

*O.C.G.A. § 40-5-142*

GEORGIA CODE
Copyright 2012 by The State of Georgia
All rights reserved.

*** Current Through the 2011 Extraordinary Session ***

TITLE 40. MOTOR VEHICLES AND TRAFFIC
CHAPTER 5. DRIVERS' LICENSES
ARTICLE 7. COMMERCIAL DRIVERS' LICENSES

O.C.G.A. § 40-5-142 (2012)

§ 40-5-142. (For effective date, see note.) Definitions

As used in this article, the term:

(1) "Alcohol" means:

(A) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(B) Wine of not less than one-half of 1 percent of alcohol by volume;

(C) Distilled spirits which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or

(D) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(A) The number of grams of alcohol per 100 milliliters of blood;

(B) The number of grams of alcohol per 210 liters of breath; or

(C) The number of grams of alcohol per 67 milliliters of urine.

(3) "Commerce" means:

(A) Trade, traffic, and transportation within the jurisdiction of the United States between locations in a state and between a location in a state and a location outside such state including a location outside the United States; and

(B) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A) of this paragraph.

(4) "Commercial Driver License Information System" (CDLIS) means the information system

established pursuant to the Commercial Motor Vehicle Safety Act of 1986, Title XII, Public Law 99-570, to serve as a clearing-house for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued pursuant to subsection (c) of Code Section 40-5-147.

(6) "Commercial driver's license" (CDL) means a license issued in accordance with the requirements of this article to an individual which authorizes the individual to drive a class of commercial motor vehicle.

(7) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;

(B) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(C) If the vehicle is transporting hazardous materials as designated under 49 U.S.C. Section 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F or is transporting any quantity of a material listed as a select agent or toxin in Title 42 C.F.R. Part 73;

provided, however, that for the purposes of this article, no agricultural vehicle, commercial vehicle operated by military personnel for military purposes, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a commercial motor vehicle. As used in this paragraph, the term "fire-fighting or emergency equipment vehicle" means an authorized emergency vehicle as defined in paragraph (5) of Code Section 40-1-1; provided, however, that the vehicle must be equipped with audible and visible signals and shall be subject to traffic regulations in accordance with the requirements of Code Section 40-6-6. As used in this paragraph, the term "agricultural vehicle" means a farm vehicle which is controlled and operated by a farmer, including operation by employees or family members; used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and operated within 150 miles of such person's farm; which vehicle is not used in the operations of a common or contract carrier. Any other waiver by the Federal Motor Carrier Safety Administration pursuant to Federal Law 49 C.F.R. Parts 383 and 384 of the United States Department of Transportation shall supersede state law in authorizing the Department of Driver Services to exempt said classes.

(8) "Controlled substance" means any substance so defined under Code Section 16-13-21 and includes all substances listed in Schedules I through V of 21 C.F.R. Part 1308, as they may be revised from time to time.

(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 the penalty is rebated, suspended, or probated.

(10) "Disqualification" means any of the following:

(A) The suspension, revocation, or cancellation of a commercial driver's license by any state or jurisdiction of issuance;

(B) The withdrawal of a person's privilege to drive a commercial motor vehicle by any state or by any other jurisdiction as the result of a violation of any state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or

(C) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle.

(11) "Drive" means to operate or be in actual physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of Code Sections 40-5-151 and 40-5-152, "drive" includes operation or actual physical control of a motor vehicle anywhere in this state, in any other state, or in any foreign jurisdiction.

(12) "Driver" means any person who drives, operates, or is in actual physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic or who is required to hold a commercial driver's license.

(13) "Driver's license" means a license issued by a state to any individual which authorizes the individual to drive a motor vehicle.

(13.1) "Driving a vehicle under the influence" means committing any one or more of the following acts while a person is driving or in actual physical control of a moving commercial or noncommercial vehicle:

(A) Driving under the influence, as prescribed by Code Section 40-6-391 or any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction; or

(B) Refusal to submit to state administered chemical testing when requested to do so by a law enforcement officer.

(14) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle on its behalf.

(14.1) "Fatality" means the death of a person as a result of a motor vehicle crash.

(15) "Felony" means any offense under state or federal law that is punishable by death, by imprisonment for life, or by imprisonment for more than 12 months.

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

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

(18) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Section 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F or any quantity of a material listed as a select agent or toxin in Title 42 C.F.R. Part 73.

(18.1) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(18.2) "Major traffic violation" means a conviction of any of the following offenses or a conviction of

any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless otherwise specified, a noncommercial motor vehicle:

(A) Driving a vehicle under the influence in violation of Code Section 40-6-391;

(B) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, failure to report striking an unattended vehicle in violation of Code Section 40-6-271, failure to report striking a fixed object in violation of Code Section 40-6-272, or failure to report an accident in violation of Code Section 40-6-273;

(C) Except as provided in subsection (b) of Code Section 40-5-151, any felony in the commission of which a motor vehicle is used;

(D) Driving a commercial motor vehicle while the person's commercial driver's license or commercial driving privilege is revoked, suspended, canceled, or disqualified;

(E) Homicide by vehicle in violation of Code Section 40-6-393;

(F) Racing on highways or streets in violation of Code Section 40-6-186;

(G) Using a motor vehicle in fleeing or attempting to elude an officer in violation of Code Section 40-6-395;

(H) Fraudulent or fictitious use of or application for a license as provided in Code Section 40-5-120 or 40-5-125;

(I) Operating a motor vehicle with a revoked, canceled, or suspended registration in violation of Code Section 40-6-15;

(J) Violating Code Sections 16-8-2 through 16-8-9, if the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto or the cargo being transported therein or thereon, as set forth in paragraph (8) of subsection (a) of Code Section 16-8-12; or

(K) Refusing to submit to a state administered chemical test requested by a law enforcement officer pursuant to Code Section 40-5-55.

(19) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(19.1) "Noncommercial motor vehicle" means a motor vehicle or combination of vehicles not defined by the term "commercial motor vehicle" in this Code section or in the regulations of the department for the purpose of licensure.

(20) "Nonresident commercial driver's license" means a commercial driver's license issued by a state to any individual who resides in a foreign jurisdiction.

(21) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(21.1) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school sponsored events. The term does not include a bus used as a common carrier.

(22) (For effective date, see note.) "Serious traffic violation" means conviction of any of the

following offenses or a conviction of any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless otherwise specified, a noncommercial motor vehicle:

(A) Speeding 15 or more miles per hour above the posted speed limit;

(B) Reckless driving;

(C) Following another vehicle too closely;

(D) Improper or erratic lane change, including failure to signal a lane change;

(E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations, and excluding homicide by vehicle as defined in Code Section 40-6-393;

(F) A railroad grade crossing violation in a noncommercial motor vehicle;

(G) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(H) Driving a commercial motor vehicle without a commercial driver's license in the driver's immediate possession, and excluding such violations when the person's commercial driver's license or commercial driving privilege is suspended, revoked, canceled, or disqualified;

(I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and endorsements for the specific vehicle being operated or for the passengers or type of cargo transported; or

(J) Use of a wireless telecommunications device in violation of Code Section 40-6-241.2 while driving a commercial motor vehicle.

(23) "State" means a state of the United States and the District of Columbia.

(24) "Tank vehicle" means any commercial motor vehicle designed to transport any liquid or gaseous materials 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 federal law. However, the term "tank vehicle" shall not include a portable tank having a rated capacity under 1,000 gallons.

(25) "United States" means the 50 states and the District of Columbia.

HISTORY: Code 1981, § 40-5-142, enacted by Ga. L. 1989, p. 519, § 1; Ga. L. 1990, p. 8, § 40; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 618, § 1; Ga. L. 1992, p. 6, § 40; Ga. L. 1994, p. 1058, § 1; Ga. L. 2000, p. 951, § 5-51; Ga. L. 2002, p. 1378, § 4; Ga. L. 2003, p. 484, § 3; Ga. L. 2004, p. 631, § 40; Ga. L. 2005, p. 334, § 17-22/HB 501; Ga. L. 2006, p. 449, § 13/HB 1253; Ga. L. 2007, p. 117, § 2/HB 419; Ga. L. 2008, p. 324, § 40/SB 455; Ga. L. 2011, p. 355, § 15/HB 269.

View

← 1 of 1 →

[Book Browse](#)



O.C.G.A. § 40-5-142 (Copy w/ Cite)

Pages: 7

In

[About LexisNexis](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [Contact Us](#)
Copyright © 2012 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.