

8-2,142. Same; disqualification from driving commercial vehicle; suspension, revocation or cancellation of license; notification. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:

(1) While operating a commercial motor vehicle:

- (A) The person is convicted of violating K.S.A. 8-2,144, and amendments thereto;
- (B) the person is convicted of violating subsection (b) of K.S.A. 8-2,132, and amendments thereto;
- (C) the person is convicted of causing a fatality through the negligent operation of a commercial motor vehicle;
- (D) the person's test refusal or test failure, as defined in subsection (m); or
- (E) the person is convicted of a violation identified in subsection (a)(2)(A); or

(2) while operating a noncommercial motor vehicle:

(A) The person is convicted of a violation of K.S.A. 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, or of a violation of an ordinance of any city in this state, a resolution of any county in this state or any law of another state, which ordinance or law declares to be unlawful the acts prohibited by that statute; or

(B) the person's test refusal or test failure, as defined in K.S.A. 8-1013, and amendments thereto; or

(3) while operating any motor vehicle:

(A) The person is convicted of leaving the scene of an accident; or

(B) the person is convicted of a felony, other than a felony described in subsection (e), while using a motor vehicle to commit such felony.

(b) If any offenses, test refusal or test failure specified in subsection (a) occurred in a commercial motor vehicle while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents.

(d) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years.

(e) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. Any disqualification period under this paragraph shall be in addition to any other previous period of disqualification. The beginning date for any three-year period within a ten-year period, required by this subsection, shall be the issuance date of the citation which resulted in a conviction.

(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a noncommercial motor vehicle arising from separate incidents occurring within a three-year period, if such convictions result in the revocation, cancellation or suspension of the person's driving privileges.

(h) (1) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) Ninety days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;

(B) one year nor more than five years if the person has one prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation; or

(C) three years nor more than five years if the person has two or more prior convictions for violating out-of-service orders in separate incidents and such prior offenses were committed within the 10 years immediately preceding the date of the present violation.

(2) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order while transporting a hazardous material required to be placarded under 49 U.S.C. § 5101 et seq. or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) One hundred and eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order; or

(B) three years nor more than five years if the person has a prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation.

(i) (1) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing shall be disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (2):

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

(B) for persons who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(C) for persons who are always required to stop, failing to stop before driving onto the crossing;

(D) for all persons failing to have sufficient space to drive completely through the crossing without stopping;

(E) for all persons failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(F) for all persons failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) A driver shall be disqualified from driving a commercial motor vehicle for not less than:

(A) Sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation;

(B) one hundred and twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents; or

(C) one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(j) After suspending, revoking or canceling a commercial driver's license, the division shall update its records to

reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the division shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license within 10 days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, revocation or cancellation.

(k) Upon receiving notification from the licensing authority of another state, that it has disqualified a commercial driver's license holder licensed by this state, or has suspended, revoked or canceled such commercial driver's license holder's commercial driver's license, the division shall record such notification and the information such notification provides on the driver's record.

(l) Upon suspension, revocation, cancellation or disqualification of a commercial driver's license under this act, the license shall be immediately surrendered to the division if still in the licensee's possession. If otherwise eligible, and upon payment of the required fees, the licensee may be issued a noncommercial driver's license for the period of suspension, revocation, cancellation or disqualification of the commercial driver's license under the same identifier number.

(m) As used in this section, "test refusal" means a person's refusal to submit to and complete a test requested pursuant to K.S.A. 8-2,145, and amendments thereto; "test failure" means a person's submission to and completion of a test which determines that the person's alcohol concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and amendments thereto.

History: L. 1989, ch. 38, § 18; L. 1991, ch. 36, § 17; L. 2003, ch. 42, § 7; L. 2005, ch. 31, § 4; L. 2006, ch. 54, § 7; L. 2011, ch. 105, § 7; L. 2012, ch. 172, § 10; July 1.