - The territory prescribed as such by ordinance of the Department of Transportation.
 - (36) Revocation or Suspension. - Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time stated in an order of revocation or suspension. The terms 'revocation' or 'suspension' or a combination of both terms shall be used synonymously.
 - (37) Road Tractors. - Vehicles designed and used for drawing other vehicles upon the highway and not so constructed as to carry any part of the load, either independently or as a part of the weight of the vehicle so drawn.
 - (38) Roadway. - That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term 'roadway' as used herein shall refer to any such roadway separately but not to all such roadways collectively.
 - (39) Safety Zone. - Traffic island or other space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.
 - (40) Security Agreement. - Written agreement which reserves or creates a security interest.

- (41) Security Interest. – An interest in a vehicle reserved or created by agreement and which secures payments or performance of an obligation. The term includes but is not limited to the interest of a chattel mortgagee, the interest of a vendor under a conditional sales contract, the interest of a trustee under a chattel deed of trust, and the interest of a lessor under a lease intended as security. A security interest is 'perfected' when it is valid against third parties generally.
- (41a) Serious Traffic Violation. – A conviction when operating a commercial motor vehicle of:
- a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit;
 - b. Careless and reckless driving; or
 - c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
- (42) Solid Tire. – Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.
- (43) Specially Constructed Vehicles. – Vehicles of a type required to be registered hereunder not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from their original construction.
- (44) Special Mobile Equipment. – Every truck, truck-tractor, industrial truck, trailer, or semitrailer on which have been permanently attached cranes, mills, well-boring apparatus, ditch-digging apparatus, air compressors, electric welders, or any similar type apparatus or which have been converted into living or office quarters, or other self-propelled vehicles which were originally constructed in a similar manner which are operated on the highway only for the purpose of getting to and from a nonhighway job and not for the transportation of persons or property or for hire. This shall also include trucks on which special equipment has been mounted and used by American Legion or Shrine Temples for parade purposes, trucks or vehicles privately owned on which fire-fighting equipment has been mounted and which are used only for fire-fighting purposes, and vehicles on which are permanently mounted feed mixers, grinders, and mills although there is also transported on the vehicle molasses or other similar type feed additives for use in connection with the feed-mixing, grinding, or milling process.
- (45) State. – A state, territory, or possession of the United States, District of Columbia, Commonwealth of Puerto Rico, or a province of Canada.
- (46) Street. – A highway, as defined in subdivision (13). The terms 'highway' and 'street' and their cognates are synonymous.
- (47) Suspension. – Termination of a licensee's or permittee's privilege to drive or termination of the registration of a vehicle for a period of time

stated in an order of revocation or suspension. The terms 'revocation' or 'suspension' or a combination of both terms shall be used synonymously.

- (48) Truck Tractors. – Vehicles designed and used primarily for drawing other vehicles and not so constructed as to carry any load independent of the vehicle so drawn.
- (48a) Under the Influence of an Impairing Substance. – The state of a person having his physical or mental faculties, or both, appreciably impaired by an impairing substance.
- (49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 miles per hour when the device is being operated by a person with a mobility impairment.
- (50) Wreckers. – Vehicles with permanently attached cranes used to move other vehicles; provided, that said wreckers shall be equipped with adequate brakes for units being towed."

Sec. 2. Chapter 20 of the General Statutes is amended by adding a new article to read.

"ARTICLE 2C.

"Commercial Driver License.

"§ 20-37.10. Title of Article.

This Article may be cited as the Commercial Driver License Act.

"§ 20-37.11. Purpose.

The purpose of this Article is to implement the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. Chapter 36, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

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

To the extent that this Article conflicts with general driver licensing provisions, this Article prevails. Where this Article is silent, the general driver licensing provisions apply.

"§ 20-37.12. Commercial driver license required.

(a) On or after April 1, 1992, no person shall operate a commercial motor vehicle on the highways of this State unless he has first been issued and is in immediate

possession of a commercial driver license with applicable endorsements valid for the vehicle he is driving; provided, a person may operate a commercial motor vehicle after being issued and while in possession of a commercial driver learner's permit and while accompanied by the holder of a commercial driver license valid for the vehicle being driven.

(b) No person shall drive a commercial motor vehicle on the highways of this State while his driving privilege is revoked, suspended, cancelled, subject to a disqualification, or in violation of an out-of-service order.

(c) No person who drives a commercial motor vehicle may have more than one driver license.

(d) Any person who is not a resident of this State, who has been issued a commercial driver license by his state of residence, who has that license in his immediate possession, whose privilege to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle shall be permitted without further examination or licensure by the Division to drive a commercial motor vehicle in this State.

(e) Any person who takes up residence in this State on a permanent basis is exempt from the provisions of this section for 30 days from the date residence is established if he is properly licensed to operate a commercial motor vehicle in the jurisdiction of which he is a former resident. The Commissioner may establish by rule the conditions under which the test requirements for a commercial driver license may be waived for any person applying for a license pursuant to this subsection.

"§ 20-37.13. Commercial driving license qualification standards.

(a) No person shall be issued a commercial driver license unless he:

- (1) Is a resident of this State;
- (2) Is 21 years of age;
- (3) Has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R., Part 383, Subparts G and H; and
- (4) Has satisfied all other requirements of the Commercial Motor Vehicle Safety Act in addition to other requirements of this Chapter or federal regulation.

The tests shall be prescribed and conducted by the Division of Motor Vehicles. Provided, a person who is at least 18 years of age may be issued a commercial driver license if he is exempt from, or not subject to, the age requirements of the federal Motor Carrier Safety Regulations contained in 49 C.F.R., Part 391, as adopted by the Division.

(b) The Division may permit a person, including an agency of this or another state, an employer, a private driver training facility, or an agency of local government, to administer the skills test specified by this section, provided:

- (1) The test is the same as that administered by the Division; and
- (2) The third party has entered into an agreement with the Division which complies with the requirements of 49 C.F.R., Part 383.75. The Division may charge a fee to applicants for third-party testing

authority in order to investigate the applicants' qualifications and to monitor their program as required by federal law.

(c) Prior to April 1, 1992, the Division may waive the skills test for applicants licensed at the time they apply for a commercial driver license if:

(1) The applicant has not, and certifies that he has not, at any time during the two years immediately preceding the date of application:

a. Had more than one driver license, except during the 10-day period beginning on the date he is issued a driver license, or unless, prior to December 31, 1989, he was required to have more than one license by a State law enacted prior to June 1, 1986;

b. Had any driver license or driving privilege suspended, revoked, or cancelled;

c. Had any convictions involving any kind of motor vehicle for the offenses listed in G.S. 20-17; or

d. Been convicted of a violation of State or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident; and

(2) The applicant certifies, and provides satisfactory evidence, that he is regularly employed in a job requiring the operation of a commercial motor vehicle, and he either:

a. Has previously taken and successfully completed a skills test that was administered by a state with a classified licensing and testing system and the test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or

b. Has operated for at least two years immediately preceding the application date, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.

(d) A commercial driver license or learner's permit shall not be issued to a person while he is subject to a disqualification from driving a commercial motor vehicle, or while his driver license is suspended, revoked, or cancelled in any state; nor shall a commercial driver license be issued by any other state unless he first surrenders all other driver licenses, which must be returned to the issuing states for cancellation.

(e) A commercial driver learner's permit may be issued to an individual who holds a valid Class C driver license who has passed the necessary tests required for that license. The permit is valid for a period not to exceed six months and may be renewed or reissued only once within a two-year period.

"§ 20-37.14. Nonresident commercial driver license.

The Division may issue a nonresident commercial driver license (NRCDL) to a resident of a foreign jurisdiction if the United States Secretary of Transportation has

determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R., Part 383. The word 'Nonresident' must appear on the face of the NRCDL. An applicant must surrender any NRCDL issued by another state. Prior to issuing a NRCDL, the Division shall establish the practical capability of revoking, suspending, or cancelling the NRCDL and disqualifying that person with the same conditions applicable to the commercial driver license issued to a resident of this State.

"§ 20-37.15. Application for commercial driver license.

- (a) The application for a commercial driver license must include the following:
- (1) The full name, current mailing address, and current residence address of the applicant;
 - (2) A physical description of the person including sex, height, and eye and hair color;
 - (3) Date of birth;
 - (4) The applicant's social security number;
 - (5) The applicant's signature;
 - (6) The applicant's color photograph;
 - (7) Certifications including those required by 49 C.F.R., Part 383.71(a);
 - (8) A consent to release driving record information; and
 - (9) Any other information required by the Division.

The application must be accompanied by a nonrefundable application fee of twenty dollars (\$20.00). This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c).

(b) When the holder of a commercial driver license changes his name, mailing address, or residence address, an application for a duplicate shall be made as provided in G.S. 20-7.1 and a fee paid as provided in G.S. 20-14.

"§ 20-37.16. Content of license; classifications and endorsements; fees.

(a) The commercial driver license must be marked 'Commercial Driver License' or 'CDL' and shall, to the maximum extent practicable, be tamper proof. It must include:

- (1) The person's name and residential address;
- (2) The person's color photograph;
- (3) A physical description of the person including sex, height, eye color, and hair color;
- (4) The person's date of birth;
- (5) The person's social security number or any number or identifier deemed appropriate by the Division;
- (6) The person's signature;
- (7) The class of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
- (8) The name of this State; and
- (9) The dates between which the license is valid.

(b) Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license.

Class A - Any combination of vehicles with a gross vehicle weight rating, GVWR, of 26,001 pounds or more, provided the GVWR of the vehicle or vehicles being towed is in excess of 10,000 pounds.

Class B - Any single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

Class C - Any single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds comprising:

- (1) Vehicles designed to transport 16 or more passengers, including the driver; and
- (2) Vehicles used in the transportation of hazardous materials that require the vehicle to be placarded under 49 C.F.R., Part 172, Subpart F.

(c) Endorsements and restrictions will be noted on the license when appropriate in the following categories:

- (1) 'H' - Authorizes the driver to drive a vehicle transporting hazardous materials.
- (2) 'K' - Restricts the driver to vehicles not equipped with airbrakes.
- (3) 'T' - Authorizes driving double trailers.
- (4) 'P' - Authorizes driving vehicles carrying passengers.
- (5) 'N' - Authorizes driving tank vehicles.
- (6) 'X' - Represents a combination of hazardous materials and tank vehicle endorsements.
- (7) 'M' - Authorizes driving a motorcycle.
- (8) 'S' - Authorizes driving a school bus.

(d) The fee for issuance of a Class A, B, or C commercial driver license is forty dollars (\$40.00). Any person applying for a special endorsement or renewal under subsection (c) of this section shall pay an additional five dollars (\$5.00) for each endorsement. The fee required under this section shall be waived for persons who drive a school bus or school activity bus.

(e) The requirements for a commercial driver license do not apply to vehicles used for personal use such as recreational vehicles. A commercial driver license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

- (1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military purposes;
- (2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions; and

- (3) Farm vehicles that meet all of the following criteria:
- a. Controlled and operated by the farmer or the farmer's employee and used exclusively for farm use;
 - b. Used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm;
 - c. Not used in the operations of a common or contract motor carrier; and
 - d. Used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation.

"§ 20-37.17. Record check and notification of license issuance.

Before issuing a commercial driver license, the Division shall obtain driving record information from the Commercial Driver License Information System (CDLIS), the National Driver Register, and from each state in which the person has been licensed.

Within 10 days after issuing a commercial driver license, the Division shall notify CDLIS of the issuance of the commercial driver license, providing all information necessary to ensure identification of the person.

"§ 20-37.18. Notification required by driver.

(a) Any driver holding a commercial driver license issued by this State who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control in any other state, other than parking violations, shall notify the Division in the manner specified by the Division within 30 days of the date of the conviction.

(b) Any driver holding a commercial driver 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, other than parking violations, shall notify his employer in writing of the conviction within 30 days of the date of conviction.

(c) Any driver whose commercial driver license is suspended, revoked, or cancelled 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, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.

(d) Any person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:

- (1) 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;
- (2) The dates between which the applicant drove for each employer; and
- (3) The reason for leaving that employer.

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

"§ 20-37.19. Employer responsibilities.

(a) Each employer shall require the applicant to provide the information specified in G.S. 20-37.18(c).

(b) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) In which the driver has had his commercial driver license suspended, revoked, or cancelled by any state, is currently disqualified from driving a commercial vehicle, or is subject to an out-of-service order in any state; or

(2) In which the driver has more than one driver license.

"§ 20-37.20. Notification of traffic convictions.

Within 10 days after receiving a report of the conviction of any nonresident holder of a commercial driver license for any violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial vehicle, the Division shall notify the driver licensing authority in the licensing state of the conviction.

"§ 20-37.21. Penalties.

(a) Any person who drives a commercial motor vehicle in violation of G.S. 20-37.12 shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than two hundred fifty dollars (\$250.00) for a first offense and not less than five hundred dollars (\$500.00) for a second or subsequent offense.

(b) Any person who violates G.S. 20-37.18 shall have committed an infraction and, upon being found responsible, shall pay a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(c) Any employer who violates G.S. 20-37.19 shall have committed an infraction and, upon being found responsible, shall pay a penalty of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000).

"§ 20-37.22. Rule making authority.

The Division may adopt any rules necessary to carry out the provisions of this Article.

"§ 20-37.23. Authority to enter agreements.

The Commissioner shall have the authority to execute or make agreements, arrangements, or declarations to carry out the provisions of this Article."

Sec. 3. Article 2 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-17.4. Disqualification and cancellation of a commercial driver license.

(a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) G.S. 20-138.1 or G.S. 20-138.2(a)(1) - Driving a commercial motor vehicle while subject to an impairing substance;

(2) G.S. 20-138.2(a)(2) - Driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is 0.04 or more;

(3) G.S. 20-166(a) - Felonious hit and run involving a commercial motor vehicle driven by the person;

(4) Using a commercial motor vehicle in the commission of any felony; or

(5) Refusal to submit to a chemical test to determine the driver's alcohol concentration while driving a commercial motor vehicle.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(b) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection (a) of this section, or any combination of those offenses, arising from two or more separate incidents. The Division may issue regulations establishing guidelines, including conditions, under which a disqualification for life under this paragraph may be reduced to 10 years.

(c) A person is disqualified from driving a commercial motor vehicle for life if that person 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.

(d) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(e) After suspending, revoking, or cancelling a commercial driver license, the Division shall update its records to reflect that action within 10 days. After suspending, revoking, or cancelling a nonresident commercial driver's privileges, the Division shall forthwith notify the licensing authority of the State which issued the commercial driver license or commercial driver instruction permit."

Sec. 4. G.S. 20-28 is amended by adding a new subsection to read:

"(c) Any person whose commercial driver license has been suspended or revoked or who has been disqualified from operating a commercial motor vehicle as provided in this Chapter who shall drive a commercial motor vehicle upon the highways or public vehicular areas of this State while such license is under suspension, revocation, or disqualification shall be guilty of a misdemeanor. Upon receipt of a record of a violation of this section, the Division shall impose an additional disqualification period equal to the period for which the driver was suspended, revoked, or disqualified when he violated this section."

Sec. 5. G.S. 20-7(a) reads as rewritten:

"(a) Except as otherwise provided in this ~~Article~~ Chapter, no person shall operate a motor vehicle on a highway unless such person is a resident of this State and has first been licensed by the Division under the provisions of this Article or Article 2C for the ~~type or~~ class of vehicle being driven. ~~Drivers'~~ Driver licenses shall be classified under this Article as follows:

- (1) Class 'A' which entitles a licensee to drive any vehicle or combination of vehicles,—with a gross vehicle weight rating (GVWR) of 26,001 pounds or more, provided the GVWR of the vehicle or vehicle being towed are in excess of 10,000 pounds and are exempt from Article 2C of this Chapter. A Class A license entitles the licensee to operate Class B and C vehicles except motorcycles, including all vehicles under Classes "B" or "C."

- (2) ~~Class 'B' which entitles a licensee to drive a single vehicle weighing over 30,000 pounds gross vehicle weight, any such vehicle towing a vehicle weighing 10,000 pounds gross vehicle weight or less, a single vehicle designed to carry more than 12 passengers and all vehicles under Class "C." with a GVWR of 26,001 pounds or more, or any such vehicle towing a single vehicle not in excess of 10,000 pounds provided the towed vehicle is exempt from Article 2C of this Chapter. A Class "B" license does not entitle the licensee to operate Class C vehicles except drive a motorcycles.~~
- (3) ~~Class 'C' which entitles a licensee to drive a single vehicle weighing 30,000 pounds gross vehicle weight or less; any such vehicle towing a vehicle weighing 10,000 pounds gross vehicle weight or less; a church bus, farm bus, volunteer transportation vehicle, or activity bus operated for a nonprofit organization when the activity bus is operated for a nonprofit purpose; and a fire fighting vehicle or combination of vehicles (regardless of gross vehicle weight) when operated by any volunteer member of a municipal or rural fire department in the performance of his duty. with a GVWR of less than 26,001 pounds or any such vehicle towing another vehicle with a GVWR not in excess of 10,000 pounds, both of which are exempt from Article 2C. A Class "C" license does not entitle the licensee to drive a motorcycle. A Class "C" license does not entitle the licensee to drive a vehicle designed to carry more than 12 passengers unless this subsection or G.S. 20-218(a) specifically entitles him to do so.~~

Any unusual vehicle shall be assigned by the Commissioner to the most appropriate class under this subsection or Article 2C with suitable special restrictions if they appear to be necessary.

Any person who takes up residence in this State on a permanent basis is exempt from the provisions of this subsection for 30 days from the date that residence is established, if he is properly licensed in the jurisdiction of which he is a former resident."

Sec. 6. G.S. 20-218(a), as amended by Chapter 558, Session Laws of 1989 reads as rewritten:

"(a) No person shall drive or operate a school bus over the public roads of North Carolina while the same is occupied by children unless said person shall be fully trained in the operation of motor vehicles, and shall furnish to the superintendent of the schools of the county in which said bus shall be operated a certificate from any representative duly designated by the Commissioner of Motor Vehicles, and the chief mechanic in charge of school buses in said county showing that he has been examined by a representative duly designated by the Commissioner of Motor Vehicles, and said chief mechanic in charge of school buses in said county and that he is a fit and competent person to operate or drive a school bus over the public roads of the State. ~~Notwithstanding the provisions of G.S. 20-7(a)(3), the~~ The driver of a school bus or school activity bus must be at least 18 years of age and hold a driver's license of Class

'A', 'B', or 'C' commercial driver license and a school bus driver's certificate, ~~and the driver of a school activity bus must be at least age 18 and hold a driver's license of Class "C" and a school bus driver's certificate or a driver's license of Class "A" or Class "B".~~

Sec. 7. G.S. 20-9(a) reads as rewritten:

"(a) A Class 'C' license shall not be issued to any person under 16 years of age and no Class "~~A" A, or Class "B" B, or "C" C~~ commercial driver license shall be issued to any person under ~~18-21~~ years of age except as provided in G.S. 20-37.13(a) and G.S. 20-218(a). An endorsement to transport hazardous materials shall not be issued to any person under 21 years of age."

Sec. 8. G.S. 20-30 is amended by adding a new subdivision to read:

"(8) To possess more than one commercial driver license. Any commercial driver license other than the most recently issued is subject to immediate seizure by any law enforcement officer or judicial official."

Sec. 9. G.S. 20-26(a) reads as rewritten:

"(a) The Division shall keep a record of test, proceedings and orders pertaining to all driver's licenses granted, refused, suspended or revoked. The Division shall keep records of convictions as defined in G.S. 20-24(c) occurring outside North Carolina only for the offenses of exceeding a stated speed limit of 55 miles per hour or more by more than 15 miles per hour, driving while license suspended or revoked, careless and reckless driving, engaging in prearranged speed competition, engaging willfully in speed competition, hit-and-run driving resulting in damage to property, unlawfully passing a stopped school bus, illegal transportation of alcoholic beverages, and the offenses included in G.S. 20-17. Provided, the Division shall also record convictions for speeding in excess of 15 miles per hour over the posted speed limit occurring outside of North Carolina if the vehicle involved is a commercial motor vehicle."

Sec. 10. G.S. 20-24(c) reads as rewritten:

"(c) ~~For the purpose purposes of this Article Chapter, the term 'conviction' when referring to offenses committed in North Carolina shall mean: (i) a final conviction of a criminal offense including a no contest plea, or (ii) a determination that a person is responsible for an infraction, including a no contest plea, (iii) Also for the purpose of this Article an order of forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes, which forfeiture has not been vacated, shall be equivalent to a conviction., or (iv) In addition to the foregoing provisions and for the purpose of this Article, a third or subsequent prayer for judgment continued within any five-year period shall be considered as a final conviction and to this end all orders entering prayers for judgment continued entered by the courts shall be reported to the Division of Motor Vehicles.~~

For the purposes of this Chapter, the term 'conviction' when referring to offenses committed outside of the State of North Carolina shall mean an unvacated 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 an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

Sec. 11. G.S. 20-17(4) reads as rewritten:

"(4) Failure to stop and render aid as required under the laws of this State in the event of a motor vehicle accident in violation of G.S. 20-166(a) or (b)."

Sec. 12. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-138.2. Impaired driving in commercial vehicle.

(a) Offense. – A person commits the offense of impaired driving in a commercial motor vehicle if he drives a commercial motor vehicle upon any highway, any street, or any public vehicular area within the State:

- (1) While appreciably under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.04 or more.

(b) Defense Precluded. – The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense to a charge under this section.

(c) Pleading. – To charge a violation of this section, the pleading is sufficient if it states the time and place of the alleged offense in the usual form and charges the defendant drove a commercial motor vehicle on a highway, street, or public vehicular area while subject to an impairing substance.

(d) Implied Consent Offense. – An offense under this section is an implied consent offense subject to the provisions of G.S. 20-16.2.

(e) Punishment; Effect When Impaired Driving Offense Also Charged. – The offense in this section is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00), up to two years imprisonment, or both. This offense is not a lesser included offense of impaired driving under G.S. 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving under G.S. 20-138.1 arising out of the same transaction, the aggregate punishment imposed by the Court may not exceed the maximum punishment applicable to the offense involving impaired driving under G.S. 20-138.1.

(f) Limited Driving Privilege. – A person convicted of the offense of impaired driving under this section is not eligible for a limited driving privilege to operate a commercial motor vehicle. If a person is convicted under this section and under G.S. 20-138.1, he may be considered for a limited driving privilege for a noncommercial motor vehicle if he meets the requirements of G.S. 20-179.3(b). Such a privilege shall be for the purposes specified in G.S. 20-179.3(a) and issued according to the procedure in G.S. 20-179.3(d) and subsections (f) through (k).

If a person is convicted under this section and he had a blood alcohol concentration below 0.10, he is nonetheless eligible to apply for a Class C noncommercial license.

(g) The provisions of G.S. 20-139.1 shall apply to the offense of impaired driving in a commercial motor vehicle."

Sec. 13. G.S. 20-16.2(a)(4) reads as rewritten:

- "(a) (4) ~~If any test reveals an alcohol concentration of 0.10 or more, his~~ His driving privilege will be revoked immediately for at least 10 days ~~-if:~~
- a. The test reveals an alcohol concentration of 0.10 or more; or

- b. He was driving a commercial motor vehicle and the test reveals an alcohol concentration of 0.04 or more."

Sec. 14. G.S. 20-16.2(i)(2) reads as rewritten:

"(2) That his license will be revoked for at least 10 days if:

- a. ~~the~~The test reveals an alcohol concentration of 0.10 or more; ~~and or~~
- b. He was driving a commercial motor vehicle and the test results reveal an alcohol concentration of 0.04 or more."

Sec. 15. G.S. 20-16.5(b) reads as rewritten:

"(b) Revocations for Persons Who Refuse Chemical Analyses or Have Alcohol Concentrations of 0.10 or More After Driving a Motor Vehicle or of 0.04 or More After Driving a Commercial Vehicle. – A person's driver's license is subject to revocation under this section if:

- (1) A charging officer has reasonable grounds to believe that the person has committed an offense subject to the implied-consent provisions of G.S. 20-16.2;
- (2) The person is charged with that offense as provided in G.S. 20-16.2(a);
- (3) The charging officer and the chemical analyst comply with the procedures of G.S. 20-16.2 and G.S. 20-139.1 in requiring the person's submission to or procuring a chemical analysis; and
- (4) The person:
 - a. Willfully refuses to submit to the chemical analysis; ~~or~~
 - b. Has an alcohol concentration of 0.10 or more within a relevant time after the driving; ~~or~~
 - c. Has an alcohol concentration of 0.04 or more at any relevant time after the driving of a commercial vehicle."

Sec. 16. G.S. 20-16.5(b1)(2) reads as rewritten:

"(2) He has ~~;~~:

- a. ~~at any relevant time after the driving, a~~ An alcohol concentration of 0.10 or more at any relevant time after driving; and or
- b. An alcohol concentration of 0.04 or more at any relevant time after driving a commercial motor vehicle; and".

Sec. 17. G.S. 20-26 is amended by adding a new subsection to read:

"(b1) The registered or declared weight set forth on the vehicle registration card or a certified copy of the Division record sent by the Division of Criminal Information or otherwise is admissible in any judicial or administrative proceeding and shall be **prima facie** evidence of the registered or declared weight."

Sec. 18. Chapter 1112 of the 1987 Session Laws is repealed.

Sec. 19. Sections 1 through 17 of this act shall become effective September 1, 1990. Section 18 of this act shall become effective June 1, 1989.

In the General Assembly read three times and ratified this the 12th day of August, 1989.