

Article 37-10

Commercial Drivers License

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CHAPTER 37-10-01

OUT-OF-SERVICE ORDER VIOLATIONS

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37-10-01-02. Penalty for violating out-of-service order. A person convicted of violating an out-of-service order issued under section 37-10-01-01 is deemed to have committed the offense of driving under suspension under North Dakota Century Code section 39-06-42. The suspension periods for driving a commercial motor vehicle in violation of the out-of-service order are:

1. For a first violation, the driver must be suspended for a period of ~~ninety~~ one hundred eighty days;
2. For a second violation within ten years arising from separate incidents, the driver must be suspended for a period of ~~one year~~ two years ; and

3. For a third or subsequent violation within ten years arising from separate incidents, the driver must be suspended for a period of three years.

If the violation occurred while transporting hazardous material required to be placarded or while operating a motor vehicle designed to transport sixteen or more passengers including the driver, the suspension period must be one hundred eighty days for a first violation and three years for each subsequent violation arising from a separate incident during a ten-year period.

History: Effective June 1, 1998; amended effective _____.

General Authority: NDCC 39-06.2-14

Law Implemented: NDCC 39-06.2-10.9; 49 CFR 383.51

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37-10-01-05. Extension of commercial license suspension or revocation. The director, who shall follow the administrative hearing procedures provided in North Dakota Century Code section 39-06.2-10, upon receiving a record of the conviction of any person upon a charge of driving a commercial motor vehicle while the commercial driver's license or commercial driving privileges of the person are suspended, ~~or~~ revoked, or canceled shall extend the period of that suspension, ~~or~~ revocation, or cancelation or otherwise disqualified for:

1. A period of one year if the operator's record shows the person's commercial driver's license or commercial driving privileges have not previously been suspended, revoked, canceled, or otherwise disqualified;
2. Lifetime if the operator's record shows the person's commercial driver's license or commercial driving privileges have previously been suspended, revoked, canceled, or otherwise disqualified for any of the major offenses under 49 CFR 383.51(b); or

3. A period of three years, if the driver is convicted of a first violation of driving while privileges are suspended, revoked, canceled , or otherwise disqualified while transporting hazardous materials required to be placarded, or while operating commercial motor vehicles designed to transport more than sixteen passengers, including the driver.

History: Effective January 1, 2006; amended effective _____ .

General Authority: NDCC 39-06.2-14

Law Implemented: NDCC 39-06.2-10.9; 49 CFR 383.51

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37-10-01-07. Civil penalty for driver conviction of out-of-service order. Any driver who is convicted of violating an out-of-service order in which the driver, the vehicle, or the motor carrier operation has been placed out of service, is subject to a civil penalty of not less than ~~one~~ two thousand ~~one~~ five hundred dollars for a first conviction and not ~~more~~ less than ~~two~~ five thousand ~~seven hundred fifty~~ dollars for a second or subsequent conviction. Prior to a civil penalty being imposed, a driver has a right to an administrative hearing as provided for in North Dakota Century Code section 39-06.2-10.

History: Effective January 1, 2006; amended effective _____ .

General Authority: NDCC 39-06.2-10.9

Law Implemented: NDCC 49 CFR 383.53

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37-10-01-08. Civil penalty for employer conviction of out-of-service order. Any employer who is convicted of knowingly allowing, requiring, permitting, or authorizing a driver to operate a commercial motor vehicle during any period in which the driver is subject to an out-of-service order, the commercial motor vehicle the driver is operating is subject to an out-of-service order, or the motor carrier operation is subject to an out-of-service order, is

subject to a civil penalty of not less than two thousand seven hundred fifty dollars and not more than ~~eleven~~ twenty five thousand dollars. Prior to a civil penalty being imposed, an employer has a right to an administrative hearing as provided for in North Dakota Century Code section 39-06.2-10.

History: Effective January 1, 2006; amended effective _____.

General Authority: NDCC 39-06.2-14

Law Implemented: NDCC 39-06.2-10.9; 49 CFR 383.53

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CHAPTER 37-10-03 HAZARDOUS MATERIAL ENDORSEMENT

Section

37-10-03-01

Transportation Security Administration Approval of
Hazardous Materials Endorsement Issuances

37-10-03-01. Transportation security administration approval of hazardous materials endorsement issuances. The director may not issue, renew, upgrade, or transfer a hazardous materials endorsement for a commercial driver's license to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the Transportation Security Administration has determined that the individual does not pose a security risk warranting denial of the endorsement.

The director shall immediately revoke or deny an individual's hazardous materials endorsement if the Transportation Security Administration serves the state with an Initial Determination of Threat Assessment and Immediate Revocation. The director shall, within 15 days, revoke or deny the individual's hazardous materials endorsement if the Transportation Security Administration serves the state with a Final Determination of Threat Assessment.

History: Effective _____.

General Authority: NDCC 39-06.2-14

Law Implemented: 49 CFR 383.141; 49 CFR 1572.13