

CHAPTER 311
FORMERLY
HOUSE BILL NO. 368

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR
VEHICLES AND COMMERCIAL DRIVER LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE
(Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 2603(19), Title 21 of the Delaware Code by deleting the existing subsection in its entirety and substituting in lieu thereof the following:

“(19) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer(s) as the maximum loaded weight of a single vehicle. The GVWR of a combination (articulated) vehicle (commonly referred to as the "Gross Combination Weight Rating" or (GCWR) is the GVWR of the power unit plus the GVWR of the towed unit or units.”.

Section 2. Amend § 2606, Title 21 of the Delaware Code by adding the following subsection (d):
“(d) No employer may knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle in violation of an out-of-service order.”.

Section 3. Amend § 2610(a)(9), Title 21 of the Delaware Code by inserting the following sentence as the first sentence in paragraph (9):

“Delaware adopts by reference 49 CFR part 1572.”.

Section 4. Amend § 2610(a)(10), Title 21 of the Delaware Code by deleting paragraph (10) in its entirety and substituting in lieu thereof the following:

“(10) The applicant’s non-commercial and commercial driver license from any other jurisdiction is surrendered to the Division.”.

Section 5. Amend § 2613, Title 21 of the Delaware Code by renaming existing subsection (d) as subsection (e) and adding a new subsection (d) to read as follows:

“(d) Upon certification by the police officer that there existed probable cause to believe that the person was in violation of § 4177M of this title or a local ordinance substantially conforming thereto, and the person was arrested on that occasion for a violation of § 4177M of this title or a local ordinance substantially conforming thereto, the Secretary shall disqualify the person's commercial driver license and/or driving privileges in accordance with provisions specified in § 2612 (a) and (b) of this title.”.

Section 6. Amend § 2615, Title 21 of the Delaware Code by renaming existing subsection (c) as subsection (d) and adding a new subsection (c) to read as follows:

“(c) Whenever the Division receives notification of failure to appear, failure to pay, or failure to comply from a Delaware court or from any other state for a violation relating to motor vehicle traffic control (other than a parking violation) the failure to appear, failure to pay, or failure to comply will be posted to the driver’s record as a conviction under the following conditions:

(1) for any person operating a CMV while either holding a CDL or being required to hold a CDL; or

(2) for any CDL holder operating any type of vehicle.”.

Section 7. Amend § 2625, Title 21 of the Delaware Code by deleting the words “CDL driver’s” and substituting in lieu thereof the phrase “CDL holder’s and CMV driver’s” in the first sentence of this section.

Section 8. Amend § 2708(b)(5), Title 21 of the Delaware Code by inserting the phrase “3-year” before the word “driving”.

Section 9. Amend Chapter 41, Title 21 of the Delaware Code by adding a new § 4163A to read as follows:

“§ 4163A. Railroad crossing violations for operators of commercial vehicles only.

In addition to the existing railroad crossing violations in § 4163 of this title, the following railroad crossing infractions shall apply to commercial motor vehicle operators.

(a) Every commercial motor vehicle operator other than those listed in § 4163 of this title shall, upon approaching a railroad-highway grade crossing:

- (1) Slow down and check that the tracks are clear of an approaching train; and
- (2) Stop before reaching the crossing if the tracks are not clear.

(b) The driver of a commercial motor vehicle shall obey a traffic control device and comply with a lawful order or direction of a police officer or other enforcement official who is guiding, directing, controlling, or regulating traffic at a railroad-highway grade crossing.

(c) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance.

(d) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient space and can be driven completely through the crossing without stopping.”.

Approved June 28, 2010