

# HOUSE BILL NO. 3491

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MAYHEW.

7337H.02I

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal section 302.735, RSMo, and to enact in lieu thereof four new sections relating to commercial driver's licenses, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 302.735, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 302.733, 302.735, 302.738, and 302.739, to read as follows:

**302.733. 1. An operator of a commercial motor vehicle shall be able to read and speak the English language sufficiently to:**

- (1) Converse with the general public;**
- (2) Understand highway traffic signs and signals in the English language;**
- (3) Respond to official inquiries; and**
- (4) Make entries on reports and records.**

**Such requirements shall be interpreted consistently with the applicable federal motor carrier safety regulations.**

**2. A person commits the offense of operating a commercial motor vehicle without sufficient English language proficiency if he or she:**

- (1) Operates a commercial vehicle; and**
- (2) Fails to demonstrate proficiency in the English language as required under subsection 1 of this section.**

**3. The offense of operating a commercial motor vehicle without sufficient English language proficiency is a class D misdemeanor for a first offense and a class B misdemeanor for a second or subsequent offense.**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **4. A driver found to be in violation of the language proficiency requirements of**  
19 **this section shall be prohibited from operating a commercial motor vehicle within this**  
20 **state until such a time that the driver is able to meet the requirements of subsection 1 of**  
21 **this section.**

22           **5. Any operator of a commercial motor vehicle found to be in violation of this**  
23 **section shall, in addition to the penalties provided under subsections 3 and 4 of this**  
24 **section, be subject to a fine of one thousand dollars.**

25           **6. A commercial motor carrier whose driver is found to be in violation of this**  
26 **section shall be subject to a fine of three thousand dollars for each violation.**

27           **7. A commercial motor carrier shall be notified of the location of any**  
28 **commercial motor vehicle involved in a violation of this section and, upon payment of a**  
29 **fine in full and presentation of a driver who meets all of the requirements to operate a**  
30 **commercial motor vehicle in this state, shall take possession of the vehicle. If the**  
31 **commercial motor carrier is unable to either pay such fine or present such driver within**  
32 **twelve hours after notification, the owner of any cargo being transported by the**  
33 **commercial motor vehicle shall be notified and allowed to arrange for the transfer of the**  
34 **cargo to another vehicle. Neither the state or the owner of such cargo shall be liable for**  
35 **any reasonable action to transfer such cargo.**

302.735. 1. An application shall not be taken from a nonresident after September 30,  
2 2005. The application for a commercial driver's license shall include, but not be limited to,  
3 the applicant's legal name, mailing and residence address, if different, a physical description  
4 of the person, including sex, height, weight and eye color, the person's Social Security  
5 number, date of birth and any other information deemed appropriate by the director. The  
6 application shall also require, beginning September 30, 2005, the applicant to provide the  
7 names of all states where the applicant has been previously licensed to drive any type of  
8 motor vehicle during the preceding ten years.

9           2. A commercial driver's license shall expire on the applicant's birthday in the sixth  
10 year after issuance, unless the license must be issued for a shorter period due to other  
11 requirements of law or for transition or staggering of work as determined by the director, and  
12 must be renewed on or before the date of expiration. When a person changes such person's  
13 name an application for a duplicate license shall be made to the director of revenue. When a  
14 person changes such person's mailing address or residence the applicant shall notify the  
15 director of revenue of said change, however, no application for a duplicate license is required.  
16 A commercial license issued pursuant to this section to an applicant less than twenty-one  
17 years of age and seventy years of age and older shall expire on the applicant's birthday in the  
18 third year after issuance, unless the license must be issued for a shorter period as determined  
19 by the director.

20           3. A commercial driver's license containing a hazardous materials endorsement issued  
21 to an applicant who is between the age of twenty-one and sixty-nine shall not be issued for a  
22 period exceeding five years from the approval date of the security threat assessment as  
23 determined by the Transportation Security Administration.

24           4. The director shall issue a biennial commercial driver's license containing a school  
25 bus endorsement to an applicant who is seventy-five years of age or older. The fee for such  
26 license shall be seven dollars and fifty cents.

27           5. A commercial driver's license containing a hazardous materials endorsement issued  
28 to an applicant who is seventy years of age or older shall not be issued for a period exceeding  
29 three years. The director shall not require such drivers to obtain a security threat assessment  
30 more frequently than such assessment is required by the Transportation Security  
31 Administration under the Uniting and Strengthening America by Providing Appropriate  
32 Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001.

33           (1) The state shall immediately revoke a hazardous materials endorsement upon  
34 receipt of an initial determination of threat assessment and immediate revocation from the  
35 Transportation Security Administration as defined by 49 CFR 1572.13(a).

36           (2) The state shall revoke or deny a hazardous materials endorsement within fifteen  
37 days of receipt of a final determination of threat assessment from the Transportation Security  
38 Administration as required by CFR 1572.13(a).

39           6. The fee for a commercial driver's license or renewal commercial driver's license  
40 issued for a period greater than three years shall be forty dollars.

41           7. The fee for a commercial driver's license or renewal commercial driver's license  
42 issued for a period of three years or less shall be twenty dollars.

43           8. The fee for a duplicate commercial driver's license shall be twenty dollars.

44           9. In order for the director to properly transition driver's license requirements under  
45 the Motor Carrier Safety Improvement Act of 1999 and the Uniting and Strengthening  
46 America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act  
47 (USA PATRIOT ACT) of 2001, the director is authorized to stagger expiration dates and  
48 make adjustments for any fees, including driver examination fees that are incurred by the  
49 driver as a result of the initial issuance of a transitional license required to comply with such  
50 acts.

51           10. Within thirty days after moving to this state, the holder of a commercial driver's  
52 license shall apply for a commercial driver's license in this state. The applicant shall meet all  
53 other requirements of sections 302.700 to 302.780, except that the director may waive the  
54 driving test for a commercial driver's license as required in section 302.720 if the applicant  
55 for a commercial driver's license has a valid commercial driver's license from a state which  
56 has requirements for issuance of such license comparable to those in this state.

57           11. Any person who falsifies any information in an application or test for a  
58 commercial driver's license shall not be licensed to operate a commercial motor vehicle, or  
59 the person's commercial driver's license shall be cancelled, for a period of one year after the  
60 director discovers such falsification.

61           12. Beginning July 1, 2005, the director shall not issue a commercial driver's license  
62 under this section unless the director verifies that the applicant is lawfully present in the  
63 United States before accepting the application. If lawful presence is granted for a temporary  
64 period, no commercial driver's license shall be issued. The director may, by rule or  
65 regulation, establish procedures to verify the lawful presence of the applicant and establish  
66 the duration of any commercial driver's license issued under this section. No rule or portion  
67 of a rule promulgated pursuant to the authority of this section shall become effective unless it  
68 has been promulgated pursuant to chapter 536.

69           13. (1) Effective December 19, 2005, notwithstanding any provisions of subsections  
70 1 and 5 of this section to the contrary, the director may issue a nondomiciled commercial  
71 driver's license or commercial driver's instruction permit to a resident of a foreign jurisdiction  
72 if the United States Secretary of Transportation has determined that the commercial motor  
73 vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing  
74 standards established in 49 CFR 383.

75           (2) Any applicant for a nondomiciled commercial driver's license or commercial  
76 driver's instruction permit must present evidence satisfactory to the director that the applicant  
77 currently has employment with an employer in this state. The nondomiciled applicant must  
78 meet the same testing, driver record requirements, conditions, and is subject to the same  
79 disqualification and conviction reporting requirements applicable to resident commercial  
80 drivers.

81           (3) The nondomiciled commercial driver's license will expire on the same date that  
82 the documents establishing lawful presence for employment expire. The word  
83 "nondomiciled" shall appear on the face of the nondomiciled commercial driver's license.  
84 Any applicant for a Missouri nondomiciled commercial driver's license or commercial  
85 driver's instruction permit must first surrender any nondomiciled commercial driver's license  
86 issued by another state.

87           (4) The nondomiciled commercial driver's license applicant must pay the same fees as  
88 required for the issuance of a resident commercial driver's license or commercial driver's  
89 instruction permit.

90           **(5) A person holding a nondomiciled commercial driver's license or commercial**  
91 **driver's instruction permit within this state shall possess documentation demonstrating**  
92 **lawful presence and authorization under applicable federal law to engage in commercial**

93 motor vehicle operation within the United States while operating a commercial motor  
94 vehicle.

95 (6) A commercial motor carrier whose driver is found to be in violation of  
96 subdivision (5) of this subsection shall be subject to a fine in the amount of three  
97 thousand dollars for each violation.

98 (7) A driver found to be in violation of subdivision (5) of this subsection shall be  
99 prohibited from operating a commercial motor vehicle within this state until such a time  
100 that the driver is able to meet the requirements of such subdivision. Any driver found to  
101 be operating a motor vehicle within this state while under such prohibition shall be  
102 guilty of a class B misdemeanor and upon conviction shall be subject to a fine not to  
103 exceed one thousand dollars or by imprisonment for not more than ninety days, or by  
104 both such fine and imprisonment.

105 (8) The commercial motor carrier shall be notified of the location of any  
106 commercial motor vehicle involved in a violation of subdivision (5) of this subsection  
107 and, upon payment of the fine in full and presentation of a driver who meets all  
108 requirements to operate a commercial motor vehicle within this state, shall take  
109 possession of the vehicle. If the commercial motor carrier is unable to either pay such  
110 fine or present such driver within twelve hours after notification, the owner of any cargo  
111 being transported by the commercial motor vehicle shall be notified and allowed to  
112 arrange for the transfer of the cargo to another vehicle. Neither the state or the owner  
113 of such cargo shall be liable for any reasonable action to transfer such cargo.

114 (9) Nothing in this subsection shall be construed to require state or local law  
115 enforcement officers to independently determine immigration status beyond verification  
116 of compliance with applicable federal commercial motor vehicle regulations.

117 14. Foreign jurisdiction for purposes of issuing a nondomiciled commercial driver's  
118 license or commercial driver's instruction permit under this section shall not include any of  
119 the fifty states of the United States or Canada or Mexico.

**302.738. 1. Any person operating a commercial motor vehicle within this state  
2 shall:**

3 (1) Hold a valid commercial driver's license issued in compliance with 49 C.F.R.  
4 Part 383, as amended; and

5 (2) Be authorized under applicable federal law to engage in employment as a  
6 commercial motor vehicle operator within the United States.

7 2. A person commits the offense of unlawful commercial motor vehicle operation  
8 if he or she operates a commercial motor vehicle within this state while:

9 (1) Not in possession of a valid commercial driver's license issued in compliance  
10 with 49 C.F.R. Part 383; or

11           **(2) Not authorized under applicable federal law to engage in employment as a**  
12 **commercial motor vehicle operator within the United States.**

13           **3. The offense of unlawful commercial motor vehicle operation is a class A**  
14 **misdemeanor for a first offense and a class D felony for a second or subsequent offense.**

15           **4. Upon a violation of this section, the operator shall be placed out of service**  
16 **until compliance with federal law is demonstrated.**

**302.739. 1. Any commercial motor carrier operating within this state shall have**  
2 **an affirmative duty to ensure that each driver operating under its authority within this**  
3 **state:**

4           **(1) Holds a valid commercial driver's license issued in compliance with 49 C.F.R.**  
5 **Part 383, as amended; and**

6           **(2) Is authorized under applicable federal law to engage in employment as a**  
7 **commercial motor vehicle operator within the United States.**

8           **2. A commercial motor carrier that permits or dispatches a driver to operate a**  
9 **commercial motor vehicle within this state in violation of section 302.736 shall be subject**  
10 **to a civil penalty of not less than fifteen thousand dollars per violation.**

11           **3. If a violation of subsection 2 of this section results in serious physical injury to**  
12 **another person, the commercial motor carrier shall be subject to a civil penalty of not**  
13 **less than twenty-five thousand dollars per violation.**

14           **4. If a violation of subsection 2 of this section results in the death of another**  
15 **person, the commercial motor carrier shall be subject to a civil penalty of not less than**  
16 **fifty thousand dollars per violation.**

17           **5. Upon a second violation within a five-year period, the appropriate state**  
18 **agency may suspend the commercial motor carrier's authority to operate within this**  
19 **state for a period not to exceed one year.**

20           **6. Upon a third violation within a five-year period, the commercial motor**  
21 **carrier's authority to operate within this state may be revoked.**

22           **7. Nothing in this section shall be construed to require state or local law**  
23 **enforcement officers to independently determine immigration status beyond verification**  
24 **of compliance with applicable federal commercial motor vehicle regulations.**

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