

**2019 SENATE TRANSPORTATION**

**SB 2121**

# 2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee  
Lewis and Clark Room, State Capitol

SB 2121  
1/11/2019  
30686

- Subcommittee  
 Conference Committee

Committee Clerk: Liz Stenehjem

## Explanation or reason for introduction of bill/resolution:

A bill relating to commercial vehicle driver's licenses.

## Minutes:

1 Attachment

**Chairman Rust:** Opened hearing on SB 2121.

**Dr. Glenn Jackson, Director, Driver's License Division:** Please see **Attachment #1** for testimony/explanation of bill.

**Chairman Rust:** Basically section 2 and section 3 are just wording changes, is that correct?

**Mr. Jackson:** That is correct. The discrepancy comes on the table we refer to in order to enforce this rule, it says for second conviction of any combination of offenses in this table in a separate instance within a 3-year period. Whereas, our statute says second conviction in 3 years and the federal government look at when the offense occurred. Did the offense happen within 3 years not the conviction? We had a case this past year where the court case was pushed out so it went past the 3 years between convictions. According to federal rules that person should have been sanctioned under table 2 in the federal rules, which we did. However, the court read the clear specific verbiage we have in our statute and said we couldn't do that because in our statute in said conviction date. So we changing it to comply with the federal rules.

**(3:51) Senator Bakke:** Is it not true that federal law supersedes state law in this case?

**Dr. Jackson:** it is true that federal law supersedes state law. With the discrepancy the existed between what our state statute and what the federal rule said the state court went by what the state statute says. So we just want to fix our statute to comply with what the federal rules are so we are in compliance with them and we're causing any harm.

**(4:28) Senator Patten:** Can you clarify federal law versus federal rule and what supersedes state law?

**Dr. Jackson:** Federal rule is federal law.

**Chairman Rust:** Closed hearing on SB 2121.

**Senator Patten:** I move a Do Pass recommendation.

**Senator Dwyer:** Seconded motion for a Do Pass recommendation.

A roll call vote was taken; 6 yea, 0 nay, 0 absent.

**Chairman Rust:** Senator Bakke will carry the bill.



**REPORT OF STANDING COMMITTEE**

**SB 2121: Transportation Committee (Sen. Rust, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2121 was placed on the  
Eleventh order on the calendar.

**2019 HOUSE TRANSPORTATION**

**SB 2121**

# 2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee  
Fort Totten Room, State Capitol

SB 2121  
2/28/2019  
#33029

- Subcommittee  
 Conference Committee

Committee Clerk: Jeanette Cook

## Explanation or reason for introduction of bill/resolution:

A BILL relating to commercial vehicle driver's licenses.

## Minutes:

Attachment #1-2

**Chairman Ruby** opened the hearing on SB 2121.

**Rachel Mount, Chief Driver's License Examiner for the Driver's License Division of the North Dakota Department of Transportation**, stood to support SB 2121 and provided written testimony. See attachment #1.

**Chairman Ruby:** In Section 2 what are the changes between what is being added and what is being struck?

**Rachel Mount:** It cleaning up the verbiage and addresses a seconded conviction rather than the verbiage that it has lined out. It also addresses a commercial permit because they are CDL applicants as well. That was previously not addressed.

**Vice Chairman Rick C. Becker:** In Section 2, Subsection 15, it is for a second conviction? The language originally was if it was a conviction that would have involved non-commercial vehicle, right? In Subsection 16, it also involves a non-commercial vehicle, but for a 3<sup>rd</sup> offense it is only for a commercial motor vehicle.

**Rachel Mount:** It still address the non-commercial, however it has always tied in to a commercial applicant. It just adds those violations to include commercial applicants.

**Vice Chairman Rick C. Becker:** Subsection 15 and Subsection 16 differ from the old language. We are making a change that doesn't make sense.

**Rachel Mount:** It is a change to align with the Federal Motor Carrier regulation.

**Chairman Ruby:** If you get a second violation in a non-commercial vehicle, you get 60 days. Then if you get a third violation in a commercial vehicle, it doesn't really effect any more than

60 days because the language here says it has to be a commercial vehicle. You could have 3 or 4 in a non-commercial vehicle, and it wouldn't even apply.

**Rachel Mount:** I will have to look into this further.

**Representative Paur:** Would you be able to provide copies of what you are trying to copy from the FMC?

**Rachel Mount:** Not at this time, but I would have access and could e-mail it.

**Chairman Ruby:** Will you review the intent and come back to us by this afternoon?

**Rachel Mount:** Yes, I could.

**Representative Hager:** I think "serious traffic violation" is ambiguous.

**Rachel Mount:** I will provide the definition for that.

There was no further support for SB 2121.

There was no opposition to SB 2121.

The hearing was closed on SB 2121.

SB 2121 was brought back before committee after a break.

Information was provided to the committee by **Rachel Mount** to answer questions posed in the hearing. See attachment # 2.

**Chairman Ruby:** Department of Transportation provided information to us how they are following the Code. The change that is in the next Subsection where the old language still used the words "while operating a non-commercial vehicle for third or subsequent violation." In the new language it says, "third or subsequent conviction in a three-year period while operating a commercial motor vehicle". Has it changed it so that after the third violation, it has to be a violation in a commercial vehicle? It is almost a weakening or reduction in the penalty. I am not sure if that was the intent. Do you think it is written properly?

**Mark Nelson, Deputy Director for Department of Transportation:** I know that we are trying to match the federal regulations. I can go back and ask questions regarding this. I can't believe that we would be watering it down.

**Representative Paulson:** Can we ask specifically, what would be the consequences of amending Line 11 of p. 2 to say, "non-commercial motor vehicle"? This would make it match Subsection 15.

**Chairman Ruby:** It seems like it would be more consistent with the existing language that is being struck.

**Mark Nelson:** I can have this answer back to you today.

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**Chairman Ruby:** We will hold the bill until we get the information from Department of Transportation to see what the intent of the bill is.

# 2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee  
Fort Totten Room, State Capitol

SB 2121  
3/7/2019  
#33438

- Subcommittee  
 Conference Committee

Committee Clerk: Jeanette Cook

## Explanation or reason for introduction of bill/resolution:

A BILL relating to commercial vehicle driver's licenses.

## Minutes:

**Chairman Ruby** brought SB 2121 back before the committee and amendment was suggested. P. 2, line 11, replace commercial with non-commercial.

Discussion if new language is need additionally in other places and the clarity of the way it is written.

**Representative Nelson:** It is hard to tell for sure what they are trying to say. The English is atrocious.

**Vice Chairman Rick C. Becker:** I do think the bill is poorly written, but after rereading it, I would like to retract my concern. I do think the amendment probably covers it, despite it not being well written.

**Travis Brown, Law Intern,** will have Legislative Council check the bill over when the amendment is written.

**Representative Owens moved the amendment. (19.8074.01001)**

**Representative Paulson seconded the amendment.**

**A voice vote was taken. The motion carried.**

**Representative Owens moved a DO PASS as amended on SB 2121.**

**Vice Chairman Rick C. Becker seconded the amendment.**

**A roll call vote was taken: Aye 11 Nay 1 Absent 2**

**The motion carried.**

**Representative Nelson will carry SB 2121.**

19.8074.01001  
Title.02000

Adopted by the House Transportation  
Committee

March 8, 2019

DR 3/8/19

PROPOSED AMENDMENTS TO SENATE BILL NO. 2121

Page 2, line 11, replace "commercial" with "noncommercial"

Renumber accordingly

Date: 3-8-19  
 Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB2121

House Transportation Committee

Subcommittee

Amendment LC# or Description: 19.8074.01001

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Owens Seconded By Paulson

| Representatives   | Yes | No | Representatives       | Yes | No |
|-------------------|-----|----|-----------------------|-----|----|
| CHAIRMAN RUBY     |     |    | REP LAURIEBETH HAGER  |     |    |
| VICE CHAIR BECKER |     |    | REP KARLA ROSE HANSON |     |    |
| REP JIM GRUENEICH |     |    | REP MARVIN NELSON     |     |    |
| REP TERRY JONES   |     |    |                       |     |    |
| REP TOM KADING    |     |    |                       |     |    |
| REP EMILY O'BRIEN | A   |    |                       |     |    |
| REP MARK OWENS    |     |    |                       |     |    |
| REP BOB PAULSON   |     |    |                       |     |    |
| REP GARY PAUR     |     |    |                       |     |    |
| REP ROBIN WEISZ   | A   |    |                       |     |    |
| REP GREG WESTLIND |     |    |                       |     |    |
|                   |     |    |                       |     |    |
|                   |     |    |                       |     |    |
|                   |     |    |                       |     |    |

Voice Vote Carried

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

p. 2, line 11 replace commercial with non-commercial

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB2121**

House Transportation Committee

Subcommittee

Amendment LC# or Description: 19.8074.01001

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Owens Seconded By Becker

| Representatives   | Yes | No | Representatives       | Yes | No |
|-------------------|-----|----|-----------------------|-----|----|
| CHAIRMAN RUBY     | ✓   |    | REP LAURIEBETH HAGER  | ✓   |    |
| VICE CHAIR BECKER | ✓   |    | REP KARLA ROSE HANSON | ✓   |    |
| REP JIM GRUENEICH | ✓   |    | REP MARVIN NELSON     | ✓   |    |
| REP TERRY JONES   |     | ✓  |                       |     |    |
| REP TOM KADING    | ✓   |    |                       |     |    |
| REP EMILY O'BRIEN | A   |    |                       |     |    |
| REP MARK OWENS    | ✓   |    |                       |     |    |
| REP BOB PAULSON   | ✓   |    |                       |     |    |
| REP GARY PAUR     | ✓   |    |                       |     |    |
| REP ROBIN WEISZ   | A   |    |                       |     |    |
| REP GREG WESTLIND | ✓   |    |                       |     |    |
|                   |     |    |                       |     |    |
|                   |     |    |                       |     |    |
|                   |     |    |                       |     |    |

Total (Yes) 11 No 1

Absent 2

Floor Assignment Nelson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2121: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). SB 2121 was placed on the Sixth order on the calendar.

Page 2, line 11, replace "commercial" with "noncommercial"

Renumber accordingly

**2019 TESTIMONY**

**SB 2121**

**SENATE TRANSPORTATION COMMITTEE**  
**January 11, 2019; 9:30 AM; Lewis & Clark Room**

**North Dakota Department of Transportation**  
**Dr. Glenn Jackson, Director, Driver's License Division**  
**SB2121**

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Mr. Chairman and members of the Committee, good morning, my name is Glenn Jackson, Director of the Driver's License Division for the North Dakota Department of Transportation (DOT).

Senate Bill 2121 is a bill to keep the North Dakota commercial driver program within the requirements established by the Federal Motor Carrier Safety Administration. It contains three sections.

Section 1 brings us into compliance with the requirement to accept both skill and knowledge testing from another state as evidence of completion for issuance of a commercial license.

Sections 2 and 3 aligns our verbiage with the table in the Federal Motor Carrier Safety Regulations regarding the timeline and sanction for second and subsequent serious traffic violations.

Mr. Chairman, that concludes my testimony, I would be happy to answer any questions you may have.

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2-28-19  
#1

**HOUSE TRANSPORTATION COMMITTEE**  
**February 28, 2019; 10:45 AM; Fort Totten Room**

**North Dakota Department of Transportation**  
**Rachel Mount, Chief Examiner, Driver's License Division**  
**SB2121**

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Mr. Chairman and members of the Committee, good morning, my name is Rachel Mount, Chief Driver's License Examiner for the Driver's License Division of the North Dakota Department of Transportation (DOT).

Senate Bill 2121 is a bill to keep the North Dakota commercial driver program within the requirements established by the Federal Motor Carrier Safety Administration. It contains three sections.

Section 1 brings us into compliance with the requirement to accept both skill and knowledge testing from another state as evidence of completion for issuance of a commercial license.

Sections 2 and 3 aligns our verbiage with the table in the Federal Motor Carrier Safety Regulations regarding the timeline and sanction for second and subsequent serious traffic violations.

Mr. Chairman, that concludes my testimony, I would be happy to answer any questions you may have.

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2-28-19  
# 2  
p.1

MEMORANDUM

TO: Mr. Chairman Ruby  
FROM: Rachel Mount, North Dakota Department of Transportation  
DATE: February 28, 2019  
SUBJECT: Senate Bill 2121 Request for Information

During testimony on Senate Bill 2121, the following clarifications were requested:

1. Clarification on why the word "non-commercial" was included in Section 2 but removed in Section 3:
  - a. The update in Section 3 (from operating a non-commercial to commercial motor vehicles) is to align our verbiage with the aforementioned Table.
  - b. Please see attached FMCSR 383.51 Table 2, which identifies the change in verbiage to Senate Bill 2121.
  - c. Note: This verbiage in both Section 2 and 3 apply to individuals who are Commercial Permit and/or Commercial License holders. These sections do not affect nor apply to Non-Commercial Permit and/or Non-Commercial License holders.
  
2. A request for a list of "serious traffic violations":
  - a. Please see attached FMCSR 383.51 Table 2, which identifies a list of these violations.
  - b. In addition, attached is North Dakota Century Code Chapter 39-06.2 Commercial Drivers Licenses, which identifies a list of these violations.

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2-26-19  
# 2 p. 2

TABLE 2 TO §383.51

| If the driver operates a motor vehicle and is convicted of:   | For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * * | For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * * | For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * * | For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for * * * |
|---|--|---|---|--|
| (1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the regulated or posted speed limit   | 60 days  | 60 days   | 120 days  | 120 days.  |
| (2) 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 | 60 days  | 60 days   | 120 days  | 120 days.  |
| (3) Making improper or erratic traffic lane changes   | 60 days  | 60 days   | 120 days  | 120 days.  |
| (4) Following the vehicle ahead too closely   | 60 days  | 60 days   | 120 days  | 120 days.  |
| (5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident   | 60 days  | 60 days   | 120 days  | 120 days.  |
| (6) Driving a CMV without obtaining a CLP or CDL  | 60 days  | Not applicable  | 120 days  | Not applicable.  |
| (7) Driving a CMV without a CLP or CDL in the driver's possession <sup>1</sup>  | 60 days  | Not applicable  | 120 days  | Not applicable.  |
| (8) Driving a CMV without the proper class of CLP or CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported                             | 60 days  | Not applicable  | 120 days  | Not applicable.  |
| (9) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV. <sup>2</sup>  | 60 days  | Not applicable  | 120 days  | Not applicable.  |
| (10) Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a CMV. <sup>2</sup>                          | 60 days  | Not applicable  | 120 days  | Not applicable.  |

<sup>1</sup>Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CLP or CDL on the date the citation was issued, shall not be guilty of this offense.

<sup>2</sup>Driving, for the purpose of this disqualification, means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

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#2 p.3

**CHAPTER 39-06.2**  
**COMMERCIAL DRIVER'S LICENSES**

**39-06.2-01. Uniform Commercial Driver's License Act.**

The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 [title XII of Pub. L. 99-570, 49 U.S.C. 2701, repealed] and Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106-159; 113 Stat. 1748; 49 U.S.C. 113 et seq.] and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

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

This chapter is a remedial law which should be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general driver's licensing provisions, this chapter prevails. Where this chapter is silent, the general driver's licensing provisions apply.

**39-06.2-02. Definitions.**

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

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
  - a. The number of grams of alcohol per one hundred milliliters of blood;
  - b. The number of grams of alcohol per two hundred ten liters of breath; or
  - c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial learner's permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
  - a. If the gross combination weight rating or gross combination weight is twenty-six thousand one pounds [11793.86 kilograms] or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross vehicle weight of more than ten thousand pounds [4536 kilograms], whichever is greater;
  - b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds [11793.40 kilograms], whichever is greater;
  - c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
  - d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
8. "Conviction" means an unvacated adjudication of guilt, or a determination that an individual 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 individual's appearance in 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.
9. "Covered farm vehicle" means a straight truck or articulated vehicle:

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2-28-19  
P.4

- a. Registered in a state with a licensed plate or other designation issued by the state of registration which allows law enforcement officials to identify it as a farm vehicle;
  - b. Operated by the owner or operator of a farm or ranch or an employee or family member of an owner or operator of a farm or ranch;
  - c. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
  - d. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions a, b, and c of this subsection by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.
  - e. Meeting the requirements of subdivisions a, b, c, and d of this subsection:
    - (1) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of twenty-six thousand one pounds [11793.86 kilograms] or less may utilize the exemptions in 40 CFR 390.39 anywhere in the United States; or
    - (2) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, or more than twenty-six thousand one pounds [11793.86 kilograms] may utilize the exemptions in 40 CFR 390.39 anywhere in the state of registration or across the state lines within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.
10. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
11. "Downgrade" means:
- a. A state allows the driver to change the driver's self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;
  - b. A state allows the driver to change the driver's self-certification to intrastate only, if the driver qualifies under the state's physical qualification requirements for intrastate only;
  - c. A state allows the driver to change the driver's certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification; or
  - d. A state removes the commercial driver's license privilege from the driver's license.
12. "Drive" means to drive, operate, or be in physical control of a motor vehicle.
13. "Driver" means an individual who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
14. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
15. "Drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and includes any controlled substance.
16. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
17. "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.
18. "Fatality" means the death of an individual as a result of a motor vehicle accident.
19. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
20. "Foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States or a citizen of a foreign country who operates a commercial motor vehicle in the United States.
21. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

- 22. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle. The gross vehicle weight rating of a combination or articulated vehicle, commonly referred to as the "gross combination weight rating", is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
- 23. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
- 24. "Imminent hazard" means the existence of a condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately or a condition relating to hazardous materials which presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
- 25. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the federal communications commission in 47 CFR 20.3. The term does not include two-way and citizens band radio services.
- 26. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.
- 27. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 28. "Nondomiciled commercial driver's license" means a commercial driver's license or a commercial learner's permit issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b)(1).
- 29. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- 30. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
  - a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
  - b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of an individual or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;
  - c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
  - d. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial learner's permit;
  - e. Driving a commercial motor vehicle without a commercial driver's license or commercial learner's permit in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license or commercial learner's permit on the date the citation was issued, is not guilty of this offense;
  - f. Driving a commercial motor vehicle without the proper class of commercial driver's license, endorsement, or commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported;
  - g. Violating a state or local law or ordinance prohibiting texting while driving; or
  - h. Violating a state law or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a commercial motor vehicle.