

**HOUSE . . . . . No. 3980**

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**The Commonwealth of Massachusetts**

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CHARLES D. BAKER  
GOVERNOR

OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE · BOSTON, MA 02133  
(617) 725-4000

KARYN POLITO  
LIEUTENANT GOVERNOR

*July 19, 2019*

To the Honorable Senate and House of Representatives,

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

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

In addition, to ensure that both employers and the Registry of Motor Vehicles are informed in a timely manner of convictions that impact a driver’s eligibility to hold a

commercial driver's license, the bill would require drivers to provide next day notification to employers and the Registry if they are convicted of violating any state or local motor vehicle traffic law or if they have their right to operate a motor vehicle revoked or suspended by any state. For the first time, a commercial driver would be penalized for failing to notify an employer or the Registry of such suspensions or revocations.

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

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

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

Sincerely,

Charles D. Baker,  
*Governor*

**The Commonwealth of Massachusetts**

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

An Act to promote commercial driver safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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