

**COMMERCIAL DRIVERS LICENSE RAILROAD
AND HIGHWAY GRADE REQUIREMENTS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

This act modifies the Public Safety Code by amending certain at grade railroad-highway crossing provisions and adding railroad-highway violations as grounds for disqualifying a commercial driver licence. The act provides for related civil penalties for employers.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-6-97, as last amended by Chapter 222, Laws of Utah 1999

41-6-98, as last amended by Chapter 33, Laws of Utah 1978

53-3-414, as last amended by Chapter 239, Laws of Utah 1995

53-3-415, as renumbered and amended by Chapter 234, Laws of Utah 1993

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6-97** is amended to read:

41-6-97. Railroad grade crossings -- Certain vehicles must stop -- Exceptions --

Rules.

(1) A driver of a commercial motor vehicle as defined under Section 53-3-102, shall upon approaching a railroad grade crossing:

(a) unless Subsection (2) applies, slow down and check that the tracks are clear of an approaching train;

(b) stop within 50 feet but not closer than 15 feet, from the nearest rail of the railroad track before reaching the crossing if the tracks are not clear;

(c) obey all traffic control devices or the directions of a peace officer, or other crossing official at the crossing; and

(d) before preceding over a railroad grade crossing:

(i) ensure that the vehicle has sufficient space to drive completely through a railroad grade crossing without stopping; and

(ii) ensure that the vehicle has sufficient undercarriage clearance to safely and completely pass through the crossing.

~~[(1)] (2)~~ (a) Except as provided in Subsection ~~[(2)] (3)~~, the driver of any vehicle described in ~~[rules issued under Subsection (3)] 49 CFR 392.10~~ shall stop within 50 feet but not ~~[less] closer~~ than 15 feet, from the nearest rail of the railroad track before crossing, at grade, any track of a railroad.

(b) While stopped, the driver shall look in both directions along the track for any sign of an approaching train and look and listen for signals indicating the approach of any train.

(c) The driver may proceed across the railroad track only when the movement may be made with reasonable safety.

(d) ~~[(1)]~~ After stopping as required and upon safely proceeding, the driver shall only cross the railroad track in a gear that ensures no necessity for manually changing gears while traversing the crossing.

~~[(ii) Subsection (1)(d)(i) does not apply to school buses with automatic transmissions that may shift gears while crossing the railroad track.]~~

(e) The driver may not manually shift gears while crossing the railroad track.

~~[(2)] (3)~~ This section does not apply at a:

(a) railroad grade crossing where traffic is controlled by a peace officer or ~~[flagperson]~~ or other crossing official;

(b) railroad grade crossing where traffic is regulated by a traffic-control signal; ~~[or]~~

(c) railroad grade crossing where an official traffic-control device gives notice that the stopping requirements of this section are not applicable~~[-];~~ or

~~[(3) (a) The Department of Transportation shall adopt necessary rules describing the vehicles that must comply with the stopping requirements of this section.]~~

~~[(b) In making the rules, the Department of Transportation shall give consideration to the number of passengers carried by the vehicle and the hazardous nature of any substance carried by the vehicle.]~~

~~[(c) The rules shall correlate with and where possible conform to the most recent regulations~~

of the United States Department of Transportation.]

(d) other railroad grade crossings excluded under 49 CFR 392.10.

Section 2. Section **41-6-98** is amended to read:

41-6-98. Duties respecting crawler type tractor, power shovel, derrick, or other equipment or structure.

(1) ~~[No]~~ A person ~~[shall]~~ may not operate or move any crawler type tractor, power shovel, derrick, roller or any equipment or structure having normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than 1/2 inch per foot of the distance between any two adjacent axles or in any event of less than nine inches measured above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of ~~[any such]~~ an intended crossing under this section shall be given to ~~[a station agent of such]~~ the railroad and a reasonable time shall be given to ~~[such]~~ the railroad to provide proper protection at ~~[such]~~ the crossing.

(3) (a) Before making ~~[any such]~~ a crossing under this section the person operating or moving ~~[any such]~~ the vehicle or equipment shall first stop ~~[the same]~~ within 50 feet but not [less] closer than [ten] 15 feet [nor more than fifty feet] from the nearest rail of ~~[such]~~ the railway ~~[and while so]~~.

(b) While stopped, the driver shall listen and look in both directions along ~~[such]~~ the track for any approaching train and for signals indicating the approach of a railroad train~~[-and shall not]~~.

(c) The driver may proceed [until] across the track only when the crossing can be made safely.

(4) ~~[No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be made under his direction]~~ The driver shall obey all traffic control devices or the directions of a peace officer or other crossing official at the crossing.

Section 3. Section **53-3-414** is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.

(1) A person who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first offense of:

(a) driving a commercial motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(b) driving a commercial motor vehicle while the concentration of alcohol in his blood, breath, or urine is .04 grams or more;

(c) leaving the scene of an accident involving a commercial motor vehicle he was driving;

(d) using a commercial motor vehicle in the commission of a felony;

(e) refusal to submit to a test to determine the concentration of alcohol in his blood, breath, or urine; or

(f) driving a commercial motor vehicle while the person's commercial driver license is disqualified, suspended, canceled, or revoked.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3) (a) Except as provided under Subsection (4), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of two or more of any of the offenses under Subsection (1) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section, who has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that meets the standards of the division, may apply to the division for reinstatement of his CDL.

(b) The applicant is not eligible for reinstatement until he has served a minimum disqualification period of ten years and has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(c) If a reinstated driver is subsequently convicted of another disqualifying offense under this

section, he is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if he uses a commercial motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days from driving a commercial motor vehicle if he is convicted of two serious traffic violations and is disqualified for not less than 120 days if he is convicted of three serious traffic violations that:

- (a) occur within three years of each other;
- (b) arise from separate incidents; and
- (c) involve the use or operation of a commercial motor vehicle.

(7) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

- (a) 90 days but not more than one year if the driver is convicted of a first violation;
- (b) one year but not more than five years if, during any ten-year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(c) three years but not more than five years if, during any ten-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents; ~~or~~

(d) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(e) three years but not more than five years if, during any ten-year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle

designed to transport 16 or more passengers, including the driver.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of his driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6-97, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

~~[(9)]~~ (10) (a) The division shall update its records and notify the CDLIS within ten days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within ten days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within ten days after the action is taken.

~~[(10)]~~ (11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division; or

(iii) driver no longer meets the fitness standards required to obtain a CDL.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

Section 4. Section **53-3-415** is amended to read:

53-3-415. Limitations on employment of commercial motor vehicle drivers.

(1) An employer shall require each applicant for employment as a commercial motor vehicle driver to provide the information required in Section 53-3-416 regarding the applicant's employment history.

(2) An employer may not knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period when the driver has:

- (a) a CDL that is suspended, revoked, or canceled by any state;
- (b) lost the privilege to drive a commercial motor vehicle in a state;
- (c) been disqualified from driving a commercial motor vehicle; or
- (d) more than one license.

(3) An employer who violates Subsection (2)(a), (b), or (c) during the period the driver has been disqualified under Subsection 53-3-414(9), is subject to a civil penalty of not more than \$10,000.