

Article 2C.

Commercial Driver License.

§ 20-37.10. Title of Article.

This Article may be cited as the Commercial Driver License Act. (1989, c. 771, s. 2.)

§ 20-37.11. Purpose.

The purpose of this Article is to implement the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. Chapter 36, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

- (1) Permitting commercial drivers to hold one license;
- (2) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses; and
- (3) Strengthening commercial driver licensing and testing standards.

To the extent that this Article conflicts with general driver licensing provisions, this Article prevails. Where this Article is silent, the general driver licensing provisions apply. (1989, c. 771, s. 2.)

§ 20-37.12. Commercial drivers license required.

(a) On or after April 1, 1992, no person shall operate a commercial motor vehicle on the highways of this State unless he has first been issued and is in immediate possession of a commercial drivers license with applicable endorsements valid for the vehicle he is driving; provided, a person may operate a commercial motor vehicle after being issued and while in possession of a commercial driver learner's permit and while accompanied by the holder of a commercial drivers license valid for the vehicle being driven.

(b) The out-of-service criteria as referred to in 49 C.F.R. Subchapter B apply to a person who drives a commercial motor vehicle. No person shall drive a commercial motor vehicle on the highways of this State in violation of an out-of-service order.

(c) Repealed by Session Laws 1991, c. 726, s. 15.

(d) Any person who is not a resident of this State, who has been issued a commercial drivers license by his state of residence, or who holds any license recognized by the federal government that grants the privilege of driving a commercial motor vehicle, who has that license in his immediate possession, whose privilege to drive any motor vehicle is not suspended, revoked, or cancelled, and who has not been disqualified from driving a commercial motor vehicle shall be permitted without further examination or licensure by the Division to drive a commercial motor vehicle in this State.

(e) G.S. 20-7 sets the time period in which a new resident of North Carolina must obtain a license from the Division. The Commissioner may establish by rule the conditions under which the test requirements for a commercial drivers license may be waived for a new resident who is licensed in another state.

(f) A person shall not be convicted of failing to carry a commercial drivers license if, by the date the person is required to appear in court for the violation, the person produces to the court a commercial drivers license issued to the person that was valid on the date of the offense. (1989, c. 771, s. 2; 1991, c. 726, s. 15; 1997-122, s. 5; 1998-149, s. 4; 2003-397, s. 3; 2009-416, s. 5.)

§ 20-37.13. Commercial drivers license qualification standards.

(a) No person shall be issued a commercial drivers license unless the person meets all of the following requirements:

- (1) Is a resident of this State.
- (2) Is 21 years of age.
- (3) Has passed a knowledge test and a skills test for driving a commercial motor vehicle that comply with minimum federal standards established by federal regulation enumerated in 49 C.F.R., Part 383, Subparts F, G, and H.
- (4) Has satisfied all other requirements of the Commercial Motor Vehicle Safety Act in addition to other requirements of this Chapter or federal regulation.
- (5) Has held a commercial learner's permit for a minimum of 14 days.

For the purpose of skills testing and determining commercial drivers license classification, only the manufacturer's GVWR shall be used.

The tests shall be prescribed and conducted by the Division. Provided, a person who is at least 18 years of age may be issued a commercial drivers license if the person is exempt from, or not subject to, the age requirements of the federal Motor Carrier Safety Regulations contained in 49 C.F.R., Part 391, as adopted by the Division.

(b) The Division may permit a person, including an agency of this or another state, an employer, a private driver training facility, or an agency of local government, to administer the skills test specified by this section, provided:

- (1) The test is the same as that administered by the Division; and
- (2) The third party has entered into an agreement with the Division which complies with the requirements of 49 C.F.R. § 383.75. The Division may charge a fee to applicants for third-party testing authority in order to investigate the applicants' qualifications and to monitor their program as required by federal law.

(b1) The Division shall allow a third party to administer a skills test for driving a commercial motor vehicle pursuant to subsection (b) of this section any day of the week.

(c) Prior to October 1, 1992, the Division may waive the skills test for applicants licensed at the time they apply for a commercial drivers license if:

- (1) For an application submitted by April 1, 1992, the applicant has not, and certifies that he or she has not, at any time during the two years immediately preceding the date of application done any of the following and for an application submitted after April 1, 1992, the applicant has not, and certifies that he or she has not, at any time during the two years preceding April 1, 1992:
 - a. Had more than one drivers license, except during the 10-day period beginning on the date he or she is issued a drivers license, or unless, prior to December 31, 1989, he or she was required to have more than one license by a State law enacted prior to June 1, 1986;
 - b. Had any drivers license or driving privilege suspended, revoked, or cancelled;
 - c. Had any convictions involving any kind of motor vehicle for the offenses listed in G.S. 20-17 or had any convictions for the offenses listed in G.S. 20-17.4;
 - d. Been convicted of a violation of State or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident; or

- e. Refused to take a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2; and
- (2) The applicant certifies, and provides satisfactory evidence, that he or she is regularly employed in a job requiring the operation of a commercial motor vehicle, and he or she either:
- a. Has previously taken and successfully completed a skills test that was administered by a state with a classified licensing and testing system and the test was behind the wheel in a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed; or
 - b. Has operated for the relevant two-year period under subpart (1)a. of this subsection, a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed.
- (c1) The Division may waive the skills test for any qualified military applicant at the time the applicant applies for a commercial drivers license if the applicant is currently licensed at the time of application and meets all of the following:
- (1) The applicant has passed all required written knowledge exams.
 - (2) The applicant has not, and certifies that the applicant has not, at any time during the two years immediately preceding the date of application done any of the following:
 - a. Had any drivers license or driving privilege suspended, revoked, or cancelled.
 - b. Had any convictions involving any kind of motor vehicle for the offenses listed in G.S. 20-17 or had any convictions for the offenses listed in G.S. 20-17.4.
 - c. Been convicted of a violation of military, State, or local laws relating to motor vehicle traffic control, other than a parking violation, which violation arose in connection with any reportable traffic accident.
 - d. Refused to take a chemical test when charged with an implied consent offense, as defined in G.S. 20-16.2.
 - e. Had more than one drivers license, except for a drivers license issued by the military.
 - (3) The applicant certifies, and provides satisfactory evidence on the date of application, that the applicant is a retired, discharged, or current member of an active or reserve component of the Armed Forces of the United States and is regularly employed or was regularly employed within the one-year period immediately preceding the date of application in a military position requiring the operation of a commercial motor vehicle, and the applicant meets either of the following requirements:
 - a. Repealed by Session Laws 2013-201, s. 1, effective June 26, 2013.
 - b. Has operated for the two-year period immediately preceding the date of application a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed, and has taken and successfully completed a skills test administered by the military.

- c. For an applicant who is a retired or discharged member of an active or reserve component of the Armed Forces of the United States, the applicant (i) has operated for the two-year period immediately preceding the date of retirement or discharge a vehicle representative of the class and, if applicable, the type of commercial motor vehicle for which the applicant seeks to be licensed, and has taken and successfully completed a skills test administered by the military, (ii) has retired or received either an honorable or general discharge, and (iii) has retired or been discharged from the Armed Forces within the one-year period immediately preceding the date of application.

(c2) The one-year period referenced in subdivision (3) of subsection (c1) of this section applies unless a different period is provided by federal law. An applicant may provide his or her Form DD 214, "Certificate of Release or Discharge from Active Duty," and his or her drivers license issued by the military, to satisfy the certification required by subdivision (3) of subsection (c1) of this section. An applicant who is retired or discharged must provide a drivers license issued by the military that was valid at the time of his or her retirement or discharge when using the process in this subsection to satisfy the certification required by subdivision (3) of subsection (c1) of this section.

(c3) The Division may waive the knowledge and skills test for a qualified military applicant who has been issued a military license that authorizes the holder to operate a motor vehicle representative of the class and endorsements for which the applicant seeks to be licensed. The applicant must certify and provide satisfactory evidence on the date of application that the applicant meets all of the following requirements:

- (1) The applicant is a current or former member of an active or reserve component of the Armed Forces of the United States and was issued a military license that authorized the applicant to operate a vehicle that is representative of the class and type of commercial motor vehicle for which the applicant seeks to be licensed and whose military occupational specialty or rating are eligible for waiver, as allowed by the Federal Motor Carrier Safety Administration.
- (2) The applicant is or was, within the year prior to the date of application, regularly employed in a military position requiring operation of a motor vehicle representative of the class of commercial motor vehicle for which the applicant seeks to be licensed.
- (3) The applicant meets the qualifications listed in subdivision (2) of subsection (c1) of this section.

(d) A commercial drivers license or learner's permit shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's drivers license is suspended, revoked, or cancelled in any state; nor shall a commercial drivers license be issued unless the person who has applied for the license first surrenders all other drivers licenses issued by the Division or by another state. If a person surrenders a drivers license issued by another state, the Division must return the license to the issuing state for cancellation.

(e) A commercial learner's permit may be issued to an individual who holds a regular Class C drivers license and has passed the knowledge test for the class and type of commercial motor vehicle the individual will be driving. The permit is valid for a period not to exceed 180 days. The fee for a commercial driver learner's permit is the same as the fee set by G.S. 20-7 for a regular learner's permit.

(f) Notwithstanding subsection (e) of this section, a commercial driver learner's permit with a P or S endorsement shall not be issued to any person who is required to register under Article 27A of Chapter 14 of the General Statutes.

(g) The issuance of a commercial driver learner's permit is a precondition to the initial issuance of a commercial drivers license. The issuance of a commercial driver learner's permit is also a precondition to the upgrade of a commercial drivers license if the upgrade requires a skills test.

(h) The Division shall promptly notify any driver who fails to meet the medical certification requirements in accordance with 49 C.F.R. § 383.71. The Division shall give the driver 60 days to provide the required documentation. If the driver fails to provide the required commercial drivers license medical certification documentation within the period allowed, the Division shall automatically downgrade a commercial drivers license to a class C regular drivers license. (1989, c. 771, s. 2; 1991, c. 726, s. 16; 1991 (Reg. Sess., 1992), c. 916, s. 1; 2005-349, s. 8; 2009-274, s. 4; 2009-491, s. 5; 2009-494, s. 1; 2011-183, s. 22; 2013-195, s. 1; 2013-201, s. 1; 2014-115, s. 28.5(a), (b); 2015-115, s. 1; 2016-90, s. 6(b); 2018-74, s. 9(a).)

§ 20-37.13A. Medical qualifications standards; waiver for intrastate drivers.

(a) Medical Qualifications Standards Applicable to Commercial Drivers. – All commercial drivers license holders and applicants for commercial drivers licenses must meet the medical qualifications standards set forth in 49 C.F.R. § 391.41. As allowed under G.S. 20-9(g)(4)h., the Division may release information it deems necessary to any other State or federal government agency for purposes of determining an individual's ability to safely operate a commercial motor vehicle or to obtain a commercial drivers license.

(b) Intrastate Medical Waiver. – Any person unable to meet the standards in 49 C.F.R. § 391.41, as adopted by the Division, may apply for a medical waiver that, if approved, will authorize intrastate operation of a commercial motor vehicle. Applications for the medical waiver must be submitted to the Division in writing. Waivers may be granted for no more than two years.

(c) Intrastate Operation Subject to Waiver. – Any person granted an intrastate commercial drivers license medical waiver is permitted to maintain a commercial drivers license and operate a commercial motor vehicle in intrastate commerce subject to the following conditions:

- (1) The commercial drivers license must display a restriction to signify it is only valid for intrastate operation.
- (2) The holder of the license must submit to medical recertification at intervals set by the Division.
- (3) The holder of the license must timely submit all documentation required by the Division.
- (4) Failure to meet any condition within the time period allowed will result in an automatic downgrade of the license holder's commercial drivers license to a Class C regular drivers license. (2016-90, s. 6(e); 2018-74, s. 10(c).)

§ 20-37.14. Nonresident commercial driver license.

The Division may issue a nonresident commercial driver license (NRCDL) to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R., Part 383. The word "Nonresident" must appear on the face of the NRCDL. An applicant must surrender any NRCDL issued by another state. Prior

to issuing a NRCDL, the Division shall establish the practical capability of revoking, suspending, or cancelling the NRCDL and disqualifying that person with the same conditions applicable to the commercial driver license issued to a resident of this State. (1989, c. 771, s. 2.)

§ 20-37.14A. Prohibit issuance or renewal of certain categories of commercial drivers licenses to sex offenders.

(a) Effective December 1, 2009, the Division shall not issue or renew a commercial drivers license with a P or S endorsement to any person who is required to register under Article 27A of Chapter 14 of the General Statutes.

(b) The Division shall not issue a commercial drivers license with a P or S endorsement to an applicant until the Division has searched both the statewide registry and the National Sex Offender Public Registry to determine if the person is currently registered as a sex offender in North Carolina or another state.

(1) If the Division finds that the person is currently registered as a sex offender in either North Carolina or another state, the Division, in compliance with subsection (a) of this section, shall not issue a commercial drivers license with a P or S endorsement to the person.

(2) If the Division is unable to access either the statewide registry or all of the states' information contained in the National Sex Offender Public Registry, but the person is otherwise qualified to obtain a commercial drivers license with a P or S endorsement, then the Division shall issue the commercial drivers license with the P or S endorsement but shall first require the person to sign an affidavit stating that the person does not appear on either the statewide registry or the National Sex Offender Public Registry. The Division shall search the statewide registry and the National Sex Offender Public Registry for the person within a reasonable time after access to the statewide registry or the National Sex Offender Public Registry is restored. If the person does appear in either registry, the person is in violation of this section, and the Division shall immediately cancel the commercial drivers license and shall promptly notify the sheriff of the county where the person resides of the offense.

(3) Any person denied a commercial license with a P or S endorsement or who is disqualified from driving a commercial motor vehicle that requires a commercial drivers license with a P or S endorsement by the Division pursuant to this subsection shall have a right to file a petition within 30 days thereafter for a hearing in the matter, in the superior court of the county where the person resides, or to the resident judge of the district or judge holding the court of that district, or special or emergency judge holding a court in such district. The court or judge is vested with jurisdiction to hear the petition, and it shall be the duty of the judge or court to set the matter for hearing upon 30 days' written notice to the Division, and thereupon to take testimony and examine into the facts of the case and to determine whether the petitioner is entitled to a commercial drivers license with a P or S endorsement under the provisions of this subsection.

(c) Any person who makes a false affidavit, or who knowingly swears or affirms falsely, to any matter or thing required by the terms of this section to be affirmed to or sworn is guilty of a Class I felony. (2009-491, s. 6.)

§ 20-37.15. Application for commercial drivers license.

(a) An application for a commercial drivers license must include the information required by G.S. 20-7 for a regular drivers license and a consent to release driving record information.

(a1) The application must be accompanied by a nonrefundable application fee of forty-three dollars and 25 cents (\$43.25). This fee does not apply in any of the following circumstances:

- (1) When an individual surrenders a commercial driver learner’s permit issued by the Division when submitting the application.
- (2) When the application is to renew a commercial drivers license issued by the Division.

This fee shall entitle the applicant to three attempts to pass the written knowledge test without payment of a new fee. No application fee shall be charged to an applicant eligible for a waiver under G.S. 20-37.13(c).

(b) When the holder of a commercial drivers license changes his name or residence address, an application for a duplicate shall be made as provided in G.S. 20-7.1 and a fee paid as provided in G.S. 20-14. (1989, c. 771, s. 2; 1991, c. 726, s. 17; 1993 (Reg. Sess., 1994), c. 750, s. 3; 2005-276, s. 44.1(f); 2015-241, s. 29.30(f).)

§ 20-37.16. Content of license; classifications and endorsements; fees.

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

- (1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.
- (2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.
- (3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

<u>Endorsement</u>	<u>Vehicles That Can Be Driven</u>
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
S	School bus
T	Double trailers
X	Tank vehicles carrying hazardous materials.

To qualify for any of the above endorsements, an applicant shall pass a knowledge test. To obtain an H or an X endorsement, an applicant must take a test. This requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement. An applicant who has an H or an X endorsement issued by another state who applies for an H or an X endorsement must take a test unless the person has passed a test that covers the information set out in 49 C.F.R. § 383.121 within the preceding two years. For purposes of this

subsection, the term "motorcycle" shall not include autocycles. Autocycles shall be subject to the requirements under this section for motor vehicles.

(c1) Expired.

(c2) Expiration of H and X Endorsements. – Hazardous materials endorsements shall be renewed every five years or less so that individuals subject to a Transportation Security Administration security screening required pursuant to 49 C.F.R. § 383.141 may receive the screening and be authorized to renew the endorsements of H or X to transport hazardous materials. Notwithstanding G.S. 20-7(f), a commercial drivers license that contains an H or X endorsement as defined in subsection (c) of this section shall expire on the date of expiration of the licensee's security threat assessment conducted by the Transportation Security Administration of the United States Department of Homeland Security. When the commercial drivers license also contains an S endorsement and the licensee is certified to drive a school bus in this State, the commercial drivers license shall expire as provided in G.S. 20-7(f). The H and X endorsements on a commercial drivers license shall expire when the commercial drivers license expires.

(d) The fee for a Class A, B, or C commercial drivers license is twenty-one dollars and fifty cents (\$21.50) for each year of the period for which the license is issued. The fee for each endorsement is four dollars and twenty-five cents (\$4.25) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to employees of the Driver License Section of the Division who are designated by the Commissioner.

(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

- (1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military purposes.
- (2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute governmental functions, including, but not limited to, necessary maintenance, training, or required operation for official business of the department.
- (3) A farm vehicle that meets all of the following criteria:
 - a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.
 - b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.
 - c. Is not used in the operations of a for-hire motor carrier.
 - d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation.

(f) For the purposes of this section, the term "school bus" has the same meaning as in 49 C.F.R. § 383.5. (1989, c. 771, s. 2; 1991, c. 726, s. 18; 1993, c. 368, s. 4; 1993 (Reg. Sess., 1994), c. 750, ss. 4, 6; 1995 (Reg. Sess., 1996), c. 695, s. 1; c. 756, s. 5; 1998-149, s. 5; 2003-397, ss. 4, 5; 2005-276, s. 44.1(g); 2005-349, s. 9; 2011-228, s. 1; 2012-85, s. 3; 2015-163, s. 3; 2015-241, s. 29.30(g); 2018-74, s. 15.)

§ 20-37.17. Record check and notification of license issuance.

Before issuing a commercial driver license, the Division shall obtain driving record information from the Commercial Driver License Information System (CDLIS), the National Driver Register, and from each state in which the person has been licensed.

Within 10 days after issuing a commercial driver license, the Division shall notify CDLIS of the issuance of the commercial driver license, providing all information necessary to ensure identification of the person. (1989, c. 771, s. 2.)

§ 20-37.18. Notification required by driver.

(a) Any driver holding a commercial driver license issued by this State who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control in any other state, other than parking violations, shall notify the Division in the manner specified by the Division within 30 days of the date of the conviction.

(b) Any driver holding a commercial driver license issued by this State who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within 30 days of the date of conviction.

(c) Any driver whose commercial driver license is suspended, revoked, or cancelled by any state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out-of-service order, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.

(d) Any person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:

- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;
- (2) The dates between which the applicant drove for each employer; and
- (3) The reason for leaving that employer.

The applicant shall certify that all information furnished is true and complete. Any employer may require an applicant to provide additional information. (1989, c. 771, s. 2.)

§ 20-37.19. Employer responsibilities.

(a) Each employer shall require the applicant to provide the information specified in G.S. 20-37.18(c).

(b) No employer shall knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

- (1) In which the driver has had his commercial driver license suspended, revoked, or cancelled by any state, is currently disqualified from driving a commercial vehicle, or is subject to an out-of-service order in any state; or
- (2) In which the driver has more than one driver license; [or]
- (3) In which the driver, the commercial motor vehicle being operated, or the motor carrier operation, is subject to an out-of-service order.

(c) The employer of any employee or applicant who tests positive or of any employee who refuses to participate in a drug or alcohol test required under 49 C.F.R. Part 382 and 49 C.F.R. Part 655 must notify the Division in writing within five business days following the employer's receipt

of confirmation of a positive drug or alcohol test or of the employee's refusal to participate in the test. The notification must include the driver's name, address, drivers license number, social security number, and results of the drug or alcohol test or documentation from the employer of the refusal by the employee to take the test. (1989, c. 771, s. 2; 2005-156, s. 1; 2007-492, s. 2; 2009-416, s. 6.)

§ 20-37.20. Notification of traffic convictions.

(a) Out-of-state Resident. – Within 10 days after receiving a report of the conviction of any nonresident holder of a commercial driver license for any violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial vehicle, the Division shall notify the driver licensing authority in the licensing state of the conviction.

(b) **(For effective date, see note)** Foreign Diplomat. – The Division must notify the United States Department of State within 15 days after it receives one or more of the following reports for a holder of a drivers license issued by the United States Department of State:

- (1) A report of a conviction for a violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations.
- (2) A report of a civil revocation order. (1989, c. 771, s. 2; 2001-498, s. 7; 2002-159, s. 31; 2006-209, s. 7.)

§ 20-37.20A. Driving record notation for testing positive in a drug or alcohol test.

Upon receipt of notice pursuant to G.S. 20-37.19(c) of positive result in an alcohol or drug test of a person holding a commercial drivers license, and subject to any appeal of the disqualification pursuant to G.S. 20-37.20B, the Division shall place a notation on the driving record of the driver. A notation of a disqualification pursuant to G.S. 20-17.4(l) shall be retained on the record of a person for a period of three years following the end of any disqualification of that person. (2005-156, s. 3; 2008-175, s. 2.)

§ 20-37.20B. Appeal of disqualification for testing positive in a drug or alcohol test.

Following receipt of notice pursuant to G.S. 20-37.19(c) of a positive test in an alcohol or drug test, the Division shall notify the driver of the pending disqualification of the driver to operate a commercial vehicle and the driver's right to a hearing if requested within 20 days of the date of the notice. If the Division receives no request for a hearing, the disqualification shall become effective at the end of the 20-day period. If the driver requests a hearing, the disqualification shall be stayed pending outcome of the hearing. The hearing shall take place at the offices of the Division of Motor Vehicles in Raleigh. The hearing shall be limited to issues of testing procedure and protocol. A copy of a positive test result accompanied by certification by the testing officer of the accuracy of the laboratory protocols that resulted in the test result shall be prima facie evidence of a confirmed positive test result. The decision of the Division hearing officer may be appealed in accordance with the procedure of G.S. 20-19(c6). (2005-156, s. 4.)

§ 20-37.21. Penalties.

(a) Any person who drives a commercial motor vehicle in violation of G.S. 20-37.12 shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not less than two hundred fifty dollars (\$250.00) for a first offense and not less than five hundred dollars (\$500.00) for a

second or subsequent offense. In addition, the person shall be subject to a civil penalty pursuant to the provisions of 49 C.F.R. § 383.53(b).

(b) Any person who violates G.S. 20-37.18 shall have committed an infraction and, upon being found responsible, shall pay a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(c) Any employer who violates G.S. 20-37.19 shall have committed an infraction and, upon being found responsible, shall pay a penalty of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000). In addition, upon conviction, the employer shall be subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) nor more than eleven thousand dollars (\$11,000).

(d) An employer who knowingly allows, requires, permits, or otherwise authorizes an employee to violate any railroad grade requirements contained in G.S. 20-142.1 through G.S. 20-142.5 shall pay a civil penalty of not more than ten thousand dollars (\$10,000). (1989, c. 771, s. 2; 1993, c. 539, s. 327; 1994, Ex. Sess., c. 24, s. 14(c); 2005-349, s. 10; 2009-416, s. 7.)

§ 20-37.22. Rule making authority.

The Division may adopt any rules necessary to carry out the provisions of this Article. (1989, c. 771, s. 2.)

§ 20-37.23. Authority to enter agreements.

The Commissioner shall have the authority to execute or make agreements, arrangements, or declarations to carry out the provisions of this Article. (1989, c. 771, s. 2.)

§ 20-38: Repealed by Session Laws 1973, c. 1330, s. 39.