

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1820

4  
5 By: Representative B. Overbey

## For An Act To Be Entitled

8 AN ACT TO AMEND THE ARKANSAS UNIFORM COMMERCIAL  
9 DRIVER LICENSE ACT TO COMPLY WITH FEDERAL COMMERCIAL  
10 DRIVER LICENSE REGULATIONS; TO MAKE TECHNICAL  
11 CORRECTIONS; AND FOR OTHER PURPOSES.

## Subtitle

15 TO AMEND THE ARKANSAS UNIFORM COMMERCIAL  
16 DRIVER LICENSE ACT TO COMPLY WITH FEDERAL  
17 COMMERCIAL DRIVER LICENSE REGULATIONS AND  
18 TO MAKE TECHNICAL CORRECTIONS.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code § 27-23-103(28), concerning the definition of  
24 "serious traffic violation" under the Arkansas Uniform Commercial Driver  
25 License Act, is amended to read as follows:

26 (28) "Serious traffic violation" means a conviction when  
27 operating a commercial motor vehicle of:

28 (A) Excessive speeding, involving ~~any a~~ a single offense for  
29 ~~any a~~ a speed of ~~fifteen (15) miles per hour~~ fifteen miles per hour (15 m.p.h.)  
30 or more above the posted speed limit;

31 (B) Reckless driving as defined by state or local law or  
32 regulation, including, ~~but not limited to,~~ without limitation offenses of  
33 driving a commercial motor vehicle in willful or wanton disregard for the  
34 safety of persons or property;

35 (C) Improper or erratic traffic lane changes;

36 (D) Following the vehicle ahead too closely;



1 (E)(i) A violation, arising in connection with a fatal  
2 accident, of state or local law relating to motor vehicle traffic control,  
3 other than a parking violation.

4 (ii) Serious traffic violations shall not include  
5 weight or defect violations;

6 (F) Driving a commercial motor vehicle without obtaining a  
7 commercial driver license;

8 (G)(i) Driving a commercial motor vehicle without a  
9 commercial driver license in the driver's possession.

10 (ii) ~~Any~~ An individual who by the date the  
11 individual must appear in court or pay any fine for ~~such~~ a violation under  
12 this subdivision (28)(G) provides proof to the enforcement authority that  
13 issued the citation that the individual held a valid commercial driver  
14 license on the date the citation was issued shall not be guilty of this  
15 offense; ~~or~~

16 (H) Driving a commercial vehicle without the proper class  
17 of commercial driver license or endorsements for the specific vehicle group  
18 being operated or for the passengers or type of cargo being transported; or

19 (I) Driving while texting;

20  
21 SECTION 2. Arkansas Code § 27-23-103, concerning the definitions used  
22 in the Arkansas Uniform Commercial Driver License Act, is amended to add  
23 additional subdivisions to read as follows:

24 (32) "Commercial driver license record" means the electronic  
25 record of an individual commercial driver license holder's driver status and  
26 history stored by the Office of Driver Services as part of the Commercial  
27 Driver's License Information System established under 49 U.S.C. § 31309, as  
28 in effect on January 1, 2011;

29 (33) "Downgrade" means the removal of commercial driver license  
30 privileges from a commercial driver license by the office;

31 (34) "Electronic device" means a cellular telephone, personal  
32 digital assistant, pager, computer, or any other device used to input, write,  
33 send, receive, or read text;

34 (35) "Excepted interstate" means a driver or applicant who  
35 operates or expects to operate a commercial motor vehicle in interstate  
36 commerce but engages exclusively in transportation or operations excepted

1 under 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3, as in effect on January  
2 1, 2011, from all or part of the qualification requirements of 49 C.F.R. part  
3 391, as in effect on January 1, 2011, and is therefore not required to obtain  
4 a medical examiner's certificate by 49 C.F.R. § 391.45, as in effect on  
5 January 1, 2011;

6 (36) "Excepted intrastate" means a driver or applicant who  
7 operates or expects to operate a commercial motor vehicle exclusively in  
8 intrastate commerce but engages exclusively in transportation or operations  
9 excepted under 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3, as in effect  
10 on January 1, 2011, from all or part of the qualification requirements of 49  
11 C.F.R. part 391, and is therefore not required to obtain a medical examiner's  
12 certificate by 49 C.F.R. § 391.45, as in effect on January 1, 2011;

13 (37)(A) "Medical examiner" means a person who is licensed,  
14 certified, or registered under applicable state laws and regulations to  
15 perform physical examinations.

16 (B) "Medical examiner" includes without limitation a  
17 doctor of medicine, a doctor of osteopathy, a physician's assistant, an  
18 advanced practice nurse, and a doctor of chiropractic;

19 (38) "Medical variance" means the receipt by a driver of one (1)  
20 of the following from the Federal Motor Carrier Safety Administration that  
21 allows the driver to be issued a medical certificate:

22 (A) An exemption letter permitting operation of a  
23 commercial motor vehicle under 49 C.F.R. part 381, subpart C, as in effect on  
24 January 1, 2011, or 49 C.F.R. § 391.64, as in effect on January 1, 2011; and

25 (B) A skill performance evaluation certificate permitting  
26 operation of a commercial motor vehicle under 49 C.F.R. § 391.49, as in  
27 effect on January 1, 2011;

28 (39) "Nonexcepted interstate" means a driver or applicant who:

29 (A) Operates or expects to operate a commercial motor  
30 vehicle in interstate commerce;

31 (B) Is subject to and meets the qualification requirements  
32 under 49 C.F.R. part 391, as in effect on January 1, 2011; and

33 (C) Is required to obtain a medical examiner's certificate  
34 by 49 C.F.R. § 391.45, as in effect on January 1, 2011;

35 (40) "Nonexcepted intrastate" means a driver or applicant who  
36 operates or expects to operate a commercial motor vehicle exclusively in

1 intrastate commerce but does not engage exclusively in transportation or  
 2 operations as provided in 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3, as  
 3 in effect on January 1, 2011, and is therefore required to obtain a medical  
 4 examiner's certificate; and

5 (41) "Texting" means manually entering alphanumeric text into,  
 6 or reading text from, an electronic device.

7 (A) "Texting" includes without limitation using a short  
 8 message service, e-mailing, instant messaging, entering a command or request  
 9 to access an Internet page, or engaging in any other form of electronic text  
 10 entry for present or future communication.

11 (B) "Texting" does not include:

12 (i) Reading, selecting, or entering a telephone  
 13 number, an extension number, or a voicemail retrieval code or command into an  
 14 electronic device for the purpose of initiating or receiving a phone call or  
 15 using a voice command to initiate or receive a telephone call;

16 (ii) Inputting, selecting, or reading information on  
 17 a global positioning system or navigation system; or

18 (iii) Using a device capable of performing multiple  
 19 functions, including without limitation a fleet management system, a  
 20 dispatching device, a smart phone, a citizens band radio, and a music player,  
 21 for a purpose that is not otherwise prohibited in 49 C.F.R. parts 383 or 392,  
 22 as in effect on January 1, 2011.

23  
 24 SECTION 3. Arkansas Code § 27-23-110(a), concerning the application  
 25 requirements for a commercial driver license, is amended to read as follows:

26 (a)~~(1)~~ The application for a commercial driver license or commercial  
 27 driver instruction permit must include the following:

28 ~~(1)~~ (A) The full name and current residential address of  
 29 the ~~person~~ applicant;

30 ~~(2)~~ (B) A physical description of the ~~person~~ applicant,  
 31 including the applicant's sex, height, weight, eye color, and hair color;

32 ~~(3)~~ (C) ~~Date~~ The applicant's of birth;

33 ~~(4)~~ (D) The applicant's social security number;

34 ~~(5)~~ (E) The ~~person's~~ applicant's signature;

35 ~~(6)~~ (F) A consent to release driving record information;

36 ~~(7)~~ (G) Certifications including those required by 49

1 C.F.R. § 383.71(a), as in effect on January 1, 2011;

2 ~~(8)~~ (H) Certification that the applicant is not subject to  
 3 any disqualification under 49 C.F.R. § 383.51, as in effect on January 1,  
 4 2011, or any license suspension, revocation, or cancellation under state law  
 5 and that the applicant does not have a driver license from more than one (1)  
 6 state or jurisdiction;

7 (I) Beginning on and after January 30, 2012, certification  
 8 that the applicant is or expects to be one (1) of the following types of  
 9 drivers:

10 (i) Nonexcepted interstate;

11 (ii) Excepted interstate;

12 (iii) Nonexcepted intrastate; or

13 (iv) Excepted intrastate;

14 ~~(9)~~ (J) The surrender of the applicant's noncommercial  
 15 driver licenses to the state;

16 ~~(10)~~ (K) The names of all states ~~where~~ in which the  
 17 applicant has previously been licensed to drive any type of motor vehicle  
 18 during the previous ten (10) years; and

19 ~~(11)~~ (L) Any other information required by the Office of  
 20 Driver Services.

21 (2) The application ~~must~~ shall be accompanied by an application  
 22 fee of forty-one dollars (\$41.00).

23  
 24 SECTION 4. Arkansas Code § 27-23-111(b)(3), concerning the  
 25 endorsements and restrictions placed upon a commercial driver license, is  
 26 amended to read as follows:

27 (3) Endorsements and restrictions are:

28 "H" – authorizes the driver to drive a vehicle transporting hazardous  
 29 materials;

30 "K" – restricts the driver to vehicles not equipped with airbrakes;

31 "T" – authorizes driving double and triple trailers;

32 "P" – authorizes driving vehicles carrying passengers or carrying passengers  
 33 for hire;

34 "N" – authorizes driving tank vehicles;

35 "X" – represents a combination of hazardous materials and tank vehicle  
 36 endorsements;

1 "M" – authorizes the driver to drive a motorcycle; ~~and~~  
 2 "S" – authorizes the driver to operate a school bus; and  
 3 "V" – indicates there is information about a medical variance on the  
 4 commercial driver license record for commercial driver licenses issued on or  
 5 after January 30, 2012, if the Office of Driver Services is notified  
 6 according to 49 C.F.R. § 383.73(j)(3), as in effect on January 1, 2011, that  
 7 the driver has been issued a medical variance.

8  
 9 SECTION 5. Arkansas Code § 27-23-112(a), concerning the  
 10 disqualification of a commercial driver license, is amended to add an  
 11 additional subdivision to read as follows:

12 (6) Notwithstanding any other provision of law, an Arkansas  
 13 court shall not grant a restricted driving permit to operate a commercial  
 14 motor vehicle.

15  
 16 SECTION 6. Arkansas Code § 27-23-112(c), concerning the  
 17 disqualification of a commercial driver license for serious traffic offenses,  
 18 is amended to read as follows:

19 (c) Disqualification for serious traffic violations, the offenses, and  
 20 the periods for which a driver must be disqualified, depending upon the type  
 21 of vehicle the driver is operating at the time of the violation, shall be as  
 22 follows:

23 (1) For a second conviction of any combination of ~~offenses~~  
 24 ~~listed in § 27-23-103(28) as serious traffic offenses~~ serious traffic  
 25 violations in a separate incident within a three-year period while operating  
 26 a commercial motor vehicle or ~~any~~ a suspension, revocation, or cancellation  
 27 resulting from a conviction while operating a noncommercial motor vehicle, a  
 28 person required to have a commercial driver license and a commercial driver  
 29 license holder shall be disqualified from operating a commercial motor  
 30 vehicle for sixty (60) days; and

31 (2) For a third or subsequent conviction of any combination of  
 32 ~~offenses listed in § 27-23-103(28) as serious traffic offenses~~ serious  
 33 traffic violations in a separate incident within a three-year period while  
 34 operating a commercial motor vehicle or ~~any~~ a conviction ~~which~~ that results  
 35 in suspension, revocation, or cancellation resulting from operating a  
 36 noncommercial motor vehicle, a person required to have a commercial driver

1 license and a commercial driver license holder shall be disqualified from  
2 operating a commercial motor vehicle for one hundred twenty (120) days;

3  
4 SECTION 7. Arkansas Code Title 27, Chapter 23, Subchapter 1 is amended  
5 to add two additional sections to read as follows:

6 27-23-129. Medical certification required – Downgrade of license for  
7 noncompliance – Denial or disqualification of license for fraud.

8 (a)(1) Beginning January 30, 2012, an applicant for a commercial  
9 driver license that certifies as nonexcepted interstate or nonexcepted  
10 intrastate shall provide to the Office of Driver Services an original or a  
11 copy of a medical examiner’s certificate prepared by a medical examiner, as  
12 required by 49 C.F.R. part 391, subpart E, as in effect on January 1, 2011.

13 (2) Upon approval of the application, the office shall post a  
14 certification status of “certified” on the commercial driver license record  
15 for the driver.

16 (b) Beginning January 30, 2012, before issuing a commercial driver  
17 license to a person who certifies as nonexcepted interstate or nonexcepted  
18 intrastate and has a valid commercial driver license from another state, the  
19 office shall:

20 (1) Verify from the commercial driver license record that the  
21 medical certification status of the driver is “certified”; or

22 (2)(A) Obtain from the driver an original or a copy of a current  
23 medical examiner’s certificate prepared by a medical examiner, as required by  
24 49 C.F.R. part 391, subpart E, as in effect on January 1, 2011.

25 (B) Upon approval of the transfer, the office shall post a  
26 certification status of “certified” on the commercial driver license record  
27 for the driver.

28 (c)(1) Between January 30, 2012, and January 30, 2014, inclusive, a  
29 holder of a commercial driver license shall certify to the office that the  
30 driver is one of the following types of drivers:

31 (A) Nonexcepted interstate;

32 (B) Excepted interstate;

33 (C) Nonexcepted intrastate; or

34 (D) Excepted intrastate.

35 (2) The office shall post to the commercial driver license  
36 record the driver’s certification.

1           (3) Between January 30, 2012, and January 30, 2014, inclusive, a  
2 holder of a commercial driver license that certifies as nonexcepted  
3 interstate or nonexcepted intrastate shall provide the office with an  
4 original or a copy of a current medical examiner's certificate prepared by a  
5 medical examiner, as required by 49 C.F.R. part 391, subpart E, as in effect  
6 on January 1, 2011, and the office shall post a certification status of  
7 "certified" on the commercial driver license record for the driver.

8           (d)(1) To maintain a medical certification status of "certified", a  
9 commercial driver license holder must provide the office with an unexpired  
10 original or a copy of each subsequently issued medical examiner's  
11 certificate.

12           (2) Beginning January 30, 2012, if a driver's medical  
13 certification or medical variance expires, or if the Federal Motor Carrier  
14 Safety Administration notifies the office that a medical variance was removed  
15 or rescinded, the office shall:

16                   (A) Post a certification status of "not certified" in the  
17 commercial driver license record for the driver;

18                   (B) Downgrade the commercial driver license of the driver  
19 effective in sixty (60) days; and

20                   (C) Notify the driver in writing that:

21                           (i) The driver has a "not certified" medical-  
22 certification status; and

23                           (ii) The commercial driver license privilege will be  
24 downgraded unless the driver submits a current medical certificate or medical  
25 variance.

26           (3) Beginning January 30, 2014, if a holder of a commercial  
27 driver license fails to provide the office with the certification required  
28 under subsection (c) of this section, the office shall:

29                   (A) Post a certification status of "not certified" in the  
30 commercial driver license record for the driver;

31                   (B) Downgrade the commercial driver license of the driver  
32 effective in sixty (60) days; and

33                   (C) Notify the driver in writing that:

34                           (i) The driver has a "not certified" medical  
35 certification status; and

36                           (ii) The commercial driver license privilege will be



1 downgraded unless the driver submits:

2 (a) The certification required by subsection  
3 (c) of this section; and

4 (b) A current medical certificate or medical  
5 variance, if applicable.

6 (4) Beginning January 30, 2014, if a holder of a commercial  
7 driver license that certifies as non-expected interstate or non-expected  
8 intrastate fails to provide the office with a current medical examiner's  
9 certificate, the office shall:

10 (A) Post a certification status of "not certified" in the  
11 commercial driver license record for the driver;

12 (B) Downgrade the commercial driver license of the driver  
13 effective in sixty (60) days; and

14 (C) Notify the driver in writing that:

15 (i) The driver has a "not certified" medical  
16 certification status; and

17 (ii) The commercial driver license privilege will be  
18 downgraded unless the driver submits a current medical certificate or medical  
19 variance.

20 (e) For each current medical examiner certificate received from a  
21 driver, the office shall:

22 (1) Date-stamp the medical examiner's certificate;

23 (2) Retain the original or a copy of the medical certificate of  
24 a driver for three (3) years beyond the date the certificate was issued; and

25 (3) Post the information from the medical examiner's certificate  
26 within ten (10) calendar days to the commercial driver license record,  
27 including:

28 (A) The medical examiner's name;

29 (B) The medical examiner's telephone number;

30 (C) The date of the medical examiner's certificate  
31 issuance;

32 (D) The medical examiner's license number and the state of  
33 issuance;

34 (E) The medical examiner's National Registry  
35 identification number if required by the national registry of Certified  
36 Medical Examiners, mandated by 49 U.S.C. 31149(d), as in effect on January 1,

1 2011;

2 (F) An indicator of medical certification status, that is,  
3 “certified” or “not certified”;

4 (G) The expiration date of the medical examiner’s  
5 certificate;

6 (H) The existence of any medical variance on the medical  
7 certificate, including without limitation an exemption, skill performance  
8 evaluation certification, or grandfather provision;

9 (I) Any restrictions, including without limitation  
10 corrective lenses, a hearing aid, or a requirement to have possession of an  
11 exemption letter or skill performance evaluation certificate while on duty;  
12 and

13 (J) The date the medical examiner’s certificate  
14 information was posted to the commercial driver license record.

15 (f) Beginning January 30, 2012, the office, within ten (10) calendar  
16 days of a driver’s medical certification status expiring or a driver’s  
17 medical variance expiring or being rescinded, shall update the medical  
18 certification status of the driver as “not certified”.

19 (g) Beginning January 30, 2012, the office, within ten (10) calendar  
20 days of receiving information from the administration regarding issuance or  
21 renewal of a medical variance for a driver, shall update the commercial  
22 driver license record to include the medical variance information provided by  
23 the administration.

24 (h)(1) If the office determines in its check of an applicant’s license  
25 status and record before issuing a commercial driver license that the  
26 applicant falsified information or a document required by this section, the  
27 office shall:

28 (A) Deny the person’s pending application for a commercial  
29 driver license; and

30 (B) Refuse to grant an application for a commercial driver  
31 license for a period of one (1) year.

32 (2) If the office determines at any time after a commercial  
33 driver license is issued that the driver falsified information or a document  
34 required by this section, the office shall disqualify the driver’s commercial  
35 driver license for a period of one (1) year.

36

1           27-23-130. Prohibition against texting.

2           (a)(1) For purposes of this section only, "driving" means operating a  
3 commercial motor vehicle with the motor running, including while temporarily  
4 stationary because of traffic, a traffic control device, or another momentary  
5 delay.

6           (2) For purposes of this section only, "driving" does not  
7 include operating a commercial motor vehicle with or without the motor  
8 running when the driver moves the vehicle to the side of, or off, a highway,  
9 as defined in 49 C.F.R. § 390.5, as in effect on January 1, 2011, and halts  
10 in a location in which the vehicle can safely remain stationary.

11           (b)(1) A driver of a commercial motor vehicle shall not engage in  
12 texting while driving.

13           (2) However, texting while driving is permissible by a driver of  
14 a commercial motor vehicle when necessary to communicate with a law  
15 enforcement official or other emergency service.

16           (c) A motor carrier shall not allow or require the motor carrier's  
17 drivers to engage in texting while driving.

18           (d) A person who pleads guilty or nolo contendere to or is found  
19 guilty of violating this section commits a violation.

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