



SPONSOR: Sen. Henry & Rep. Ewing

DELAWARE STATE SENATE

143rd GENERAL ASSEMBLY

SENATE BILL NO. 358
AS AMENDED BY
SENATE AMENDMENT NO. 1

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §2603(9), Title 21 of the Delaware Code, by striking the entire subsection and substituting in lieu thereof the following::

“(9) ‘Conviction’ means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person’s appearance in court, a plea of guilty or nolo contendere accepted by the 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.”

Section 2. Amend §2603, Title 21 of the Delaware Code, by adding the following new subsection (22), to follow subsection (21) ‘Imminent hazard’ and renumbering the remaining subsections, to read as follows:

“(22) ‘Issue and issuance’ means initial licensure, license transfers, license renewals, license upgrades, and non-resident commercial driver’s licenses.”

Section 3. Amend § 2607(b), Title 21 of the Delaware Code, by striking the entire subsection and substituting in lieu thereof the following:

“(b) No person may drive a commercial motor vehicle while that person’s driving privilege is denied, withdrawn, barred, canceled, suspended, revoked, or disqualified.

(c) No person may drive a commercial motor vehicle in violation of an out-of-service order.

(d) No person may drive a commercial motor vehicle while an out-of-service order is in effect while transporting hazardous materials required to be placarded or while operating a vehicle designed to transport 16 or more passengers, including the driver.

(e) Conditional or occupational licenses may not be issued to holders of CDL licenses, nor may any person drive a commercial motor vehicle while in possession of a conditional or occupational license.”

Section 4. Amend § 2611(d), Title 21 of the Delaware Code, by adding to the end of this subsection a new sentence, to read as follows:

“In the case of transfer issuances, the Division will also implement Change State of Record transactions in the commercial driver license information system, thereby notifying the commercial driver license information system and the previous State of Record that Delaware is now the State of Record.”

Section 5. Amend § 2612(e), Title 21 of the Delaware Code, by inserting the following sentence, before the last sentence, in the subsection:

“The 120 day disqualification period must be served in addition to any other previous period of disqualification.”

Section 6. Amend § 2615, Title 21 of the Delaware Code, by striking the entire section and substituting in lieu thereof the following:

“§ 2615. Notification of traffic convictions.

(a) Whenever a person who holds a CDL from another state is convicted of a violation of this State or local law relating to motor vehicle traffic control (other than a parking violation), in any type of vehicle, the Division must notify the licensing entity in the state where the driver is licensed of this conviction within 30 days of the conviction, except beginning on September 30, 2008, the notification must be made within 10 days of the conviction.

(b) Whenever a person who does not hold a CDL but is licensed to drive by another state and is convicted of a violation of this State or local law relating to motor vehicle traffic control (other than a parking violation), in a CMV, the Division must notify the licensing entity in the state where the driver is licensed of this conviction within 30 days of the conviction, except beginning on September 30, 2008, the notification must be made within 10 days of the conviction.

(c) Whenever an unlicensed driver from this State is convicted of any violation as provided in §2612, Title 21 of the Delaware Code, the Division will establish a driving record in the person’s name and, if appropriate,

withdraw the person's driving privileges by license suspension, revocation, disqualification, cancellation or denial when authorized by statute or Division policy. Those persons whose driving privileges are withdrawn under this section will be reinstated when they have completed the reinstatement procedures specified in statute or Division policy."

Section 7. Amend § 2619(a), Title 21 of the Delaware Code, by striking the entire subsection and substituting in lieu thereof the following:

"(a) Notwithstanding any law to the contrary, a resident of another state who is issued a commercial driver license issued by that state, or a commercial driver license issued by the Canadian Provinces and Territories in conformity with the Canadian National Safety Code, or a Licencia Federal de Conductor issued by the United Mexican States, may drive a commercial motor vehicle in this State if the person has a valid commercial motor vehicle driver license or valid commercial motor vehicle driver license instruction permit issued by those jurisdictions in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person is not suspended, revoked or canceled, and if the person is not disqualified from driving a commercial motor vehicle, or subject to an "out-of-service" order. A driver holding a commercial driver license issued under the Canadian National Safety Code or Licencia Federal de Conductor issued by Mexico is prohibited from obtaining a non-resident CDL or any type of Delaware driver license unless the driver becomes a resident of this State and surrenders all driver licenses issued by Canada or Mexico."

Section 8. Amend § 2621(a)(3), Title 21 of the Delaware Code, by striking the entire subsection and substituting in lieu thereof the following:

"(3) Commercial motor vehicles for military purposes. This exception is applicable to active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. Coast Guard personnel. This exception is not applicable to U.S. Reserve technicians."

Section 9. Amend §2611, Title 21 of the Delaware Code, by striking subsection (c) and substituting in lieu thereof the following and further by redesignating the remaining subsections accordingly:

"(c) Applicant Record Check. Before issuing a commercial driver license or permit to any person, the Division will perform a records check of the commercial driver license information system, the national driver register's problem driver pointer system, and/or any other information system designated by federal regulation to

confirm the holder's identity and determine the applicant's license eligibility. The records check will be performed no earlier than 24 hours prior to the issuance of a commercial driver license or permit. A commercial driver license will not be issued before these mandatory record checks are completed.

(d) License Surrender. A commercial driver license or permit may not be issued to a person who has a CDL or a drivers license issued by another state unless the person first surrenders all such licenses. The Division will either return the surrendered license to the issuing state for cancellation or the Division will destroy the surrendered license document and notify the previous issuing state that the person is now licensed in this State.”

Section 10. If this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 11. This Act shall become effective 180 days after its enactment into law.