

Sec. 5. Section 135.105D, subsection 2, paragraph c, Code Supplement 2007, is amended by striking the paragraph.

Sec. 6. Section 135.105D, subsection 3, Code Supplement 2007, is amended to read as follows:

3. The board of directors of each school district and the authorities in charge of each nonpublic school shall furnish the department, in the format specified by the department, within sixty days after the first official day start of the school calendar, evidence that each child a list of the children enrolled in any elementary school has either been tested as required in subsection 2 or received a waiver under subsection 4 kindergarten. The department shall notify the school districts and nonpublic schools of the children who have not met the blood lead testing requirements set forth in this section and shall work with the school districts, nonpublic schools, and the local childhood lead poisoning prevention programs to assure that these children are tested as required by this section.

Approved March 26, 2008

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## CHAPTER 1021

### COMMERCIAL MOTOR VEHICLE REGULATION — OPERATORS AND EMPLOYERS

S.F. 2156

**AN ACT** relating to regulation of commercial motor vehicle operators by the state department of transportation and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321.1, subsection 11, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. “Employer” means any person, including the United States, a state, the District of Columbia, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns an employee to operate such a vehicle.

Sec. 2. Section 321.1, subsection 11, paragraphs f, g, and h, Code 2007, are amended to read as follows:

f. g. “Foreign jurisdiction” means a jurisdiction outside the fifty United States, the District of Columbia, and Canada.

g. h. “Nonresident commercial driver’s license” means a commercial driver’s license issued to a person who is not a resident of the United States or Canada.

h. i. “Tank vehicle” means a commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank having a rated capacity of one thousand one or more gallons that is either permanently or temporarily attached to the vehicle or chassis. For purposes of this paragraph, “tank” does not include a portable tank with a rated capacity of less than one thousand gallons or a permanent tank with a rated capacity of one hundred nineteen gallons or less.

Sec. 3. Section 321.1, subsection 15, Code 2007, is amended to read as follows:

15. “Conviction” means a final conviction, a final administrative ruling or determination, or an unvacated forfeiture of bail or collateral deposited to secure a person’s appearance in court.

Sec. 4. Section 321.1, subsection 42, paragraph a, Code 2007, is amended to read as follows:

a. "Motor vehicle" means a vehicle which is self-propelled, ~~but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires and are not operated upon rails.~~

Sec. 5. Section 321.208, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. Operating a commercial motor vehicle involved in a fatal accident and being convicted of ~~a moving traffic violation that contributed to the fatality, or manslaughter or vehicular homicide.~~

Sec. 6. Section 321.208, subsection 6, Code 2007, is amended to read as follows:

6. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license if the convictions result in the revocation, cancellation, or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges:

a. Operating a commercial motor vehicle upon a highway when not issued a commercial driver's license.

b. Operating a commercial motor vehicle upon a highway when not issued the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

c. Operating a commercial motor vehicle upon a highway without immediate possession of a driver's license valid for the vehicle operated.

d. Speeding fifteen miles per hour or more over the legal speed limit.

e. Reckless driving.

f. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.

g. Following another motor vehicle too closely.

h. Improper lane changes in violation of section 321.306.

Sec. 7. Section 321.208, subsection 7, Code 2007, is amended by striking the subsection.

Sec. 8. Section 321.208, subsection 8, Code 2007, is amended to read as follows:

8. The period of disqualification under subsections subsection 6 and 7 shall be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period. Multiple periods of disqualification shall be consecutive.

Sec. 9. Section 321.208, subsection 10, paragraph a, Code 2007, is amended to read as follows:

a. For ~~ninety days~~ no less than one hundred eighty days and no more than one year upon conviction for the first violation of an out-of-service order; for ~~one year, no less than two and not more than five years~~ upon conviction for a second violation of an out-of-service order in separate incidents within a ten-year period; and for not less than three and not more than five years upon conviction for a third or subsequent violation of an out-of-service order in separate incidents within a ten-year period.

Sec. 10. Section 321.208A, Code 2007, is amended to read as follows:

321.208A OPERATION IN VIOLATION OF OUT-OF-SERVICE ORDER — PENALTY PENALTIES.

1. A person required to hold a commercial driver's license to operate a commercial motor vehicle shall not operate a commercial motor vehicle on the highways of this state in violation of an out-of-service order issued by a peace officer for a violation of the out-of-service rules

adopted by the department. A driver who violates an out-of-service order shall be subject to a fine of not less than two thousand five hundred dollars upon conviction for the first violation of an out-of-service order and not less than five thousand dollars for a second or subsequent violation of an out-of-service order in separate incidents within a ten-year period.

2. An employer shall not knowingly allow, require, permit, or authorize an employee to drive a commercial motor vehicle in violation of such an out-of-service order. A person who violates this section shall be subject to a scheduled fine of one hundred dollars under section 805.8A, subsection 13, paragraph "c". An employer who violates this subsection shall be subject to a fine of not less than two thousand seven hundred fifty dollars and not more than twenty-five thousand dollars.

Sec. 11. NEW SECTION. 321.343A EMPLOYER VIOLATIONS — PENALTY.

An employer shall not knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in violation of section 321.341 or 321.343 or any other federal or local law or regulation pertaining to railroad grade crossings. An employer who violates this section shall be subject to a fine of not more than ten thousand dollars.

Sec. 12. Section 321.344A, subsection 2, Code 2007, is amended to read as follows:

2. A peace officer may initiate an investigation not more than seven calendar days after receiving a report of a violation pursuant to this section. The peace officer may request that the owner of the vehicle supply information identifying the driver of the vehicle in accordance with section 321.484, or in the case of a commercial motor vehicle, the peace officer may request that the employer of the driver provide information identifying the driver of the vehicle.

a. If from the investigation, the peace officer is able to identify the driver of the vehicle and has reasonable cause to believe a violation has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail on the driver of the vehicle.

b. If, from the investigation, the peace officer has reasonable cause to believe that a violation occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation on the owner of the motor vehicle or, in the case of a commercial motor vehicle, on the employer of the driver. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.341, 321.342, 321.343, or 321.344, together with proof that the defendant named in the citation was the owner of the motor vehicle or, in the case of a commercial motor vehicle, the employer of the driver, at the time the violation occurred, constitutes a permissible inference that the owner or employer was the driver person who committed the violation.

c. For purposes of this subsection, "owner" means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Sec. 13. Section 805.8A, subsection 13, paragraph c, Code 2007, is amended to read as follows:

c. For violations under sections ~~321.208A~~, 321.364, 321.450, 321.460, and 452A.52, the scheduled fine is one hundred dollars.