

SENATE No. 2037

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

by inserting at the end thereof the followings sections:-

SECTION XX. Chapter 89 of the General Laws is hereby amended by inserting after section 4C the following section:-

Section 4D. Notwithstanding the provisions of section 4A, when any way has been divided into lanes, the driver of a commercial motor vehicle as defined in section 1 of chapter 90F, shall so drive that the vehicle shall be entirely within a single lane and shall not move from the lane in which the driver is driving until the driver has first ascertained if such movement can be made with safety. A violation of this section shall be deemed an "improper or erratic lane change" as included within the definition of "serious traffic violation" in section 1 of chapter 90F.

SECTION XX. Chapter 90 of the General Laws is hereby amended by inserting after section 2I the following section:-

Section 2J. The registrar may refuse to register, and may suspend or revoke if already registered, a commercial motor vehicle if the registrar has received notice, in any form which the registrar deems appropriate, including electronic transmissions, that the commercial motor carrier attempting to register a commercial motor vehicle has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

SECTION XX. Said chapter 90 is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. (a) Except as hereinafter otherwise provided, every person operating a motor vehicle, upon approaching a railroad crossing at grade, shall reduce the speed of the vehicle to a reasonable and proper rate before proceeding over the crossing, and shall proceed over the crossing at a rate of speed and with such care as is reasonable and proper under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than 15 feet and not more than 50

feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red lights which flash as a warning, shall bring his vehicle to a full stop not less than 15 feet and not more than 50 feet from the nearest track of said railroad and shall not proceed to cross until said lights stop flashing. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a lowered automatic gate, shall bring his vehicle to a full stop not less than 15 feet and not more than 50 feet from the nearest track of said railroad and shall not proceed to cross until said automatic gate is raised. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a railroad employee waving a red flag or white lantern, shall bring his vehicle to a full stop not less than 15 feet and not more than 50 feet from the nearest track of said railroad and shall not proceed to cross until said railroad employee signals that it is safe to do so. A railroad train approaching within approximately 1,500 of a highway crossing shall emit a warning signal audible from such distance.

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

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

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

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

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

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

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

61 (c) Whoever violates any provisions of this section and is operating a school bus, or any
62 motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo,
63 shall be punished by a fine of not less than \$500 or by being required to perform a total of 100
64 hours of community service which may include service in the operation lifesaver program. All
65 other persons violating the provisions of this section not operating a school bus, or any motor
66 vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be
67 punished by a fine of not less than \$100 nor more than \$200 or by being required to perform a
68 total of 50 hours of community service which may include service in the operation lifesaver
69 program.

70 SECTION XX. Said chapter 90 is hereby further amended by inserting after section 22
71 the following section:-

72 Section 22½. The registrar may suspend or revoke the certificate of registration of any
73 commercial motor vehicle issued under this chapter if the registrar receives notice in any form
74 which the registrar deems appropriate, including electronic transmissions, that the commercial
75 motor carrier responsible for its safety has been prohibited from operating in interstate commerce
76 by a federal agency with authority to do so under federal law. Notice to the registrant shall be as
77 provided in subsection (d) of section 22.

78 SECTION XX. Section 1 of chapter 90F of the General Laws, as so appearing, is hereby
79 amended by inserting after the definition of “Commerce” the following definition:-

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

83 SECTION XX. Said section 1 of said chapter 90F, as so appearing, is hereby further
84 amended by inserting after the word “vehicle”, in line 18, the first time it appears, the
85 following word:- (CMV).

86 SECTION XX. Said section 1 of said chapter 90F, as so appearing, is hereby further
87 amended by inserting after the word “probated”, in line 39, the following words:- ; dispositions
88 under sections 24D and 24E of chapter 90an admission to sufficient facts; a continuance without
89 a finding; an assignment to an alcohol or controlled substance education, treatment or
90 rehabilitation program; refusing to submit to a chemical test or analysis of one’s breath or blood;
91 an alcohol concentration in one’s breath or blood of 0.04 or more.

92 SECTION XX. Said section 1 of said chapter 90F, as so appearing, is hereby further
93 amended by inserting after the definition of “License to operate a commercial motor vehicle” the
94 following definition:-

“Major offense”, operation under the influence of alcohol or drugs, operating to endanger or reckless driving, under the provisions of paragraphs (a) to (h), inclusive, of subdivision 1 of section 24 of chapter 90; leaving the scene of a personal injury accident under said section 24 of said chapter 90; homicide by a commercial motor vehicle under the provisions of section 24G of said chapter 90; causing serious bodily injury while operating a commercial motor vehicle while under the influence of intoxicating liquor or drugs under the provisions of section 24L of said chapter 90; having an alcohol concentration of 0.04 or greater while operating a commercial motor vehicle; refusing to take an alcohol test as required by state or federal jurisdiction under its implied consent laws or regulations as defined in 49 CFR 383.72; using a commercial motor vehicle to commit a felony; driving a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver’s CDL is revoked, suspended or canceled, or the driver is disqualified from operating a commercial motor vehicle; using a commercial motor vehicle in the commission of a felony involving manufacturing, distributing or dispensing a controlled substance; and any other violations of state law relating to motor vehicle traffic control which the registry determines by regulation to be major. This definition shall include any and all disqualifying offenses under 49 CFR 383.51, as well as offenses listed in regulations which the registrar may promulgate to reflect the definition of a major offense contained in any applicable federal statute or regulation.

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

“Serious traffic violation”, excessive speeding, improper or erratic traffic lane changes or following the vehicle ahead too closely as defined by the United States Department of Transportation by regulation; driving recklessly, as defined by state or local law or regulation, including but, not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property; driving a commercial motor vehicle without obtaining a commercial driver license; driving a commercial motor vehicle without having a commercial driver license in possession; driving a commercial motor vehicle without the proper class or endorsement; manually composing, sending or reading an electronic message, as defined in section 1 of chapter 90, while operating a commercial motor vehicle; using a mobile telephone or mobile electronic device, both as defined in said section 1 of said chapter 90, while operating a commercial motor vehicle; and any other violations of state law relating to motor vehicle traffic control which the registry determines by regulation to be serious. This definition shall include any and all disqualifying offenses under 49 CFR 383.51, as well as offenses listed in regulations which the registrar may promulgate to reflect the definition of a serious traffic violation contained in any applicable federal statute or regulation.

SECTION XX. Section 4 of said chapter 90F, as so appearing, is hereby amended by striking out, in line 16, the figure “\$11,000” and inserting in place thereof the following figure:- \$25,000.

SECTION XX. Said section 6 of said chapter 90F, as so appearing, is hereby further amended by adding the following paragraph:-

No person shall be issued a special license or permit, or a provisional, temporary or hardship license or permit to drive a commercial motor vehicle during a period in which the person is disqualified from operating a commercial motor vehicle or after the person's noncommercial driving privilege has been revoked, suspended or cancelled, or when any type of driver's license held by such person is suspended, revoked or cancelled by the state in which the driver is licensed for any state or local law related to motor vehicle traffic control, other than parking violations. A person shall not be issued a commercial driver license or learner's permit to operate a commercial motor vehicle on a limited basis on the grounds of hardship.

SECTION XX. Section 7 of said chapter 90F, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “, weight, and eye and hair color” and inserting in place thereof the following words:- and weight.

SECTION XX. Said section 7 of said chapter 90F, as so appearing, is hereby further amended by striking out clauses (6) to (9), inclusive, and inserting in place thereof the following clauses:-

(6) certifications, including those required by 49 CFR 383.71(a);

(7) consent of the applicant to release driving record information; and

(8) any other information required by the registrar.

SECTION XX. Said chapter 90F is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. (A) Any person who holds a license to operate a motor vehicle, a license to operate a commercial motor vehicle or is unlicensed, is disqualified from operating a commercial motor vehicle and is prohibited from operating a commercial motor vehicle for a period of not less than 1 year if convicted of a first violation of:

(1) operating a commercial motor vehicle or a motor vehicle under the influence of alcohol or drugs;

(2) operating a commercial motor vehicle while the alcohol concentration in the person's blood or breath is 0.04 or more;

(3) operating a motor vehicle while the alcohol concentration in the person's breath or blood is 0.08 or more;

(4) leaving the scene of an accident involving a commercial motor vehicle or a motor vehicle driven by the person;

(5) refusing to submit to a chemical test or analysis of the person's breath or blood after operating a commercial motor vehicle or a motor vehicle;

(6) using a commercial motor vehicle or a motor vehicle in the commission of a felony as defined in this chapter;

(7) driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CDL is revoked, suspended or canceled, or the driver is disqualified from operating a CMV; or

(8) causing a fatality through the negligent operation of a CMV, including, but not limited to, the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person shall be disqualified for a period of 3 years.

(B) Any person shall be disqualified for life if convicted of 2 or more violations of any of the offenses specified in subsection (A), or for 2 or more refusals to submit to a chemical test or analysis of the person's breath or blood after operating a commercial motor vehicle or a motor vehicle, or any combination of those offenses, arising from 2 or more separate incidents.

(C) The registrar may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (B) may be reduced to a period of not less than 10 years.

(D) Any person shall be disqualified from operating a commercial motor vehicle for life who uses a 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.

(E) Any person shall be disqualified from operating a commercial motor vehicle for a period of not less than 60 days if convicted of 2 serious traffic violations, or 120 days if convicted of 3 serious traffic violations, committed in the operation of a commercial motor vehicle arising from separate incidents occurring within a 3-year period. The 120 day disqualification period shall be imposed in addition to any other previously imposed period of disqualification.

(E½) (1) Except as provided in subparagraph (2), any person who violates the provisions of an out-of-service order shall be disqualified from driving a commercial motor vehicle as follows:

(i) for not less than 180 days or more than 1 year for a first violation of an out-of-service order;

(ii) for not less than 2 years or more than 5 years for a second violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any 10 year period; and

(iii) for not less than 3 years or more than 5 years for a third or subsequent violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any 10 year period.

(2) Any person who violates the provisions of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. app. 1801-1813, or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle as follows:

(i) for not less than 180 days or more than 2 years for a first violation of an out-of-service order; and

(ii) for not less than 3 years or more than 5 years for a second or subsequent violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any 10 year period.

In addition to the disqualification provided for in subparagraphs (1) and (2), any driver who violates the provisions of an out-of-service order shall be subject to a civil penalty of not less than \$2,500 and not more than \$5,000.

(F) After suspending, revoking or cancelling a license to operate a commercial motor vehicle, the registrar shall update its records to reflect such action within 10 days. After suspending, revoking or cancelling the privileges of a nonresident operator of a commercial motor vehicle, the registrar shall notify the licensing authority of the state which issued the license or certificate of the nonresident operator of a commercial motor vehicle within 10 days.

(G) Pursuant to the provisions of 49 CFR 383.52 or any regulations promulgated by the registrar to reflect the applicable federal requirements, the registrar shall disqualify from operating a commercial motor vehicle any driver whose driving is determined by the assistant administrator of the Federal Motor Carrier Safety Administration of the United States Department of Transportation, or his designee, to constitute an imminent hazard. The period of disqualification shall not exceed 30 days, unless the assistant administrator or his designee complies with 49 CFR 383.52(c). Any disqualification so imposed shall be transmitted by the Federal Motor Carrier Safety Administration to the registrar and shall become a part of the driver's record maintained by the registrar. A driver who is simultaneously disqualified under this subsection and pursuant to any other federal or state disqualification from holding a commercial driver license shall serve such disqualification periods concurrently.

(H) The registrar may disqualify and reject any application for commercial licensure by any Massachusetts resident holding a non-commercial driver license who has been convicted of a disqualifying event as defined in 49 CFR 383.51 or in regulations promulgated by the registrar to reflect the applicable federal requirements.

(I) Any person who holds a license to operate a motor vehicle, a CDL or is unlicensed, is disqualified from operating a CMV and is prohibited from operating a CMV during the period of disqualification provided in subparagraph (2) below for a violation of any offense committed in a commercial motor vehicle listed in subsection (b) of section 15 of chapter 90 for a railroad crossing violation, in addition to the penalties contained in that section, the violations are:

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

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

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

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

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

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

The periods of disqualification are:

For a first conviction a person required to have a CDL and a CDL holder shall be disqualified from operating a CMV for not less than 60 days.

For a second conviction, of any combination of offenses in clauses 1-6, inclusive, in a separate incident within a 3-year period a person required to have a CDL and a CDL holder shall be disqualified from operating a CMV for not less than 120 days.

For a third or subsequent conviction of any combination of offenses in clauses 1-6, inclusive, in a separate incident within a 3-year period a person required to have a CDL and a CDL holder shall be disqualified from operating a CMV for not less than 1 year.

(J) (1) No operator of a CMV shall use a mobile telephone as defined in section 1 of chapter 90, or any hand-held device capable of accessing the internet, to manually compose, send or read an electronic message while operating a commercial motor vehicle. For the purposes of

269 this section, an operator shall not be considered to be operating a commercial motor vehicle if
270 the vehicle is stationary and not located in a part of the public way intended for travel.

271 (2) A violation of this subsection shall be punished by a fine of \$100 for a first offense,
272 by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

273 (3) A penalty under this subsection shall not be a surchargeable offense under section
274 113B of chapter 175.

275 (4) A violation of this subsection shall be deemed to be a serious traffic violation and a
276 person who is found in violation may be prohibited from operating a commercial motor vehicle
277 for the period designated in 49 CFR 383.51 when that person has been convicted of a second or
278 subsequent offense of a serious traffic violation within a 3 year period.

279 (K)

280 (1) No operator of a CMV shall use a mobile telephone or mobile electronic device, each
281 as defined in section 1 of chapter 90, while operating a commercial motor vehicle on any public
282 way. For the purposes of this subsection, a commercial motor vehicle operator shall not be
283 considered to be operating a commercial motor vehicle if the vehicle is stationary and not located
284 in a part of the public way intended for travel.

285 (2) A violation of this subsection shall be punished by a fine of \$100 for a first offense,
286 by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense.

287 (3) A penalty under this subsection shall not be a surchargeable offense under section
288 113B of chapter 175.

289 (4) A violation of this subsection shall be deemed to be a serious traffic violation and a
290 person who is found in violation may be prohibited from operating a commercial motor vehicle
291 for the period designated in 49 CFR 383.51 when that person has been convicted of a second or
292 subsequent offense of a serious traffic violation within a 3 year period.