

## **Selected Statutes relating to Commercial Driver Licenses**

### **I. Reporting of Convictions**

#### **55-50-409. Notification of traffic violations -- Furnishing driving record information.**

(a) This section shall apply to the following types of convictions:

(1) The conviction of any resident or nonresident holder of a commercial driver license of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in any vehicle; and

(2) The conviction of any resident or nonresident holder of a non-commercial driver license of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in a commercial motor vehicle.

(b) Within five (5) days after receiving a report of a conviction as defined by subsection (a), the department shall notify the driver licensing authority in the licensing state of the conviction, and the commercial driver license information system.

(c)

(1) Within five (5) days after the date of a conviction as defined by subsection (a), the clerk of the court of jurisdiction shall notify the department of the conviction.

(2) The notice shall contain:

(A) Driver's first name, middle name or middle initial, last name, and residence address;

(B) Driver's date of birth;

(C) Driver license number, class of license, and state of issuance;

(D) A statement as to whether or not the license is a commercial driver license;

(E) The license plate number, year, and state of issuance of the vehicle involved;

(F) A statement as to whether or not the offense was committed in a commercial motor vehicle;

(G) A statement as to whether or not the vehicle was transporting hazardous materials requiring placards;

(H) A statement as to whether or not the vehicle could transport sixteen (16) or more passengers;

(I) The date the offense occurred;

(J) The offense the driver was charged with;

(K) The date of the conviction;

(L) The violation of which the person was convicted;

(M) The plea, the judgment, or whether bail was forfeited;

- (N) The number of the offense (e.g., 1st offense, 2nd offense);
- (O) The blood alcohol level of the person, if convicted of a violation of § 39-13-106, § 39-13-213, § 55-10-401 or § 55-50-405;
- (P) The amount of any fine or costs assessed for the violation;
- (Q) Whether a driver education or improvement course was completed and the date of completion of the course, if eligible under § 55-10-301;
- (R) The name of the arresting agency;
- (S) The name of the county and court in which the conviction occurred; and
- (T) Whether or not there was in effect at the time of the violation an automobile liability policy or bond with respect to the operation of the motor vehicle involved.

(d) Notwithstanding any other law in this state, the department shall furnish full information regarding the driving record of any person to:

- (1) The driver license administrator of any other state, or province or territory of Canada, requesting that information;
- (2) The commercial driver license information system; and
- (3) Any employer or prospective employer upon request and payment of a fee of five dollars (\$5.00).

*HISTORY: Acts 1937, ch. 90, § 5; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.13 (Williams, § 2715.18); Acts 1973, ch. 224, §§ 1, 2; T.C.A. (orig. ed.), § 59-706; Acts 1988, ch. 584, § 6; T.C.A., §§ 55-7-106, 55-7-409; Acts 2010, ch. 1037, § 8.*

#### **55-10-306. Record of traffic cases -- Report of convictions to department.**

(a) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, warrant, traffic citation or other legal form of traffic charge deposited with or presented to the court or the traffic violations bureau of its jurisdiction, and shall keep a record of every official action by the court or the traffic violations bureau of its jurisdiction in reference thereto, including, but not limited to, a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine or forfeiture resulting from every traffic complaint, warrant, or citation deposited with or presented to the court or traffic violations bureau.

(b)

(1) Except as provided by § 55-50-409, within thirty (30) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of chapter 8, parts 1-5 of this chapter and § 55-12-139 or other law regulating the operation of vehicles on highways, every such magistrate or judge of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of the court covering the case in which the person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(2) Upon receipt of the fee of sixty-five dollars (\$65.00) as specified in § 55-12-129, the commissioner shall make a payment of ten dollars (\$10.00) for the furnishing of a completed report of a conviction resulting in suspension or revocation, including forfeiture of bail not vacated or payment of a fine or penalty, for one (1) or more of the offenses of reckless driving, driving while intoxicated or

drugged, drag racing, driving while unlicensed, driving on a revoked or suspended license, driving an unregistered vehicle, driving a vehicle with revoked registration, failing to stop after a traffic accident, or vehicular homicide.

(c) The abstract must be made on a form furnished by the commissioner and shall include the following information:

- (1) Driver's first name, middle name or middle initial, last name, and residence address;
- (2) Driver's date of birth;
- (3) Driver license number, class of license, and state of issuance;
- (4) A statement as to whether or not the license is a commercial driver license;
- (5) The license plate number, year, and state of issuance of the vehicle involved;
- (6) A statement as to whether or not the offense was committed in a commercial motor vehicle;
- (7) A statement as to whether or not the vehicle was transporting hazardous materials requiring placards;
- (8) A statement as to whether or not the vehicle could transport sixteen (16) or more passengers;
- (9) The date the offense occurred;
- (10) The offense the driver was charged with;
- (11) The date of the conviction;
- (12) The violation of which the person was convicted;
- (13) The plea, the judgment, or whether bail was forfeited;
- (14) The number of the offense (e.g., 1st offense, 2nd offense);
- (15) The blood alcohol level of the person, if convicted of a violation of § 39-13-106, § 39-13-213, § 55-10-401 or § 55-50-405;
- (16) The amount of any fine or costs assessed for the violation;
- (17) Whether a driver education or improvement course was completed and the date of completion of the course, if eligible under § 55-10-301;
- (18) The name of the arresting agency;
- (19) The name of the county and court in which the conviction occurred; and
- (20) Whether or not there was in effect at the time of the violation an automobile liability policy or bond with respect to the operation of the motor vehicle involved.

(d) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The department shall keep all abstracts received under this section at its main office and the same shall be open to public inspection during reasonable business hours.

(f)

(1) The administrative office of the courts, in conjunction with the department of safety, shall, on an annual basis, provide information and training to the clerks of court concerning the importance and necessity of preparing and forwarding to the department of safety the abstract forms for the convictions required by this section.

(2) The training and information required by this subsection (f) is not required to take the same form every year; provided, that the information is conveyed in a manner designed to be viewed, understood and retained by the clerks. The information may be conveyed one year by a training session at the annual court clerks conference and another year may be conveyed by mailing, e-mail or telephone.

(3) Any such training shall also include the effect and consequences of any changes in the abstract reporting requirements that may result from changes in state and federal law.

(4) The training and information distribution required by this subsection (f) shall apply to all clerks of court having original jurisdiction over traffic offenses, including municipal court clerks.

*HISTORY: Acts 1955, ch. 329, § 107; 1959, ch. 286, § 1; 1976, ch. 613, § 1; impl. am. Acts 1979, ch. 68, §§ 2, 3; T.C.A., § 59-1027; Acts 1986, ch. 842, § 11; 2001, ch. 292, § 5; 2005, ch. 120, § 1; 2008, ch. 1181, § 2; 2010, ch. 1037, §§ 2, 3.*

## **II. Prohibition on Masking Convictions for Commercial License Holders/Commercial Motor Vehicle Operators**

### **55-10-301. Penalty for violations of chapters 8 and 9 and parts 1-5 of this chapter.**

(a) Any person violating any of the provisions of chapters 8 and 9 of this title and parts 1-5 of this chapter where a penalty is not specifically prescribed commits a Class C misdemeanor.

(b)

(1) Any person violating any of the provisions of chapters 8 and 9 of this title and parts 1-5 of this chapter may be required, at the discretion of the court, to attend a driver education course approved by the department of safety in addition to or in lieu of any portion of other penalty imposed; provided, that the course is approved by the department, it may be operated and conducted by a:

(A) County, municipality or other entity of local government;

(B) Nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. § 501(c)(3); or

(C) Private entity, provided the entity meets all of the requirements of § 40-35-302(g) for private entities providing misdemeanor probation supervision services.

(2) A reasonable fee between fifty dollars (\$50.00) and one hundred seventy-five dollars (\$175) may be assessed for the driver education or driver improvement course; provided, that no one shall be refused admittance for inability to pay. This fee shall apply only to driver improvement courses that may be required pursuant to this section, and shall not apply to any program offered pursuant to the provisions of title 49, chapter 1, or to any other driving instruction school.

(3) By operating a driver education or improvement course pursuant to this subsection (b), the entity operating or conducting the course consents to the inspection of all records concerning the course by the department of safety; provided, that inspection made pursuant to this subdivision (b)(3) shall not preclude inspection of any records pursuant to any other provision of law.

(4) Each court clerk shall provide a list of approved entities in the county to any person ordered to attend a driver education or improvement course.

(5) Upon certification to the court clerk that a court ordered driver education or improvement course has been completed, the court clerk shall report the completion to the department of safety. The report shall be accomplished on the abstract of record of the court referenced in § 55-10-306.

(c) Subsection (b) shall not apply to any person who holds a Class A, B, or C license and is charged with any violation, except a parking violation, in any type of motor vehicle.

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

*HISTORY: Acts 1931, ch. 82, § 16; 1937, ch. 245, § 6; C. Supp. 1950, § 2700.17 (Williams, § 2696); Acts 1955, ch. 329, § 103; 1971, ch. 234, § 1; 1975, ch. 162, § 1; T.C.A. (orig. ed.), § 59-1023; Acts 1981, ch. 91, §§ 1, 2; 1989, ch. 591, § 113; 1990, ch. 869, § 1; 1995, ch. 178, § 1; 2001, ch. 186, § 1; 2005, ch. 235, § 1; 2008, ch. 1181, § 1; 2009, ch. 321, § 1.*

#### **55-50-102. Chapter definitions.**

As used in this chapter, unless the context otherwise requires:

...

(11) "Commercial driver license" means a license issued by the department in accordance with the standards contained in 49 CFR part 383 to an individual that authorizes the individual to operate a class of commercial motor vehicle. A commercial driver certificate accompanied by a valid driver license shall be considered a valid commercial driver license;

(12)

(A) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(i) Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand one (26,001) or more pounds;

(ii) Is designed to transport more than fifteen (15) passengers, including the driver; or

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

(B) However, the following vehicles and groups of vehicles shall not be considered commercial motor vehicles for the purposes of this chapter:

(i) Vehicles that are controlled and operated by a farmer or nursery worker that are used to transport either agricultural products, farm machinery, or farm supplies to or from a farm or nursery, and are not used in the operations of a common or contract motor carrier and are used within one hundred fifty (150) miles of the person's farm or nursery;

(ii) Vehicles designed and used solely as emergency vehicles that are necessary for the preservation of life or property or the execution of emergency governmental functions performed under emergency conditions and not subject to normal traffic regulation. This exemption shall apply to vehicles operated by paid or non-paid personnel;

(iii) Vehicles operated for military purposes by active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-

time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians;

(iv) Vehicles designed and used primarily as recreational vehicles as defined in this section; and

(v) Vehicles leased strictly and exclusively to transport personal possessions or family members for nonbusiness purposes;

...

(15) "Conviction" means 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 by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated;

*HISTORY: Acts 1937, ch. 90, § 1; 1939, ch. 205, § 2; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.9 (Williams, § 2715.14); Acts 1955, ch. 114, § 1; 1957, ch. 241, § 1; 1977, ch. 189, § 1; 1979, ch. 247, § 4; T.C.A. (orig. ed.), § 59-702; Acts 1986, ch. 804, § 2; 1987, ch. 446, § 10; 1988, ch. 584, § 2; T.C.A., § 55-7-102; Acts 1989, ch. 60, §§ 2-4; 1990, ch. 907, § 1; 1996, ch. 799, §§ 1-3; 1997, ch. 375, § 1; 1999, ch. 351, § 1; 2000, ch. 606, § 5; 2002, ch. 747, §§ 8, 9; 2004, ch. 778, § 1; 2005, ch. 235, § 2; 2007, ch. 194, §§ 1, 2; 2008, ch. 959, §§ 7, 8; 2009, ch. 321, §§ 3-14.*

### **III. Driving Under the Influence in a Commercial Motor Vehicle**

#### **55-50-408. Driving under the influence.**

For purposes of this chapter and § 55-10-401, any person who drives, operates or exercises physical control of a commercial motor vehicle with a blood alcohol concentration of four hundredths of one percent (0.04%) or more commits the offense of driving while under the influence of alcohol, in violation of § 55-50-405.

*HISTORY: Acts 1937, ch. 90, § 5; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.13 (Williams, § 2715.18); Acts 1973, ch. 224, §§ 1, 2; T.C.A. (orig. ed.), § 59-706; Acts 1988, ch. 584, § 6; T.C.A., §§ 55-7-106, 55-7-408; Acts 2009, ch. 321, § 27.*

### **IV. Miscellaneous**

#### **55-50-405. Violations -- Penalties -- Driving under the influence.**

(a)

(1) The commissioner shall suspend for at least one (1) year, a commercial motor vehicle operator who is found to have committed a first violation of:

(A) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance, or with a blood alcohol concentration (BAC) of four-hundredths of one percent (0.04 %) or greater;

(B) Leaving the scene of an accident while driving a commercial motor vehicle; or

(C) Operating a commercial motor vehicle in the commission of a felony, except a controlled substance felony as described in subdivision (a)(4);

(2) If the operator commits any of the violations while carrying hazardous materials, the suspension shall be for a period of three (3) years;

(3) The commissioner shall suspend for life, or a period not less than ten (10) years, according to department of transportation regulations, a commercial motor vehicle operator who is found to have committed a second violation of:

(A) Driving a commercial motor vehicle under the influence of alcohol with a BAC of point zero four (.04) or greater, or other controlled substance;

(B) Leaving the scene of an accident while driving a commercial motor vehicle; or

(C) Using a commercial motor vehicle in the commission of a felony;

(4) The commissioner shall suspend for life, a commercial motor vehicle operator who is found to have used a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to distribute;

(5) The commissioner shall suspend for a period of not less than sixty (60) days each person who in a three-year period has committed two (2) serious traffic violations involving a commercial motor vehicle, and for not less than one hundred twenty (120) days each person who has committed three (3) serious traffic violations in a three-year period;

(6)

(A) Any person violating subdivisions (a)(1), (2), and (3) shall, upon conviction, be punished pursuant to the requirements of § 55-10-403, except for provision of license suspension, which shall be in accordance with this subsection (a); and

(B) Any person violating subdivision (a)(4) shall, upon conviction, be fined not less than two thousand five hundred dollars (\$2,500), and be imprisoned for not less than ninety (90) days nor more than one (1) year;

(7)

(A) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for one hundred eighty (180) days if the driver is convicted of a first violation of an out-of-service order.

(B) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for two (2) years if, during any ten-year period, the driver is convicted of two (2) violations of out-of-service orders in separate incidents.

(C) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for three (3) years if, during any ten-year period, the driver is convicted of three (3) or more violations of out-of-service orders in separate incidents;

(8)

(A) The commissioner shall suspend the driver license for a period of one hundred eighty (180) days if a driver is convicted of violating an out-of-service order while driving a commercial motor vehicle while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, compiled in U.S.C. § 5101 et seq., , or while operating a motor vehicle designed to transport more than fifteen (15) passengers including the driver.

(B) The commissioner shall suspend the driver license of a driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle for a period of three (3) years if the driver is convicted of any subsequent violation of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, compiled in U.S.C. § 5101 et seq., or while operating a commercial motor vehicle designed to transport more than fifteen (15) passengers, including the driver;

(9) The commissioner shall suspend the driver license of a commercial motor vehicle operator who is convicted of violating a railroad highway grade crossing law or regulation while operating a commercial motor vehicle, for not less than sixty (60) days for a first conviction; not less than one hundred twenty (120) days for a second conviction, if the violation occurred within a three (3) year period from the first violation; and one (1) year for a third conviction, if the violation occurred within three (3) years from the first violation, for the following offenses:

(A) For drivers who are not required to always stop pursuant to § 55-8-147, failing to slow down and check the railroad highway grade crossing to be sure it is clear of an approaching train;

(B) For drivers who are not required to always stop pursuant to § 55-8-147, failing to stop before reaching the railroad highway grade crossing if the tracks are not clear;

(C) A conviction of § 55-8-147;

(D) Failure to have sufficient space to drive completely through the railroad highway grade crossing without stopping;

(E) Failure to obey a traffic control device or the directions of an enforcement official at the railroad highway grade crossing; or

(F) Failure to negotiate a railroad highway grade crossing because of insufficient undercarriage clearance; and

(10)

(A) A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than two thousand five hundred dollars (\$2,500) for a first conviction and not less than five thousand dollars (\$5,000) for a second or subsequent conviction, in addition to any disqualification or other penalty which may be imposed by state or federal law;

(B) The civil penalty shall be assessed by the department after receiving notification of the conviction;

(C) Funds received pursuant to this section shall become expendable receipts of the department.

(b) Any person violating § 55-50-401 shall, upon conviction, be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), and be imprisoned for not less than ten (10) days nor more than ninety (90) days.

(c) Any person violating § 55-50-402 shall, upon conviction, be fined not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500), and imprisoned for not less than two (2) days nor more than thirty (30) days.

(d) Any person violating § 55-50-403 shall, upon conviction, be fined not more than five hundred dollars (\$500) and also be subject to civil penalties pursuant to 49 CFR 383.53(b)(2).



(e) Any person violating § 55-50-404 shall, upon conviction of a first offense, be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000), and be imprisoned for not less than thirty (30) days nor more than ninety (90) days; and upon conviction of a second or subsequent offense, be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) and be imprisoned for not less than ninety (90) days nor more than one (1) year.

(f) Notwithstanding any other provision of this part to the contrary, any person who violates § 55-50-404 due to failure to observe the one hundred fifty-mile restriction imposed by § 55-50-102(12)(B)(i) shall be punished only by a fine of ten dollars (\$10.00). No court costs or litigation taxes may be collected or assessed on the violations.

(g) Notwithstanding any other provision in this title, the privilege of operating a commercial motor vehicle shall be subject to the provisions of 49 CFR parts 383 and 384 relative to the disqualification of drivers.

(h) Any person charged with driving a commercial motor vehicle without a commercial driver license in the driver's possession, may, on or before the court date, submit evidence of compliance at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge shall be dismissed without cost to the defendant and no litigation tax shall be due or collected, notwithstanding any provision of law to the contrary.

(i) Pursuant to 49 CFR 350.341, no provision of law relative to commercial driver licenses, including, but not limited to, physical qualification standards and records to be kept by drivers, shall be applicable to drivers of motor vehicles that have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds (26,000 lbs.) or less that are operated in intrastate commerce to transport property, and that do not transport:

- (1) Hazardous materials required to be placarded;
- (2) Sixteen (16) or more persons, including the driver; or
- (3) Passengers for hire.

*HISTORY: Acts 1937, ch. 90, § 5; impl. am. Acts 1939, ch. 205, §§ 2, 3; C. Supp. 1950, § 2715.13 (Williams, § 2715.18); Acts 1973, ch. 224, §§ 1, 2; T.C.A. (orig. ed.), § 59-706; Acts 1988, ch. 584, § 6; T.C.A., §§ 55-7-106, 55-7-405; Acts 1996, ch. 799, §§ 4, 5; 2001, ch. 110, § 3; 2005, ch. 235, §§ 5, 6, 8; 2009, ch. 321, §§ 21-24; 2010, ch. 1037, §§ 6, 7.*

## **V. Selected Relevant Federal Regulations**

- 49 C.F.R. § 383.51 - Disqualification of Drivers
- 49 C.F.R. § 384.209 - Notification of Traffic Violations
- 49 C.F.R. § 384.226 - Prohibition on Masking Convictions
- 49 C.F.R. § 384.401 - Withholding of Funds Based on Noncompliance