

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 136 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: H1/28/05

A Bill

HOUSE BILL 1205

4
5 By: Representative Rosenbaum
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8 **For An Act To Be Entitled**

9 AN ACT TO REQUIRE COMMERCIAL DRIVERS THAT
10 TRANSPORT HAZARDOUS MATERIALS TO UNDERGO A
11 CRIMINAL BACKGROUND CHECK AND EVALUATION FROM THE
12 TRANSPORTATION SECURITY ADMINISTRATION TO
13 ESTABLISH THAT THE DRIVER IS NOT A SECURITY RISK;
14 AND FOR OTHER PURPOSES.

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16 **Subtitle**

17 TO REQUIRE THAT COMMERCIAL DRIVERS
18 UNDERGO A BACKGROUND CHECK BEFORE
19 TRANSPORTING HAZARDOUS MATERIALS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 Section 1. Arkansas Code § 27-23-111(c), relating to the issuance of
25 commercial driver's license is amended to read as follows:

26 (c)(1) Applicant Record Check. Before issuing a commercial driver
27 license, the Office of Driver Services must obtain driving record information
28 through the Commercial Driver License Information System, the National Driver
29 Register, and from each state in which the person has been licensed.

30 (2)(A)(i) Criminal Background Check. After January 30, 2005,
31 before issuing a commercial driver license with a hazardous materials or "H"
32 endorsement, the Office of Driver Services shall obtain a criminal background
33 check and evaluation from the Transportation Security Administration which
34 establishes that the driver is not a security risk.

35 (ii) After May 31, 2005, before renewing or



1 accepting a transferred commercial driver license with a hazardous materials
2 or "H" endorsement, the Office of Driver Services shall obtain a criminal
3 background check and evaluation from the Transportation Security
4 Administration which establishes that the driver is not a security risk.

5 (B)(i) If the Office of Driver Services denies issuance of
6 a commercial driver license with a hazardous materials or "H" endorsement
7 based on the criminal background check and evaluation performed by the
8 Transportation Security Administration, any person disqualified from
9 transporting hazardous material who wishes to appeal that finding shall file
10 an appeal to the Transportation Security Administration under the rules,
11 regulations, and guidelines of that agency.

12 (ii) The appeal process provided under federal law
13 shall be the sole avenue to appeal the denial of the issuance of a commercial
14 driver's license under this section based upon the finding of the
15 Transportation Security Administration.

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17 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
18 General Assembly of the State of Arkansas that the transportation of
19 hazardous materials presents a terrorism, security, and safety risk to the
20 citizens of the State of Arkansas; that to protect the safety and security of
21 the citizens of the State of Arkansas, drivers who transport hazardous
22 materials should be checked for prior criminal violations; that the
23 Transportation Security Administration has the capability and resources to
24 have such checks performed and to evaluate whether or not a driver presents a
25 risk to the safety and security of the citizens of the State of Arkansas; and
26 that this act is immediately necessary because performing such security
27 checks are required under the USA Patriot Act and required for the State of
28 Arkansas to remain eligible for significant federal funds. Therefore, an
29 emergency is declared to exist and this act being immediately necessary for
30 the preservation of the public peace, health, and safety shall become
31 effective on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,
34 the expiration of the period of time during which the Governor may veto the
35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

2 /s/ Rosenbaum

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APPROVED: 2/11/2005

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