

39:3-10.11 Definitions relative to commercial driver licenses.

3. For purposes of this act, a term shall have the meaning set forth in R.S.39:1-1 unless another meaning for the term is set forth in this act, or unless another meaning is clearly apparent from the language or context of this act, or unless the meaning for the term set forth in R.S.39:1-1 is inconsistent with the manifest intent of the Legislature in this act.

For purposes of this act:

"Alcohol concentration" means:

- a. The number of grams of alcohol per 100 milliliters of blood; or
- b. The number of grams of alcohol per 210 liters of breath.

"Commercial driver license" or "CDL" means a license issued in accordance with this act to a person authorizing the person to operate a certain class of commercial motor vehicle.

"Commercial Driver License Information System" or "CDLIS" means the information system established pursuant to the federal "Commercial Motor Vehicle Safety Act of 1986," Pub.L.99-570 (49 U.S.C. s.2701 et seq.) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used or designed to transport passengers or property:

- a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or displays a gross vehicle weight rating of 26,001 or more pounds;
- b. If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- c. If the vehicle is designed to transport 16 or more passengers including the driver;
- d. If the vehicle is designed to transport eight or more but less than 16 persons, including the driver, and is used to transport such persons for hire on a daily basis to and from places of employment;
- e. If the vehicle is transporting or used in the transportation of hazardous materials and is required to be placarded in accordance with Subpart F. of 49 C.F.R. s.172, or the vehicle displays a hazardous material placard; or
- f. If the vehicle is operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or is privately operated, and is used for the transportation of children to or from a school, school connected activity, day camp, summer day camp, summer residence camp, nursery school, child care center, preschool center or other similar places of education.

The chief administrator may, by regulation, include within this definition such other motor vehicles

or combination of motor vehicles as he deems appropriate.

This term shall not include recreation vehicles.

This term shall not include motor vehicles designed to transport eight or more but less than sixteen persons, including the driver, which are owned and operated directly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services and which shall not be used in that capacity at any time to pick up or discharge passengers to any airline terminal, train station or other transportation center, or for any purpose not directly related to the provision of funeral services.

"Controlled substance" means any substance so classified under subsection (6) of section 102 of the "Controlled Substances Act" (21 U.S.C. s.802), and includes all substances listed on Schedules I through V of 21 C.F.R. s.1308, or under P.L.1970, c.226 (C.24:21-1 et seq.) as they may be revised from time to time. The term, wherever it appears in this act or administrative regulation promulgated pursuant to this act, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. s.355).

"Conviction" means a final adjudication that a violation has occurred, a final judgment on a verdict, a finding of guilt in a tribunal of original jurisdiction, or a conviction following a plea of guilty, non vult or nolo contendere accepted by a court. It also includes an unvacated forfeiture of bail, bond or collateral deposited to secure the person's appearance in court, or the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Disqualification" means either:

- a. The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;
- b. A determination by the Federal Motor Carrier Safety Administration under the rules of practice for motor carrier safety contained in 49 C.F.R. s.386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. s.391; or
- c. The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. s.383.51.

"Domicile" means that state where a person has a true, fixed, and permanent home and principal residence and to which the person intends to return whenever the person is absent.

"Driver license" means a license issued by this State or any other jurisdiction to a person authorizing the person to operate a motor vehicle.

"Endorsement" means an authorization to a commercial driver license required to permit the holder of the license to operate certain types of commercial motor vehicles.

"Felony" means any offense under any federal law or the law of a state, including this State, that is punishable by death or imprisonment for a term exceeding one year. The term includes, but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-1 et seq.

"Foreign jurisdiction" means any jurisdiction other than a state of the United States.

"Gross vehicle weight rating" or "GVWR" means the value specified by a manufacturer as the loaded weight of a single or a combination (articulated) vehicle, or the registered gross weight, whichever is greater. 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. In the absence of a value specified for the towed unit or units by the manufacturer, the GVWR of a combination (articulated) vehicle is the GVWR of the power unit plus the total weight of the towed unit, including the loads on them.

"Hazardous material" means a substance or material determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and so designated pursuant to the provisions of the "Hazardous Materials Transportation Act" (49 U.S.C. s.1801 et seq.).

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks. The term "motor vehicle" includes motorized bicycles.

"Non-commercial motor vehicle" means a motor vehicle or combination of motor vehicles other than a "commercial motor vehicle" as defined in this section.

"Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. s.386.72, 392.5, 395.13, 396.9, or any compatible law or the North American Uniform Out-of-Service Criteria.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance.

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a commercial driver license applicant operates or expects to operate.

"Serious traffic violation" means conviction for one of the following offenses committed while operating a commercial motor vehicle:

- a. Excessive speeding, involving any single offense for a speed of 15 miles per hour or more above the speed limit;
- b. Reckless driving, as defined by state or local law or regulation, including, but not limited to,

offenses of driving a commercial motor vehicle in willful or wanton disregard of the safety of persons or property, including violations of R.S.39:4-96;

- c. Improper or erratic traffic lane changes;
- d. Following a vehicle ahead too closely, including violations of R.S.39:4-89;
- e. A violation, arising in connection with a fatal accident, of state or local law relating to motor vehicle traffic control, other than a parking violation;
- f. Any other violation of a state or local law relating to motor vehicle traffic control determined by the Secretary of the United States Department of Transportation in 49 C.F.R. s.383.5 to be a serious traffic violation;
- g. Driving a commercial motor vehicle without a commercial driver license in the driver's possession; or
- h. Driving a commercial motor vehicle without the proper class of commercial driver license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

This term shall not include vehicle weight or defect violations.

"State" means a state of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by the chief administrator. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

L.1990, c.103, s.3; amended 2004, c.124, s.2; 2005, c.147, s.2; 2009, c.271, s.1.