

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-416
SENATE BILL 931**

AN ACT TO PROVIDE RECIPROCITY TO A PERSON WHO HOLDS ANY COMMERCIAL DRIVERS LICENSE RECOGNIZED BY THE FEDERAL GOVERNMENT, TO EXPAND THE DEFINITION OF CONVICTION FOR OUT-OF-STATE VIOLATIONS, TO EXPAND THE DEFINITION OF EMPLOYER WITH REGARDS TO COMMERCIAL DRIVERS LICENSES, TO ADD A DISQUALIFYING VIOLATION TO COMMERCIAL DRIVERS LICENSES, TO INCREASE CIVIL PENALTIES, TO EXPAND EMPLOYER REPORTING RESPONSIBILITIES, AND TO MODIFY REQUIREMENTS FOR CONVICTIONS TEN YEARS OLD OR OLDER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(4a)b. reads as rewritten:

- "b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:
1. An unvacated adjudication of guilt.
 2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
 3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
 4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
 5. A final conviction of a criminal offense, including a no contest plea.
 6. Any prayer for judgment continued, including any payment of a fine or court costs, if the offender holds a commercial drivers license or if the offense occurs in a commercial motor vehicle."

SECTION 2. G.S. 20-4.01(7b) reads as rewritten:

"(7b) Employer. – Any person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor ~~vehicle~~ vehicle and would be subject to the alcohol and controlled substance testing provisions of 49 C.F.R. § 382 and also includes any consortium or third-party administrator administering the alcohol and controlled substance testing program on behalf of owner-operators subject to the provisions of 49 C.F.R. § 382."

SECTION 3. G.S. 20-17.4 is amended by adding a new subsection to read:

"(c1) Life. – A person shall be disqualified from driving a commercial motor vehicle for life, without the possibility of reinstatement, if that person has had a commercial drivers license reinstated in the past and is convicted of another major disqualifying offense as defined in 49 C.F.R. § 383.51(b)."

SECTION 4. G.S. 20-36 reads as rewritten:

"§ 20-36. Ten-year-old convictions not considered.

Except for offenses occurring in a commercial motor vehicle, offenses by the holder of a commercial drivers license involving a noncommercial motor vehicle, or a second failure to submit to a chemical test when charged with an implied-consent offense, as defined in G.S. 20-16.2, that occurred while the person was driving a commercial motor vehicle, no conviction of any other violation of the motor vehicle laws shall be considered by the Division



in determining whether any person's driving privilege shall be suspended or revoked or in determining the appropriate period of suspension or revocation after 10 years has elapsed from the date of that conviction."

SECTION 5. G.S. 20-37.12(d) reads as rewritten:

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

SECTION 6. G.S. 20-37.19(b) reads as rewritten:

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

- (1) In which the driver has had his commercial driver license suspended, revoked, or cancelled by any state, is currently disqualified from driving a commercial vehicle, or is subject to an out-of-service order in any state; or
- (2) In which the driver has more than one driver license.
- (3) In which the driver, the commercial motor vehicle being operated, or the motor carrier operation, is subject to an out-of-service order."

SECTION 7. G.S. 20-37.21(a) reads as rewritten:

"(a) Any person who drives a commercial motor vehicle in violation of G.S. 20-37.12 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than two hundred fifty dollars (\$250.00) for a first offense and not less than five hundred dollars (\$500.00) for a second or subsequent offense. In addition, ~~upon conviction, the person shall be subject to a civil penalty of not less than one thousand one hundred dollars (\$1,100) for the first offense and not more than two thousand seven hundred fifty dollars (\$2,750) for a second or subsequent offense pursuant to the provisions of 49 C.F.R. § 383.53(b)."~~

SECTION 8. This act becomes effective March 31, 2010, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 2:25 p.m. this 5th day of August, 2009