

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

Act 842 of 2003
HOUSE BILL 2343

5 By: Representative Petrus
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS UNIFORM COMMERCIAL
10 DRIVER LICENSE ACT TO COMPLY WITH FEDERAL
11 REQUIREMENTS FOR COMMERCIAL DRIVER'S LICENSES;
12 AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT AMENDING THE ARKANSAS UNIFORM
15 COMMERCIAL DRIVER LICENSE ACT TO COMPLY
16 WITH FEDERAL REQUIREMENTS FOR COMMERCIAL
17 DRIVER'S LICENSES.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 27-23-103 is amended to read as follows:
24 27-23-103. Definitions.

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

26 (1) "Alcohol" or "alcoholic beverage" means:

27 (A) Ethyl alcohol, or ethanol; or

28 (B) Beer which is defined as beer, ale, stout, and other similar
29 fermented beverages, including sake or similar products, of any name or
30 description containing one-half of one percent (0.5%) or more of alcohol by
31 volume, brewed or produced from malt, wholly or in part, or from any
32 substitute therefor;

33 (C) Wine of not less than one-half of one percent (0.5%) of
34 alcohol by volume; or

35 (D) Distilled spirits, alcoholic spirits, and spirits, which are
36 defined as those substances known as ethyl alcohol, ethanol, or spirits of



1 wine in any form, including all dilutions and mixtures thereof from whatever
2 source or by whatever process produced;

3 (2) "Blood alcohol concentration" means:

4 (A) The number of grams of alcohol per one hundred milliliters
5 (100 ml) of blood;

6 (B) The number of grams of alcohol per two hundred ten liters
7 (210 l) of breath; or

8 (C) Blood and breath quantitative measures in accordance with
9 the current Arkansas Regulations for Blood Alcohol Testing promulgated by the
10 Department of Health;

11 (3) "Commerce" means:

12 (A) Trade, traffic, and transportation within the jurisdiction
13 of the United States between a place in a state and a place outside of the
14 state, including a place outside the United States; and

15 (B) Trade, traffic, and transportation in the United States
16 which affects any trade, traffic, and transportation within the jurisdiction
17 of the United States between a place in a state and a place outside of the
18 state, including a place outside the United States;

19 (4) "Commercial driver instruction permit" means a permit issued
20 pursuant to § 27-23-108(d);

21 (5) "Commercial driver license" means a license issued in accordance
22 with the requirements of this chapter to an individual which authorizes the
23 individual to drive a class of commercial motor vehicle;

24 (6) The "Commercial Driver License Information System" is the
25 information system established pursuant to the Commercial Motor Vehicle
26 Safety Act of 1986 to serve as a clearinghouse for locating information
27 related to the licensing and identification of commercial motor vehicle
28 drivers;

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

32 (i) Has a gross combination weight rating of twenty-six
33 thousand one pounds (26,001 lbs.) or more inclusive of a towed unit with a
34 gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.);

35 (ii) Has a gross vehicle weight rating of twenty-six
36 thousand one pounds (26,001 lbs.) or more;

1 (iii) Is designed to transport sixteen (16) or more
2 passengers, including the driver; or

3 (iv) Is of any size and is used in the transportation of
4 materials found to be hazardous, as a result of which the motor vehicle is
5 required to be placarded under the Hazardous Materials Regulations, 49 C.F.R.
6 part 172, subpart F.

7 (B) When out-of-service orders are involved, the term
8 "commercial motor vehicle" shall also include any self-propelled or towed
9 vehicle used on public highways in interstate commerce to transport
10 passengers or property when:

11 (i) The vehicle has a gross vehicle weight rating or gross
12 combination weight rating of ten thousand one (10,001) or more pounds; or

13 (ii) The vehicle is used in the transportation of
14 hazardous materials in a quantity requiring placarding under regulations
15 issued by the Secretary of Transportation under the Hazardous Materials
16 Transportation Act, 49 U.S.C. App. §§ 1801-1813;

17 (8) "Controlled substance" means a drug, substance, or immediate
18 precursor in Schedules I-VI of the Uniform Controlled Substances Act, § 5-64-
19 101 et seq.;

20 (9) "Conviction" means an unvacated adjudication of guilt, a
21 determination that a person has violated or failed to comply with the law in
22 a court of original jurisdiction or by an authorized administrative tribunal,
23 an unvacated forfeiture of bail or collateral deposited to secure the
24 person's appearance in court, a plea of guilty or nolo contendere accepted by
25 the court, the payment of a fine or court order, or violation of a condition
26 of release without bail, regardless of whether or not the penalty was
27 rebated, suspended, or prorated;

28 (10) "Disqualification" means ~~a prohibition against driving a~~
29 ~~commercial motor vehicle;~~ any of the following three (3) actions:

30 (A) The suspension, revocation, or cancellation of a commercial
31 driver's license by the Office of Driver Services or jurisdiction of
32 issuance;

33 (B) A withdrawal of a person's privileges to drive a commercial
34 motor vehicle by the Office of Driver Services or other jurisdiction as the
35 result of a violation of state or local law relating to motor vehicle traffic
36 control, except for parking, vehicle weight, or vehicle defect violations; or

1 (C) A determination by the Federal Motor Carriers Safety
 2 Administration that a person is not qualified to operate a commercial motor
 3 vehicle;

4 (11) "Drive" means to drive, operate, or be in physical control of a
 5 commercial motor vehicle on any public street or highway in the state or in
 6 any place open to the general public for purposes of vehicular traffic;

7 (12) "Driver" means any person who drives, operates, or is in physical
 8 control of a commercial motor vehicle on any public street or highway in the
 9 state or in any place open to the general public for purposes of vehicular
 10 traffic;

11 (13) "Driver license" means a license issued by a state to an
 12 individual which authorizes the individual to drive a motor vehicle;

13 (14) "Driving a commercial motor vehicle while under the influence of
 14 alcohol" means committing any one or more of the following acts in a
 15 commercial motor vehicle:

16 (A) Driving a commercial motor vehicle while the person's blood
 17 alcohol concentration is four hundredths of one percent (0.04%) or more;

18 (B) Driving while intoxicated, in violation of § 5-65-103;

19 (C) Refusal to undergo such testing as is required by § 5-65-
 20 202;

21 ~~(14)~~(15) "Employer" means any person, including the United States, a
 22 state, or a political subdivision of a state, who owns or leases a commercial
 23 motor vehicle or assigns a person to drive a commercial motor vehicle;

24 (16) "Fatality" means the death of a person as a result of a motor
 25 vehicle accident;

26 ~~(15)~~(17) "Felony" means any offense under state or federal law that is
 27 punishable by death or imprisonment for a term exceeding one (1) year;

28 ~~(16)~~(18) "Foreign jurisdiction" means any jurisdiction other than a
 29 state of the United States;

30 ~~(17)~~(19) "Gross combination weight rating" means the value specified
 31 by the manufacturer as the loaded weight of a combination or articulated
 32 vehicle. In the absence of a value specified by the manufacturer, the gross
 33 combination weight rating will be determined by adding the gross vehicle
 34 weight rating of the power unit and the total weight of the towed unit and
 35 any load thereon;

36 ~~(18)~~(20) "Gross vehicle weight rating" means the value specified by

1 the manufacturer as the loaded weight of a single vehicle;

2 ~~(19)~~(21) "Hazardous materials" has the same meaning as that found in
 3 Section 103 of the Hazardous Materials Transportation Act, 49 U.S.C. App. §
 4 1802;

5 (22) "Imminent hazard" means the existence of a condition that
 6 presents a substantial likelihood that death, serious illness, severe
 7 personal injury, or a substantial endangerment to health, property, or the
 8 environment may occur before the reasonably foreseeable completion date of a
 9 formal proceeding begun to lessen the risk of that death, illness, injury or
 10 endangerment;

11 ~~(20)~~(23) "Motor vehicle" means a vehicle, machine, tractor, trailer,
 12 or semitrailer propelled or drawn by mechanical power used on highways,
 13 except that the term does not include a vehicle, machine, tractor, trailer,
 14 or semitrailer operated exclusively on a rail;

15 ~~(21)~~(24) "Nonresident CDL" means a commercial driver license issued by
 16 a state ~~to an individual who resides in a foreign jurisdiction;~~ under either
 17 of the following two (2) conditions:

18 (A) To an individual domiciled in a foreign country meeting the
 19 requirements of 49 CFR 383.23(b)(1).

20 (B) To an individual domiciled in another state meeting the
 21 requirements of 49 CFR 383.23(b)(2);

22 ~~(22)~~(25) "Out-of-service order" means a declaration by an authorized
 23 enforcement officer of a federal, state, Canadian, Mexican, or local
 24 jurisdiction that a driver is temporarily prohibited from operating a
 25 commercial motor vehicle pursuant to § 27-23-113 or compatible laws;

26 (26) "School bus" means:

27 (A) A commercial motor vehicle used to transport pre-primary,
 28 primary, or secondary school students from home to school, from school to
 29 home, or to and from school-sponsored events; and

30 (B) School bus does not include a bus used as a common carrier.

31 ~~(23)~~(27) "Serious traffic violation" means a conviction when operating
 32 a commercial motor vehicle of:

33 (A) Excessive speeding, involving any single offense for any
 34 speed of fifteen (15) miles per hour or more above the posted speed limit;

35 (B) Reckless driving as defined by state or local law or
 36 regulation, including, but not limited to, offenses of driving a commercial

1 motor vehicle in willful or wanton disregard for the safety of persons or
2 property;

3 (C) Improper or erratic traffic lane changes;

4 (D) Following the vehicle ahead too closely; ~~or~~

5 (E)(i) A violation, arising in connection with a fatal accident,
6 of state or local law relating to motor vehicle traffic control, other than a
7 parking violation.

8 (ii) Serious traffic violations shall not include weight
9 or defect violations;

10 (F) Driving a commercial motor vehicle without obtaining a
11 commercial driver's license;

12 (G) Driving a commercial motor vehicle without a commercial
13 driver's license in the driver's possession. Any individual who provides
14 proof to the enforcement authority that issued the citation, by the date the
15 individual must appear in court or pay any fine for such a violation, that
16 the individual held a valid commercial driver's license on the date the
17 citation was issued, shall not be guilty of this offense; or

18 (H) Driving a commercial vehicle without the proper class of
19 commercial driver's license or endorsements for the specific vehicle group
20 being operated or for the passengers or type of cargo being transported;

21 ~~(24)~~(28) "State" means a state of the United States and also means the
22 District of Columbia; and

23 ~~(25)~~(29) "United States" means the fifty (50) states and the District
24 of Columbia.

25

26 SECTION 2. Arkansas Code § 27-23-108, concerning commercial driver
27 license qualification standards, is amended to add additional subsection to
28 read as follows:

29 (e) An applicant for a school bus endorsement must satisfy the
30 following three (3) requirements:

31 (1) Qualify for passenger vehicle endorsement. Pass the
32 knowledge and skills test for obtaining a passenger vehicle endorsement;

33 (2) Knowledge test. Must have knowledge covering at least the
34 following three (3) topics:

35 (A) Loading and unloading children, including the safe
36 operation of stop signal devices, external mirror systems, flashing lights,

1 and other warning and passenger safety devices required for school buses by
 2 state or federal law or regulation;

3 (B) Emergency exits and procedures for safely evacuating
 4 passengers in an emergency; and

5 (C) State and federal laws and regulations related to
 6 safely traversing highway rail grade crossings;

7 (3) Skills test. Must take a driving skills test in a school
 8 bus of the same vehicle group as the school bus applicant will drive.

9 (f) Substitute for driving skills test.

10 (1) At the discretion of the Arkansas State Police, the driving
 11 skills test required in subdivision (e)(3) of this section may be waived for
 12 an applicant who is currently licensed, has experience driving a school bus,
 13 has a good driving record, and meets the conditions set forth in subdivision
 14 (f)(2) of this section.

15 (2) An applicant must certify and the state must verify that,
 16 during the two-year period immediately before applying for the school bus
 17 endorsement, the applicant:

18 (A) Held a valid commercial driver license with a
 19 passenger vehicle endorsement to operate a school bus representative of the
 20 group he or she will be driving;

21 (B) Has not had his or her driver's license or commercial
 22 driver license suspended, revoked, or canceled or been disqualified from
 23 operating a commercial motor vehicle;

24 (C) Has not been convicted of any of the disqualifying
 25 offenses in § 27-23-112 while operating a commercial motor vehicle or of any
 26 offense in a noncommercial motor vehicle that would be disqualifying under §
 27 27-23-112 if committed in a commercial motor vehicle;

28 (D) Has not had more than one (1) conviction of any of the
 29 serious traffic violations defined in § 27-23-103, while operating any type
 30 motor vehicle;

31 (E) Has not had any conviction for a violation of state or
 32 local law relating to motor vehicle traffic control arising in connection
 33 with any traffic accident, except a parking violation;

34 (F) Has not been convicted of any motor vehicle traffic
 35 violation that resulted in an accident; and

36 (G) Has been regularly employed as a school bus driver,

1 has operated a school bus representative of the group the applicant seeks to
2 drive, and provides evidence of the employment.

3 (3) After September 30, 2005, the provisions in subsection (f)
4 of this section do not apply.

5
6 SECTION 3. Arkansas Code § 27-23-110(a), concerning applications for
7 commercial driver’s licenses, is amended to read as follows:

8 (a) The application for a commercial driver license or commercial
9 driver instruction permit must include the following:

- 10 (1) The full name and current residential address of the person;
- 11 (2) A physical description of the person including sex, height,
12 weight, eye color, and hair color;
- 13 (3) Date of birth;
- 14 (4) The applicant’s social security number, unless the
15 application is for a nonresident CDL;
- 16 (5) The person’s signature;
- 17 (6) A consent to release driving record information;
- 18 (7) Certifications including those required by 49 C.F.R. part
19 383.71(a); ~~and~~

20 (8) Certify that the applicant is not subject to any
21 disqualification under 49 C.F.R. part 383.51, or any license suspension,
22 revocation, or cancellation under state law, and that the applicant does not
23 have a driver’s license from more than one (1) state or jurisdiction;

24 (9) Surrender the applicant’s non-CDL driver’s licenses to the
25 state;

26 (10) Provide the names of all states where the applicant has
27 previously been licensed to drive any type of motor vehicle during the
28 previous ten (10) years; and

29 ~~(8)~~(11) Any other information required by the Office of Driver
30 Services. The application must be accompanied by an application fee of forty-
31 one dollars (\$41.00). The application fee shall not be required from a
32 person who requests that the license be restricted to the driving of a school
33 bus; provided, however, that such person shall be required to pay the
34 noncommercial driver license fee.

35
36 SECTION 4. Arkansas Code § 27-23-111(b), concerning classifications of

1 commercial driver's licenses, is amended to read as follows:

2 (b) Classifications, Endorsements, and Restrictions. Commercial driver
 3 licenses may be issued with the following Class A, Class B, or Class C
 4 classifications, as well as the following endorsements and restrictions; the
 5 holder of a valid commercial driver license may drive all vehicles in the
 6 class for which that license is issued, and all lesser classes of vehicles
 7 except motorcycles and vehicles which require an endorsement, unless the
 8 proper endorsement appears on the license; all other driver licenses may be
 9 issued with the following Class D, Class M, or Class MD classifications;

10 (1) Commercial Classification.

11 Class A. Any combination of vehicles with a gross vehicle weight
 12 rating (GVWR) of twenty-six thousand one pounds (26,001 lbs) or more,
 13 provided that the GVWR of the vehicle(s) being towed is in excess of ten
 14 thousand pounds (10,000 lbs). No Class A license shall be issued to any
 15 person under the age of eighteen (18) years.

16 Class B. Any single vehicle with a GVWR of twenty-six thousand
 17 one pounds (26,001 lbs) or more, and any such vehicle towing a vehicle not in
 18 excess of ten thousand pounds (10,000 lbs). No Class B license shall be
 19 issued to any person under the age of eighteen (18) years.

20 Class C. Any single vehicle with a GVWR of less than twenty-six
 21 thousand one pounds (26,001 lbs) or any such vehicle towing a vehicle with a
 22 GVWR not in excess of ten thousand pounds (10,000 lbs) comprising:

23 (i) Vehicles designed to transport sixteen (16) or
 24 more passengers, including the driver; and

25 (ii) Vehicles used in the transportation of
 26 hazardous materials which requires the vehicle to be placarded under 49
 27 C.F.R., part 172, sub-part F. No Class C license shall be issued to any
 28 person under the age of eighteen (18) years.

29 (2) Other Classifications.

30 Class D. Any vehicle which is not a commercial vehicle, as
 31 defined by this chapter. No Class D license shall be issued to persons under
 32 the age of fourteen (14) years; provided, however, that no such licensee
 33 under the age of sixteen (16) years shall operate a vehicle unless
 34 accompanied in the front passenger seat of the vehicle by a licensed driver
 35 with at least one (1) year of driving experience.

36 No Class D license shall be valid to carry passengers for hire

1 without a "P" endorsement. No "P" endorsement shall be issued to any person
 2 under the age of eighteen (18) years.

3 Notwithstanding the provisions of this or any other section of
 4 this chapter, any person who on the effective date of this chapter, has a
 5 valid operator's, chauffeur's, or for-hire chauffeur's license shall be
 6 entitled to drive the vehicles authorized thereby until the date of
 7 expiration of such license, but not thereafter; provided, however, that any
 8 person driving a commercial motor vehicle as defined by this chapter on or
 9 after April 1, 1992, must first obtain a commercial driver license as
 10 required by this section.

11 Class M. That license valid for the operation of any motorcycle
 12 which displaces more than two hundred fifty cubic centimeters (250 cc). No
 13 such license shall be issued to any person under the age of sixteen (16)
 14 years.

15 Class MD. That license valid for the operation of any motor
 16 driven cycle which displaces two hundred fifty cubic centimeters (250 cc) or
 17 less. No such license shall be issued to any person under the age of fourteen
 18 (14) years. A Class MD license shall automatically expire upon the licensee's
 19 sixteenth (16th) birthday.

20 (3) Endorsements ~~and restrictions~~ are:

21 "H" - authorizes the driver to drive a vehicle transporting
 22 hazardous materials;

23 ~~"K" - restricts the driver to vehicles not equipped with~~
 24 ~~airbrakes;~~

25 "T" - authorizes driving double and triple trailers;

26 "P" - authorizes driving vehicles carrying passengers or carrying
 27 passengers for hire;

28 "N" - authorizes driving tank vehicles;

29 "X" - represents a combination of hazardous materials and tank
 30 vehicle endorsements;

31 "M" - authorizes the driver to drive a motorcycle; and

32 "S" - ~~restricts the driver to school buses, church buses,~~
 33 ~~nonprofit day care center buses, buses operated by public transit systems~~
 34 ~~eligible to receive federal and state assistance under programs administered~~
 35 ~~through the Arkansas State Highway and Transportation Department or the~~
 36 ~~United States Department of Transportation, and Class "D" vehicles authorizes~~

1 a driver who has met the qualifications § 27-23-108 to drive a school bus.

2 (4) Restrictions are:

3 "K" - restricts the driver to vehicles not equipped with
4 airbrakes; and

5 "S" - restricts the driver to school buses, church buses,
6 nonprofit day care center buses, buses operated by public transit systems
7 eligible to receive federal and state assistance under programs administered
8 through the Arkansas Highway and Transportation Department or the United
9 States Department of Transportation, and Class "D" vehicles.

11 SECTION 5. Arkansas Code § 27-23-112 is amended to read as follows:
12 27-23-112. Disqualification and cancellation.

13 ~~(a)(1) Disqualification of Offenses. Any person shall be disqualified~~
14 ~~from driving a commercial motor vehicle for the periods of time set out~~
15 ~~within and in accordance with the provisions of § 27-16-915 regarding a~~
16 ~~holder of a commercial driver's license issued such a license under this~~
17 ~~chapter or for a period of not less than one (1) year if convicted or~~
18 ~~disqualified by the Office of Driver Services administratively as provided by~~
19 ~~§ 5-65-402 of a first violation of:~~

20 ~~(A) Driving a commercial motor vehicle while intoxicated;~~

21 ~~(B) Driving a commercial motor vehicle while the person's~~
22 ~~blood alcohol concentration is four one hundredths of one percent (0.04%) or~~
23 ~~more;~~

24 ~~(C) Leaving the scene of an accident involving a~~
25 ~~commercial motor vehicle driven by the person;~~

26 ~~(D) Using a commercial motor vehicle in the commission of~~
27 ~~any felony as defined in this chapter; or~~

28 ~~(E) Refusal to submit to a test to determine the driver's~~
29 ~~blood alcohol concentration while driving a commercial motor vehicle.~~

30 ~~(2) If any of the above violations occurred while transporting a~~
31 ~~hazardous material required to be placarded, the person shall be disqualified~~
32 ~~from driving a commercial motor vehicle for a period of not less than three~~
33 ~~(3) years.~~

34 ~~(b)(1) A person shall be disqualified from driving a commercial motor~~
35 ~~vehicle for life if convicted or disqualified by the office administratively~~
36 ~~as provided by § 5-65-402 of two (2) or more violations of any of the~~

1 ~~offenses specified in subsection (a) of this section, or any combination of~~
 2 ~~those offenses, arising from two (2) or more separate incidents.~~

3 ~~(2) Only offenses committed after January 1, 1990, can be~~
 4 ~~considered in connection with such disqualification for life.~~

5 ~~(c) The Office of Driver Services shall have the authority to issue~~
 6 ~~regulations establishing guidelines, including conditions, under which a~~
 7 ~~disqualification for life under subsection (b) of this section may be reduced~~
 8 ~~to a period of not less than ten (10) years.~~

9 ~~(d) A person shall be disqualified from driving a commercial motor~~
 10 ~~vehicle for life who uses a commercial motor vehicle in the commission of any~~
 11 ~~felony involving the manufacture, distribution, or dispensing of a controlled~~
 12 ~~substance, or possession with intent to manufacture, distribute, or dispense~~
 13 ~~a controlled substance.~~

14 ~~(e) A person shall be disqualified from driving a commercial motor~~
 15 ~~vehicle for a period of not less than sixty (60) days if convicted of two (2)~~
 16 ~~serious traffic violations, or one hundred twenty (120) days if convicted of~~
 17 ~~three (3) serious traffic violations, committed in a commercial motor vehicle~~
 18 ~~arising from separate incidents occurring within a three year period. Only~~
 19 ~~offenses committed after January 1, 1990, can be considered in connection~~
 20 ~~with such disqualification.~~

21 ~~(f) After suspending, revoking, or cancelling a commercial driver~~
 22 ~~license, the Office of Driver Services must update its records to reflect~~
 23 ~~that action within ten (10) days. After suspending, revoking, or cancelling a~~
 24 ~~nonresident commercial driver's privileges, the Office of Driver Services~~
 25 ~~must notify the licensing authority of the state which issued the commercial~~
 26 ~~driver license within ten (10) days.~~

27 ~~(g) Disqualification for Violation of Out-of-Service Orders.~~

28 ~~(1) General Rule. A driver who is convicted of violating an out-~~
 29 ~~of-service order while driving a commercial motor vehicle is disqualified for~~
 30 ~~the period of time specified in subdivision (g)(2) of this section. In~~
 31 ~~addition, such driver is subject to special penalties as contained in § 27-~~
 32 ~~23-113.~~

33 ~~(2) Duration of Disqualification for Violation of Out-of-Service~~
 34 ~~Orders.~~

35 ~~(A) First Violation. A driver is disqualified for not less~~
 36 ~~than ninety (90) days nor more than one (1) year if the driver is convicted~~

1 ~~of a first violation of an out-of-service order.~~

2 ~~(B)—Second Violation. A driver is disqualified for not~~
 3 ~~less than one (1) year nor more than five (5) years if, during any ten-year~~
 4 ~~period, the driver is convicted of two (2) violations of out-of-service~~
 5 ~~orders in separate incidents.~~

6 ~~(C)—Third or Subsequent Violation. A driver is~~
 7 ~~disqualified for not less than three (3) years nor more than five (5) years~~
 8 ~~if, during any ten-year period, the driver is convicted of three (3) or more~~
 9 ~~violations of out-of-service orders in separate incidents.~~

10 ~~(D)—Special Rule for Hazardous Materials and Passenger~~
 11 ~~Offenses. A driver is disqualified for a period of not less than one hundred~~
 12 ~~eighty (180) days nor more than two (2) years if the driver is convicted of a~~
 13 ~~first violation of an out-of-service order while transporting hazardous~~
 14 ~~materials required to be placarded under the Hazardous Materials~~
 15 ~~Transportation Act (49 U.S.C. App. §§ 1801-1813), or while operating a motor~~
 16 ~~vehicle designed to transport more than fifteen (15) passengers, including~~
 17 ~~the driver. A driver is disqualified for a period of not less than three (3)~~
 18 ~~years nor more than five (5) years if, during any ten-year period, the driver~~
 19 ~~is convicted of any subsequent violations of out-of-service orders, in~~
 20 ~~separate incidents, while transporting hazardous materials required to be~~
 21 ~~placarded under the Hazardous Materials Transportation Act, or while~~
 22 ~~operating a motor vehicle designed to transport more than fifteen (15)~~
 23 ~~passengers, including the driver.~~

24 ~~(h)(1)—Disqualification for Railroad Highway Grade Crossing Violation.~~
 25 ~~A driver who pleads guilty or nolo contendere to or is found guilty of~~
 26 ~~operating a commercial motor vehicle in violation of federal, state, or local~~
 27 ~~law or regulation pertaining to one (1) of the following offenses at a~~
 28 ~~railroad highway grade crossing shall be disqualified in accordance with~~
 29 ~~subdivision (h)(2) of this section:~~

30 ~~(A)—For drivers who are not required to always stop,~~
 31 ~~failing to slow down and check that the tracks are clear of an approaching~~
 32 ~~train;~~

33 ~~(B)—For drivers who are not required to always stop,~~
 34 ~~failing to stop before reaching the crossing if the tracks are not clear;~~

35 ~~(C)—For drivers who are always required to stop, failing~~
 36 ~~to stop before driving onto the crossing;~~

1 ~~(D) For all drivers, failing to have sufficient space to~~
2 ~~drive completely through the crossing without stopping;~~

3 ~~(E) For all drivers, failing to obey a traffic control~~
4 ~~device or the directions of the enforcement official at the crossing; and~~

5 ~~(F) For all drivers, failing to negotiate a crossing~~
6 ~~because of insufficient undercarriage clearance.~~

7 ~~(2) Duration of Disqualification for Railroad Highway Grade.~~

8 ~~(A) First Violation. A driver shall be disqualified for at~~
9 ~~least sixty (60) calendar days who pleads guilty or nolo contendere to, or is~~
10 ~~found guilty of, a first violation.~~

11 ~~(B) Second Violation. A driver shall be disqualified for~~
12 ~~at least one hundred twenty (120) calendar days if the driver pleads guilty~~
13 ~~or nolo contendere to, or is found guilty of, a second violation within any~~
14 ~~three-year period.~~

15 ~~(C) Third or Subsequent Violation. A driver shall be~~
16 ~~disqualified for at least one (1) year if the driver pleads guilty or nolo~~
17 ~~contendere to, or is found guilty of a third or subsequent violation within~~
18 ~~any three-year period.~~

19 (a)(1) A driver or holder of a commercial driver’s license who is
20 disqualified must not drive a commercial motor vehicle.

21 (2) An employer must not knowingly allow, require, permit, or
22 authorize a driver who is disqualified to drive a commercial motor vehicle.

23 (3) A driver is subject to disqualification sanctions designated
24 in subsections (b) and (c) of this section, if the holder of a commercial
25 driver’s license drives a commercial motor vehicle or noncommercial motor
26 vehicle and is convicted of the violations.

27 (4) Determining first and subsequent violations. For purposes
28 of determining first and subsequent violations of the offenses specified in
29 this section, each conviction for any offense listed in this section
30 resulting from a separate incident, whether committed in a commercial motor
31 vehicle or noncommercial motor vehicle, must be counted.

32 (5)(A) The Office of Driver Services may reinstate any driver
33 disqualified for life for offenses described in subdivisions (b)(1) through
34 (b)(7) of this section after ten (10) years, if that person has voluntarily
35 entered and successfully completed an appropriate rehabilitation program
36 approved by the Arkansas Health Department.

1 (B) Any person who has been reinstated in accordance with
 2 this provision and who is subsequently convicted of a disqualifying offense
 3 described in subdivisions (b)(1) through (b)(7) of this section must not be
 4 reinstated.

5 (b) Disqualification for major offenses. A driver must be
 6 disqualified, depending upon the type of vehicle the driver is operating at
 7 the time of the violation, as follows:

8 (1) If a driver operates a motor vehicle and is convicted of
 9 being intoxicated by drugs or alcohol as provided by § 5-65-103 or refusing
 10 to submit to chemical testing as provided by § 5-65-202, the driver shall be
 11 disqualified as follows:

12 (A) For a first conviction or refusal to be tested while
 13 operating a commercial motor vehicle, a person required to have a commercial
 14 driver's license or commercial driver's license holder must be disqualified
 15 from operating a commercial motor vehicle for one (1) year;

16 (B) For a first conviction or refusal to be tested while
 17 operating a noncommercial motor vehicle, a commercial driver's license holder
 18 must be disqualified from operating a commercial motor vehicle for one (1)
 19 year;

20 (C) For a first conviction or refusal to be tested while
 21 operating a commercial motor vehicle transporting hazardous materials
 22 required to be placarded under the Hazardous Materials Regulations, 49 CFR
 23 part 172, subpart F, a person required to have a commercial driver's license
 24 and commercial driver's license holder must be disqualified from operating a
 25 commercial motor vehicle for three (3) years;

26 (D) For a second conviction or refusal to be tested in a
 27 separate incident of any combination of offenses in this section while
 28 operating a commercial motor vehicle, a person required to have a commercial
 29 driver's license and a commercial driver's license holder must be
 30 disqualified from operating a commercial motor vehicle for life; and

31 (E) For a second conviction or refusal to be tested in a
 32 separate incident of any combination of offenses in this section while
 33 operating a noncommercial motor vehicle, a commercial driver's license holder
 34 must be disqualified from operating a commercial motor vehicle for life;

35 (2) If a driver operates a motor vehicle and is convicted of
 36 having an blood alcohol concentration in violation of § 27-23-114(a), the

1 driver shall be disqualified as follows:

2 (A) For a first conviction or refusal to be tested while
3 operating a commercial motor vehicle a person required to have a commercial
4 driver's license and a commercial driver's license holder must be
5 disqualified from operating a commercial motor vehicle for one (1) year;

6 (B) For a first conviction or refusal to be tested while
7 operating a commercial motor vehicle transporting hazardous materials
8 required to be placarded under the Hazardous Materials Regulations, 49 CFR
9 part 172, subpart F, a person required to have a commercial driver's license
10 and commercial driver's license holder must be disqualified from operating a
11 commercial motor vehicle for three (3) years; and

12 (C) For a second conviction or refusal to be tested in a
13 separate incident of any combination of offenses in this section while
14 operating a commercial motor vehicle, a person required to have a commercial
15 driver's license and a commercial driver's license holder must be
16 disqualified from operating a commercial motor vehicle for life; and

17 (3) If a driver operates a motor vehicle and is convicted of
18 leaving the scene of an accident the driver shall be disqualified as follows:

19 (A) For a first conviction while operating a commercial
20 motor vehicle a person required to have a commercial driver's license and a
21 commercial driver's license holder must be disqualified from operating a
22 commercial motor vehicle for one (1) year;

23 (B) For a first conviction while operating a noncommercial
24 motor vehicle, a commercial driver's license holder must be disqualified from
25 operating a commercial motor vehicle for one (1) year;

26 (C) For a first conviction while operating a commercial
27 motor vehicle transporting hazardous materials required to be placarded under
28 the Hazardous Materials Regulations, 49 CFR part 172, subpart F, a person
29 required to have a commercial driver's license and commercial driver's
30 license holder must be disqualified from operating a commercial motor vehicle
31 for three (3) years;

32 (D) For a second conviction in a separate incident of any
33 combination of offenses in this section while operating a commercial motor
34 vehicle, a person required to have a commercial driver's license and a
35 commercial driver's license holder must be disqualified from operating a
36 commercial motor vehicle for life; and

1 (E) For a second conviction in a separate incident of any
2 combination of offenses in this section while operating a noncommercial motor
3 vehicle, a commercial driver's license holder must be disqualified from
4 operating a commercial motor vehicle for life;

5 (4) If a driver operates a motor vehicle and is convicted of
6 using the vehicle to commit a felony other than one described in subdivision
7 (b)(7) of this section, the driver shall be disqualified as follows:

8 (A) For a first conviction while operating a commercial
9 motor vehicle a person required to have a commercial driver's license and a
10 commercial driver's license holder must be disqualified from operating a
11 commercial motor vehicle for one (1) year;

12 (B) For a first conviction while operating a noncommercial
13 motor vehicle, a commercial driver's license holder must be disqualified from
14 operating a commercial motor vehicle for one (1) year;

15 (C) For a first conviction while operating a commercial
16 motor vehicle transporting hazardous materials required to be placarded under
17 the Hazardous Materials Regulations, 49 CFR part 172, subpart F, a person
18 required to have a commercial driver's license and commercial driver's
19 license holder must be disqualified from operating a commercial motor vehicle
20 for three (3) years;

21 (D) For a second conviction in a separate incident of any
22 combination of offenses in this section while operating a commercial motor
23 vehicle, a person required to have a commercial driver's license and a
24 commercial driver's license holder must be disqualified from operating a
25 commercial motor vehicle for life; and

26 (E) For a second conviction in a separate incident of any
27 combination of offenses in this section while operating a noncommercial motor
28 vehicle, a commercial driver's license holder must be disqualified from
29 operating a commercial motor vehicle for life;

30 (5) If a driver operates a motor vehicle and is convicted of
31 driving a commercial motor vehicle when the driver's commercial driver's
32 license is revoked, suspended, or canceled, or disqualified from operating a
33 commercial motor vehicle, as a result of prior violations committed while
34 operating a commercial motor vehicle, the driver shall be disqualified as
35 follows:

36 (A) For a first conviction while operating a commercial

1 motor vehicle, a person required to have a commercial driver's license and a
2 commercial driver's license holder must be disqualified from operating a
3 commercial motor vehicle for one (1) year;

4 (B) For a first conviction while operating a commercial
5 motor vehicle transporting hazardous materials required to be placarded under
6 the Hazardous Materials Regulations, 49 CFR part 172, subpart F, a person
7 required to have a commercial driver's license and a commercial driver's
8 license holder must be disqualified from operating a commercial motor vehicle
9 for three (3) years; and

10 (C) For a second conviction in a separate incident of any
11 combination of offenses in this section while operating a commercial motor
12 vehicle, a person required to have a commercial driver's license and a
13 commercial driver's license holder must be disqualified from operating a
14 commercial motor vehicle for life;

15 (6) If a driver operates a motor vehicle and is convicted of
16 causing a fatality through the negligent operation of a commercial motor
17 vehicle, including but not limited to the crimes of murder, manslaughter, and
18 negligent homicide, the driver shall be disqualified as follows:

19 (A) For a first conviction while operating a commercial
20 motor vehicle a person required to have a commercial driver's license and a
21 commercial driver's license holder must be disqualified from operating a
22 commercial motor vehicle for one (1) year;

23 (B) For a first conviction while operating a commercial
24 motor vehicle transporting hazardous materials required to be placarded under
25 the Hazardous Materials Regulations, 49 CFR part 172, subpart F, a person
26 required to have a commercial driver's license and a commercial driver's
27 license holder must be disqualified from operating a commercial motor vehicle
28 for three (3) years; and

29 (C) For a second conviction in a separate incident of any
30 combination of offenses in this section while operating a commercial motor
31 vehicle, a person required to have a commercial driver's license and a
32 commercial driver's license holder must be disqualified from operating a
33 commercial motor vehicle for life; and

34 (7) If a driver operates a motor vehicle and is convicted of
35 using the vehicle in the commission of a felony involving manufacturing,
36 distributing, or dispensing a controlled substance in violation of § 5-64-

1 401, the driver shall be disqualified as follows:

2 (A) For a conviction while operating a commercial motor
 3 vehicle a person required to have a commercial driver's license and a
 4 commercial driver's license holder must be disqualified from operating a
 5 commercial motor vehicle for life and shall not be eligible for reinstatement
 6 after ten (10) years; and

7 (B) For a conviction while operating a noncommercial motor
 8 vehicle, a commercial driver's license holder must be disqualified from
 9 operating a commercial motor vehicle for life and shall not be eligible for
 10 reinstatement after ten (10) years.

11 (c) Disqualification for serious traffic violations the offenses and
 12 the periods for which a driver must be disqualified, depending upon the type
 13 of vehicle the driver is operating at the time of the violation, shall be as
 14 follows:

15 (1) For a second conviction of any combination of offenses
 16 listed in § 27-23-103(28) as serious traffic offenses in a separate incident
 17 within a three-year period while operating a commercial motor vehicle or any
 18 suspension, revocation, or cancellation resulting from a conviction while
 19 operating a noncommercial motor vehicle, a person required to have a
 20 commercial driver's license and a commercial driver's license holder must be
 21 disqualified from operating a commercial motor vehicle for sixty (60) days;
 22 and

23 (2) For a third or subsequent conviction of any combination of
 24 offenses listed in § 27-23-103(28) as serious traffic offenses in a separate
 25 incident within a three-year period while operating a commercial motor
 26 vehicle or any conviction which results in suspension, revocation, or
 27 cancellation resulting from operating a non-commercial motor vehicle, a
 28 person required to have a commercial driver's license and a commercial
 29 driver's license holder must be disqualified from operating a commercial
 30 motor vehicle for one hundred twenty (120) days;

31 (d) A driver shall be disqualified if the driver is convicted of
 32 operating a commercial motor vehicle in violation of federal, state, or local
 33 law or regulation because of the following railroad crossing violations:

34 (1) For drivers who are not required to always stop, failing to
 35 slow down and check that the tracks are clear of an approaching train;

36 (2) For drivers who are not required to always stop, failing to

1 stop before reaching the crossing if the tracks are not clear;

2 (3) For drivers who are always required to stop, failing to stop
3 before driving onto the crossing;

4 (4) For all drivers failing to have sufficient space to drive
5 completely through the crossing without stopping;

6 (5) For all drivers failing to obey a traffic control device or
7 the directions of the enforcement official at the crossing; and

8 (6) For all drivers failing to negotiate a crossing because of
9 insufficient undercarriage clearance.

10 (e) A driver convicted of an offense listed in subsection (d) of this
11 section shall be disqualified as follows:

12 (1) A driver shall be disqualified for at least sixty (60)
13 calendar days if the driver pleads guilty or nolo contendere to, or is found
14 guilty of, a first violation;

15 (2) A driver shall be disqualified for at least one hundred
16 twenty (120) calendar days if the driver pleads guilty or nolo contendere to,
17 or is found guilty of, a second violation within a three-year period; and

18 (3) A driver shall be disqualified for at least one (1) year if
19 the driver pleads guilty or nolo contendere to, or is found guilty of, a
20 third or subsequent violation within a three-year period.

21 (f) A driver who violates an out-of-service order shall be
22 disqualified as follows:

23 (1) If the driver operates a commercial motor vehicle and is
24 convicted of violating a driver or vehicle out-of-service order while
25 transporting nonhazardous materials, the driver shall be disqualified as
26 follows:

27 (A) For a first conviction while operating a commercial
28 motor vehicle, a person required to have a commercial driver's license and a
29 commercial driver's license holder must be disqualified from operating a
30 commercial motor vehicle for at least ninety (90) days, but not more than one
31 (1) year;

32 (B) For a second conviction in a separate incident within
33 a ten-year period while operating a commercial motor vehicle, a person
34 required to have a commercial driver's license and a commercial driver's
35 license holder must be disqualified from operating a commercial motor vehicle
36 for at least one (1) year, but not more than five (5) years; and

1 (C) For a third or subsequent conviction in a separate
 2 incident within a ten-year period while operating a commercial motor vehicle,
 3 a person required to have a commercial driver's license and a commercial
 4 driver's license holder must be disqualified from operating a commercial
 5 motor vehicle for at least three (3) years, but not more than five (5) years;
 6 and

7 (2) If the driver operates a commercial motor vehicle and is
 8 convicted of violating a driver or vehicle out-of-service order while
 9 transporting hazardous materials required to be placarded under the Hazardous
 10 Materials Regulations, 49 CFR part 172, subpart F, or while operating a
 11 vehicle designed to transport sixteen (16) or more passengers, including the
 12 driver, the driver shall be disqualified as follows:

13 (A) For a first conviction while operating a commercial
 14 motor vehicle, a person required to have a commercial driver's license and a
 15 commercial driver's license holder must be disqualified from operating a
 16 commercial motor vehicle for at least one hundred eighty (180) days but not
 17 more than two (2) years;

18 (B) For a second conviction in a separate incident within
 19 a ten-year period while operating a commercial motor vehicle, a person
 20 required to have a commercial driver's license and a commercial driver's
 21 license holder must be disqualified from operating a commercial motor vehicle
 22 for at least three (3) years, but not more than five (5) years; and

23 (C) For a third or subsequent conviction in a separate
 24 incident within a ten-year period while operating a commercial motor vehicle,
 25 a person required to have a commercial driver's license and a commercial
 26 driver's license holder must be disqualified from operating a commercial
 27 motor vehicle for at least three (3) years, but not more than five (5) years.

28 (g) Any driver disqualified by the Federal Motor Carriers Safety
 29 Administration under 49 C.F.R. § 383.52 shall be disqualified by the Office
 30 of Driver Services. The disqualification shall be concurrent with the
 31 disqualification ordered by the Federal Motor Carriers Safety Administration
 32 and shall be entered as part of the driver's record.

33
 34 SECTION 6. Arkansas Code § 27-23-113(c), concerning civil penalties
 35 for violating out-of-service orders, is amended to read as follows:

36 (c) Any driver convicted of violating an out-of-service order shall be

1 subject to a civil penalty of not less than ~~one thousand dollars (\$1,000)~~ one
2 thousand one hundred dollars (\$1,100) nor more than ~~two thousand five hundred~~
3 ~~dollars (\$2,500)~~ two thousand seven hundred fifty dollars (\$2,750), in
4 addition to disqualification under § 27-23-112.

5
6 SECTION 7. Arkansas Code Title 27, Chapter 23 is amended to add an
7 additional section to read as follows:

8 27-23-128.

9 No circuit judge or district court judge may utilize the provisions of
10 §§ 5-4-311, 5-4-321, or §§ 16-93-301 through 16-93-303, or any other program
11 to defer imposition of sentence in instances where the defendant holds a
12 commercial driver’s license and is charged with violating any state or local
13 traffic law other than a parking violation.

14
15 SECTION 8. This act shall become effective on January 1, 2005.

16
17
18 APPROVED: 3/27/2003