

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0262

## SENATE BILL NO. 17

Introduced by: The Committee on Transportation at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the licensing of  
2 commercial drivers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-12A-7 be amended to read as follows:

5 32-12A-7. Each commercial motor vehicle driver shall meet the minimum standards and  
6 qualifications established under §§ 32-12A-1 to 32-12A-50, inclusive, 32-12A-51, and  
7 32-12A-52 to 32-12A-58, inclusive, and in accordance with 49 C.F.R. subpart 383.23 as of  
8 ~~January 1, 1989~~ amended through January 1, 2002. Each commercial motor vehicle driver shall  
9 obtain a commercial driver license.

10 Section 2. That § 32-12A-9 be amended to read as follows:

11 32-12A-9. The following are exempt from the provisions of §§ 32-12A-1 to 32-12A-50,  
12 inclusive, 32-12A-51, and 32-12A-52 to 32-12A-58, inclusive:

13 (1) Operators involved in farm to market transportation movements, at least sixteen years  
14 of age holding a valid operator's license, limited to those operators of a farm vehicle:

15 (a) Controlled and operated by a farmer;



1 (b) Used to transport either agricultural products, farm machinery or farm supplies  
2 to or from a farm; and

3 (c) Not used in the operations of a common or contract motor carrier;

4 (2) Operators of emergency fire fighting equipment necessary to the preservation of life  
5 or property or the execution of emergency governmental functions performed under  
6 emergency conditions that are not subject to normal traffic regulation, or  
7 nonemergency conditions when operated by members of a fire fighting agency;

8 (3) ~~Operators serving in the United States military, operating military vehicles in pursuit~~  
9 ~~of military purposes~~ Operators of military vehicles for military purposes including:

10 (a) Active duty military personnel;

11 (b) Members of the military reserves;

12 (c) Members of the national guard on active duty, including personnel on full-  
13 time national guard duty, personnel on part-time national guard training and  
14 national guard military technicians (civilians who are required to wear military  
15 uniforms); and

16 (d) Active duty U.S. Coast Guard personnel;

17 (4) Operators of recreational vehicles; and

18 (5) Operators of rental transporting equipment used as personal family use vehicles.

19 United States reserve technicians are not exempt under the provisions of subdivision (3) of  
20 this section.

21 Section 3. That § 32-12A-11 be amended to read as follows:

22 32-12A-11. No person may be issued a commercial driver license unless that person is a  
23 resident of this state, has passed a knowledge and skills test for driving a commercial motor  
24 vehicle that complies with the minimum federal standards established by federal regulation

1 enumerated in 49 C.F.R. Part 383, Subparts G and H as ~~of January 1, 1989~~ amended through  
2 January 1, 2002, and has satisfied all other requirements of the CMVSA in addition to other  
3 requirements imposed by state law or federal regulation. The tests shall be prescribed and  
4 conducted by the department.

5 The department may authorize a person, an employer, a private driver training facility, other  
6 private institution, a department, agency, or instrumentality of local government, of this state  
7 or another state, to administer the skills test specified by this section, if:

- 8 (1) The test is the same which would otherwise be administered by the department; and
- 9 (2) The third party has entered into an agreement with the department that complies with  
10 requirements of 49 C.F.R. Part 383.75 as ~~of January 1, 1989~~ amended through  
11 January 1, 2002. Failure to comply with agreement may result in termination of the  
12 agreement.

13 The department may waive the skills test specified in this section for a commercial driver  
14 license applicant who meets the requirements of 49 C.F.R. Part 383.77 as ~~of January 1, 1989~~  
15 amended through January 1, 2002.

16 No commercial driver license or commercial driver instruction permit may be issued to a  
17 person while the person is subject to a disqualification from driving a commercial motor  
18 vehicle, or while the person's operator's license or driving privilege is suspended, revoked, or  
19 cancelled in any state; nor may a commercial driver license be issued to a person who has a  
20 commercial driver license or commercial driver instruction permit issued by any other state  
21 unless the person first surrenders all such licenses or permits, which shall be destroyed by the  
22 department. The issuing jurisdiction shall be notified that the licensee has applied for a  
23 commercial driver license or commercial driver instruction permit in a new jurisdiction. A  
24 violation of this provision is a Class 2 misdemeanor.

1 Section 4. That § 32-12A-36 be amended to read as follows:

2 32-12A-36. Any person is disqualified from driving a commercial motor vehicle for a period  
3 of not less than one year:

4 (1) If convicted of a first violation of driving or being in actual physical control of a  
5 commercial motor vehicle while under the influence of alcohol, or any controlled  
6 drug or substance, in violation of § 32-23-1;

7 (2) If convicted of a first violation of driving or being in actual physical control of a  
8 commercial motor vehicle while there is 0.04 percent or more by weight of alcohol  
9 in that person's blood as shown by chemical analysis of that person's breath, blood  
10 or other bodily substance, in violation of § 32-12A-44;

11 (3) If convicted of a first violation of leaving the scene of an accident while operating a  
12 commercial motor vehicle, in violation of § 32-34-5 or 32-34-6;

13 (4) If convicted of a first violation of using a commercial motor vehicle in the  
14 commission of any felony other than a felony described in § 32-12A-38; or

15 (5) For refusing to submit to a chemical analysis for purposes of determining the amount  
16 of alcohol in that person's blood while driving a commercial motor vehicle in  
17 violation of § 32-23-11, 32-12A-43, or 32-12A-46.

18 If any of these violations or refusal occurred while transporting hazardous material required  
19 to be placarded, the person is disqualified for a period of not less than three years.

20 Section 5. That § 32-12A-39 be amended to read as follows:

21 32-12A-39. Any driver disqualified for life as specified in §§ 32-12A-37 ~~and 32-12A-38~~,  
22 who has both voluntarily enrolled in and successfully completed, an appropriate rehabilitation  
23 program that meets the standards of the department, may apply to the department for  
24 reinstatement of that person's commercial driver license. Any such applicant is not eligible for

1 reinstatement from the department unless the applicant has first served a minimum  
2 disqualification period of ten years and has fully met the department's standards for  
3 reinstatement of commercial motor vehicle driving privileges.

4 If a reinstated driver subsequently is convicted of another disqualifying offense, as specified  
5 in § 32-12A-36, 32-12A-37, or 32-12A-38, the driver is permanently disqualified for life, and  
6 is ineligible to again apply for a reduction of the lifetime disqualification.

7 Section 6. That § 32-12A-47 be amended to read as follows:

8 32-12A-47. Upon receiving a report of the conviction of any nonresident ~~holder of a~~  
9 ~~commercial driver license~~ for any violation of state law or local ordinance relating to motor  
10 vehicle traffic control, other than parking violations, committed in a commercial motor vehicle,  
11 the department shall notify the driver licensing authority in the licensing state of the conviction.

12 Section 7. That § 32-12A-48 be amended to read as follows:

13 32-12A-48. The secretary of the Department of Public Safety may ~~adopt~~ promulgate rules,  
14 pursuant to chapter 1-26, in the following areas:

- 15 (1) Definitions;
- 16 (2) Commercial driver license waivers;
- 17 (3) Single license requirement;
- 18 (4) Notification requirements and employer responsibilities;
- 19 (5) Federal disqualifications and penalties;
- 20 (6) Testing and licensing procedures;
- 21 (7) Vehicle groups and endorsements;
- 22 (8) Required knowledge and skills;
- 23 (9) Tests;
- 24 (10) Commercial driver license document; and

- 1       (11) Other rules necessary to implement the provisions of C.F.R. 49, Chapter 3,  
2            Subchapter B, parts 383, 384, 390, 391, and 392, inclusive, ~~January 1, 1990~~, as  
3            amended through January 1, ~~1996~~ 2002.