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2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S4/1/13
A Bill

HOUSE BILL 2013

5 By: Representative Catlett
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE ARKANSAS UNIFORM COMMERCIAL
9 DRIVER LICENSE ACT, § 27-23-101 ET SEQ., TO COMPLY
10 WITH FEDERAL COMMERCIAL DRIVER LICENSE REGULATIONS;
11 TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER
12 PURPOSES.
13
14

15 **Subtitle**

16 TO AMEND THE ARKANSAS UNIFORM COMMERCIAL
17 DRIVER LICENSE ACT, § 27-23-101 ET SEQ.,
18 TO COMPLY WITH FEDERAL COMMERCIAL DRIVER
19 LICENSE REGULATIONS AND TO MAKE TECHNICAL
20 CORRECTIONS.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 27-23-103(4), concerning the definition of
26 “commercial driver instruction permit” under the Arkansas Uniform Commercial
27 Driver License Act, § 27-23-101 et seq., is repealed.

28 ~~(4) “Commercial driver instruction permit” means a permit issued~~
29 ~~pursuant to § 27-23-108(d);~~
30

31 SECTION 2. Arkansas Code § 27-23-103(8)(A), concerning the definition
32 of “commercial motor vehicle” under the Arkansas Uniform Commercial Driver
33 License Act, § 27-23-101 et seq., is amended to read as follows:

34 (8)(A) “Commercial motor vehicle” means a motor vehicle or
35 combination of motor vehicles used in commerce to transport passengers or
36 property if the motor vehicle:



1 (i) Has a gross combination weight rating or gross
2 combination weight of twenty-six thousand one pounds (26,001 lbs.) or more,
3 whichever is greater, inclusive of a towed unit or units with a gross vehicle
4 weight rating or gross vehicle weight of more than ten thousand pounds
5 (10,000 lbs.), whichever is greater;

6 (ii) Has a gross vehicle weight rating or gross
7 vehicle weight of twenty-six thousand one pounds (26,001 lbs.) or more,
8 whichever is greater;

9 (iii) Is designed to transport sixteen (16) or more
10 passengers, including the driver; or

11 (iv) Is of any size and is used in the
12 transportation of materials found to be hazardous, as a result of which the
13 motor vehicle is required to be placarded under the federal Hazardous
14 Materials Regulations, 49 C.F.R. part 172, subpart ~~F~~ F, as in effect on
15 January 1, 2013, or any quantity of a material listed as a select agent or
16 toxin in 42 C.F.R. part 73, as in effect on January 1, 2013;

17
18 SECTION 3. Arkansas Code § 27-23-103(11), concerning the definition of
19 “downgrade” under the Arkansas Uniform Commercial Driver License Act, § 27-
20 23-101 et seq., is amended to read as follows:

21 (11) “Downgrade” means the removal of commercial ~~driver license~~
22 driving privileges from a commercial driver license or commercial learner’s
23 permit by the office;

24
25 SECTION 4. Arkansas Code § 27-23-103(12)(A), concerning the definition
26 of “disqualification” under the Arkansas Uniform Commercial Driver License
27 Act, § 27-23-101 et seq., is amended to read as follows:

28 (A) The suspension, revocation, or cancellation of a
29 commercial driver license or commercial learner’s permit by the Office of
30 Driver Services or jurisdiction of issuance;

31
32 SECTION 5. Arkansas Code § 27-23-103(15), concerning the definition of
33 “driver applicant” under the Arkansas Uniform Commercial Driver License Act,
34 § 27-23-101 et seq., is amended to read as follows:

35 (15) “Driver applicant” or “applicant” means any person who has
36 applied ~~for a commercial driver license~~ to obtain, transfer, upgrade, or

1 renew a commercial driver license or to obtain or renew a commercial
2 learner's permit;

3
4 SECTION 6. Arkansas Code § 27-23-103(28), concerning the definition of
5 "imminent hazard" under the Arkansas Uniform Commercial Driver License Act, §
6 27-23-101 et seq., is amended to read as follows:

7 (28) "Imminent hazard" means the existence of a condition
8 relating to hazardous material that presents a substantial likelihood that
9 death, serious illness, severe personal injury, or a substantial endangerment
10 to health, property, or the environment may occur before the reasonably
11 foreseeable completion date of a formal proceeding begun to lessen the risk
12 of that death, illness, injury, or endangerment;

13
14 SECTION 7. Arkansas Code § 27-23-103(34), concerning the definition of
15 "nonresident commercial driver license" under the Arkansas Uniform Commercial
16 Driver License Act, § 27-23-101 et seq., is repealed.

17 ~~(34) "Nonresident commercial driver license" means a commercial~~
18 ~~driver license issued by a state to an individual domiciled in another state~~
19 ~~meeting the requirements of 49 C.F.R. § 383.23(b)(2);~~

20
21 SECTION 8. Arkansas Code § 27-23-103(37), concerning the definition of
22 "serious traffic violation" under the Arkansas Uniform Commercial Driver
23 License Act, § 27-23-101 et seq., is amended to read as follows:

24 (37) "Serious traffic violation" means a conviction when
25 operating a commercial motor vehicle of:

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

29 (B) Reckless driving as defined by state or local law or
30 regulation, including without limitation offenses of driving a commercial
31 motor vehicle in willful or wanton disregard for the safety of persons or
32 property;

33 (C) Improper or erratic traffic lane changes;

34 (D) Following the vehicle ahead too closely;

35 (E)(i) A violation, arising in connection with a fatal
36 accident, of state or local law relating to motor vehicle traffic control,

1 other than a parking violation.

2 (ii) Serious traffic violations shall not include
3 weight or defect violations;

4 (F) Driving a commercial motor vehicle without obtaining a
5 commercial learner's permit or a commercial driver license;

6 (G)(i) Driving a commercial motor vehicle without a
7 commercial learner's permit or a commercial driver license in the driver's
8 possession.

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

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

18 (I) Driving while texting; or

19 (J) Using of a hand-held mobile telephone while driving;

20
21 SECTION 9. Arkansas Code § 27-23-103(39), concerning the definition of
22 "tank vehicle" under the Arkansas Uniform Commercial Driver License Act, §
23 27-23-101 et seq., is amended to read as follows:

24 (39)(A) "Tank vehicle" means any commercial motor vehicle
25 ~~equipped with a tank designed to hold liquid or gaseous materials with a~~
26 ~~capacity of one thousand gallons (1,000 gals.) or more~~ that is designed to
27 transport any liquid or gaseous materials within a tank or tanks having an
28 individual rating capacity of more than one hundred nineteen gallons (119
29 gals.) and an aggregate rated capacity of one thousand gallons (1,000 gals.)
30 or more that is either permanently or temporarily attached to the vehicle or
31 chassis;

32 (B) "Tank vehicle" does not include a commercial motor
33 vehicle transporting an empty storage container tank, not designed for
34 transportation, with a rated capacity of one thousand gallons (1,000 gals.)
35 or more that is temporarily attached to a flatbed trailer; and

36

1
2 SECTION 10. Arkansas Code § 27-23-103(40), concerning the definition
3 of “texting” under the Arkansas Uniform Commercial Driver License Act, § 27-
4 23-101 et seq., is amended to read as follows:

5 (40) “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~~ emailing, instant messaging, entering a command or
9 request to access an Internet page, pressing more than a single button to
10 initiate or terminate a voice communication using a mobile telephone, or
11 engaging in any other form of electronic text retrieval or entry for present
12 or future communication.

13 (B) “Texting” does not include:

14 (i) ~~Reading, selecting, or entering a telephone~~
15 ~~number, an extension number, or a voicemail retrieval code or command into an~~
16 ~~electronic device for the purpose of initiating or receiving a phone call or~~
17 ~~using a voice command to initiate or receive a telephone call;~~ Pressing a
18 single button to initiate or terminate a voice communication using a mobile
19 telephone;

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

22 (iii) Using a device capable of performing multiple
23 functions, including without limitation a fleet management system, a
24 dispatching device, a smart phone, a citizens band radio, and a music player,
25 for a purpose that is not otherwise prohibited in 49 C.F.R. parts 383 or 392,
26 as in effect on January 1, ~~2011,~~ 2013;

27
28 SECTION 11. Arkansas Code § 27-23-103, concerning the definitions used
29 in the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq.,
30 is amended to add additional subdivisions to read as follows:

31 (42)(A) “Commercial learner’s permit” means a permit issued in
32 accordance with the requirements of 49 C.F.R. part 383, as in effect on
33 January 1, 2013, to an individual, that, when carried with a valid driver
34 license authorizes the person to operate a class of a commercial motor
35 vehicle when accompanied by a holder of a valid commercial driver license for
36 purposes of behind-the-wheel training.

1 (B) When issued to a commercial driver license holder, a
2 commercial learner's permit serves as authorization for accompanied behind-
3 the-wheel training in a commercial motor vehicle for which the holder's
4 current commercial driver license is not valid;

5 (43) "Endorsement" means an authorization to a person's
6 commercial learner's permit or commercial driver license required to permit
7 the person to operate certain types of commercial motor vehicles;

8 (44)(A) "Manual transmission" means a transmission using a
9 driver-operated clutch that is activated by a pedal or lever and a gear-shift
10 mechanism operated by either by hand or foot.

11 (B) "Manual transmission" does not include semi-automatic
12 transmissions or automatic transmissions that are considered automatic for
13 the purposes of the standardized restriction code;

14 (45)(A) "Mobile telephone" means a mobile communication device
15 that falls under or uses any commercial mobile radio service, as defined in
16 regulations of the Federal Communications Commission, 47 C.F.R. § 20.3, as in
17 effect on January 1, 2013.

18 (B) "Mobile telephone" does not include two-way or
19 Citizens Band Radio services;

20 (46) "Noncommercial driver license" or "non-CDL" means any other
21 type motor vehicle license, such as an automobile driver license, a
22 chauffeur's license, or a motorcycle license;

23 (47) "Nondomiciled commercial learner's permit" or "nondomiciled
24 commercial driver license" means a commercial learner's permit or commercial
25 driver license, respectively, issued by a state or other jurisdiction under
26 either of the following two (2) conditions:

27 (A) To a person domiciled in a foreign country meeting the
28 requirements of 49 C.F.R. § 383.23(b)(1), as in effect on January 1, 2013; or

29 (B) To a person domiciled in another state meeting the
30 requirements of 49 C.F.R. § 383.23(b)(2), as in effect on January 1, 2013;

31 (48) "Third-party skills test examiner" means a person employed
32 by a third party tester who is authorized by the Department of Arkansas State
33 Police to administer the commercial driver license skills tests specified in
34 49 C.F.R. part 383, subparts G and H, as in effect on January 1, 2013;

35 (49)(A) "Third-party tester" means a person authorized by the
36 Department of Arkansas State Police to employ skills test examiners to

1 administer the commercial driver license skills tests specified in 49 C.F.R.
2 part 383, subparts G and H, as in effect on January 1, 2013.

3 (B) A "third-party tester" may include without limitation
4 another state, a motor carrier, a private driver training facility or other
5 private institution, or a department, agency or instrumentality of a local
6 government; and

7 (50) "Use of a hand-held mobile telephone" means:

8 (A) Using at least one (1) hand to hold a mobile telephone
9 to conduct a voice communication;

10 (B) Dialing or answering a mobile telephone by pressing
11 more than a single button; or

12 (C) Reaching for a mobile telephone in a manner that
13 requires a driver to maneuver so that he or she is no longer in a seated
14 driving position, restrained by a seat belt that is installed in accordance
15 with 49 C.F.R. § 393.93, as in effect on January 1, 2013, and adjusted in
16 accordance with the vehicle manufacturer's instructions.

17
18 SECTION 12. Arkansas Code § 27-23-107(a), concerning the requirements
19 to operate a commercial motor vehicle under the Arkansas Uniform Commercial
20 Driver License Act, § 27-23-101 et seq., is amended to read as follows:

21 ~~(a) Except when driving under a commercial driver instruction permit~~
22 ~~and accompanied by the holder of a commercial driver license valid for the~~
23 ~~vehicle being driven, no person may drive a commercial motor vehicle unless~~
24 ~~the person holds a commercial driver license with the applicable endorsements~~
25 ~~valid for the vehicle being driven and is in immediate possession of their~~
26 ~~commercial driver license when driving a commercial motor vehicle.~~

27 (1) A person shall not operate a commercial motor vehicle unless
28 the person has taken and passed written and driving tests for a commercial
29 learner's permit or a commercial driver license that meet the federal vehicle
30 groups and endorsements, required knowledge and skills, and testing standard,
31 as required by this chapter, for the commercial motor vehicle that person
32 operates or expects to operate.

33 (2) If a person possesses a commercial learner's permit, the
34 person is authorized to operate a class of commercial motor vehicle if:

35 (A) The commercial learner's permit holder is at all times
36 accompanied by the holder of a valid commercial driver license who has the

1 proper commercial driver license group and endorsement or endorsements
2 necessary to operate the commercial motor vehicle;

3 (B) The commercial driver license holder is at all times
4 physically present in the front seat of the vehicle next to the commercial
5 learner's permit holder or, in the case of a passenger vehicle, directly
6 behind or in the first row behind the driver and has the commercial learner's
7 permit holder under observation and direct supervision;

8 (C) The commercial learner's permit holder holds a valid
9 driver's license issued by the same jurisdiction that issued the commercial
10 learner's permit;

11 (D) The commercial learner's permit holder has taken and
12 passed a general knowledge test that meets the federal vehicle groups and
13 endorsements, required knowledge and skills, and testing standards, as
14 required by this chapter, for the commercial motor vehicle that the person
15 operates or expects to operate; and

16 (E) The commercial learner's permit holder is eighteen
17 (18) years of age or older.

18
19 SECTION 13. Arkansas Code § 27-23-108 is amended to read as follows:
20 27-23-108. Commercial driver license qualification standards.

21 (a)(1)(A) Testing. To the extent permitted by federal law and
22 regulation, a person may be issued a commercial driver license only if that
23 person has:

24 ~~(i) Passed a knowledge and skills test for driving a~~
25 ~~commercial motor vehicle that complies with minimum federal standards~~
26 ~~established by federal regulation enumerated in 49 C.F.R., part 383, sub-~~
27 ~~parts G. and H.; and~~

28 (i) Passed a knowledge and skills test for driving a
29 commercial motor vehicle that:

30 (a) Complies with minimum federal standards
31 established by 49 C.F.R. §§ 383.79 if the person is a resident of another
32 state and 383.133, as in effect on January 1, 2013, and 49 C.F.R. part 383,
33 subparts G and H, as in effect on January 1, 2013; or

34 (b) Uses a state-to-state testing system pre-
35 approved by the Federal Motor Carrier Safety Administration that meets the
36 minimum requirements of the July 2010 version of the American Association of

1 Motor Vehicle Administrators 2005 CDL Test System; and

2 (ii) Satisfied all other requirements imposed by
3 state or federal law or regulation.

4 (B)(i) The tests ~~must~~ shall be prescribed by the
5 Department of Arkansas State Police and shall be conducted by the Department
6 of Arkansas State Police or by a third party tester designated by the
7 Department of Arkansas State Police under regulations promulgated as provided
8 in this section.

9 (ii) The knowledge test administered by the
10 Department of Arkansas State Police shall be given in electronic format.

11 (iii) The result of a test administered by the
12 Department of Arkansas State Police or by a third-party tester shall be
13 transmitted electronically to the Department of Finance and Administration.

14 (C) The Department of Finance and Administration shall
15 promulgate the rules to set the length of time the commercial driver license
16 is valid under this subdivision (a)(1).

17 (2) The Department of Arkansas State Police shall, by
18 ~~regulations~~ rules, authorize a person, including an agency of this state, an
19 employer, a private driver training facility, another private institution, or
20 a department, agency, or instrumentality of local government, to administer
21 the skills test specified by this section pursuant to the requirements of 49
22 C.F.R. § 383.75, as in effect on January 1, 2013. These third-party testing
23 regulations shall provide ~~as~~ at a minimum that:

24 ~~(i)(A) The test is the same which would otherwise be~~
25 ~~administered by the state;~~ A skills test given by a third-party tester is the
26 same as a test that would otherwise be given by the Department of the
27 Arkansas State Police using:

28 (i) The same version of the skills test;

29 (ii) The same written instructions for test
30 applicants; and

31 (iii) The same scoring sheets as those prescribed in
32 49 C.F.R. part 383, subparts G and H, as in effect on January 1, 2013;

33 (B) A third-party skills test examiner shall meet the
34 requirements of 49 C.F.R. § 384.228, as in effect on January 1, 2013;

35 ~~(ii)(C) The third-party tester shall enter into an~~
36 ~~agreement with the state which complies with~~ Department of Arkansas State

1 Police that demonstrates compliance with all of the requirements of 49
2 C.F.R., § 383.75, as in effect on January 1, 2013;

3 ~~(iii)~~(D) The Department of Arkansas State Police shall
4 designate and provide to any third-party testers the evidence to be used to
5 indicate to the ~~state licensing agency~~ Department of Finance and
6 Administration that an applicant had successfully passed the skills test;

7 ~~(iv)~~(E) The eligibility to become a third-party tester
8 shall be open to qualified persons under the regulations at least twice
9 ~~annually; and~~ annually, provided there are sufficient numbers of qualified
10 applicants to conduct classes;

11 ~~(v)~~(F) The third-party tester shall pay a third-party
12 testing administration fee as may be determined by the Director of the
13 Department of Arkansas State Police to recover the costs of administering the
14 testing program and examination distribution expenses;

15 (G) The Department of Arkansas State Police shall issue
16 each third-party skills test examiner a skills testing certificate upon
17 successful completion of a formal skills test examiner training course
18 pursuant to 49 C.F.R. § 384.228, as in effect on January 1, 2013; and

19 (H) The Department of Arkansas State Police shall audit
20 and monitor third-party testers and third-party skills test examiners
21 pursuant to the requirements of 49 C.F.R. § 384.229, as in effect on January
22 1, 2013.

23 (b)(1) Waiver of Skills Test. The Department of Arkansas State Police
24 may waive the skills test specified in this section for a commercial driver
25 license applicant who meets the requirements of 49 C.F.R., § 383.77, as in
26 effect on January 1, 2013.

27 (2)(A) As used in this subdivision (b)(2), “valid military
28 commercial ~~driver’s~~ driver license” means any commercial driver license that
29 is recognized by any active or reserve component of any branch or unit of the
30 armed forces of the United States as currently being valid or as having been
31 valid at the time of the applicant’s separation or discharge from the
32 military that occurred within the twelve-month period prior to the date of
33 application to the Office of Driver Services for a commercial driver license.

34 (B) The Department of Arkansas State Police shall waive
35 the skills test specified in this section for any commercial driver license
36 applicant who:

1 (i) Possesses a valid military commercial ~~driver's~~
2 driver license; and

3 (ii) ~~Signs the application for a commercial driver~~
4 ~~license certifying that the applicant's driving privileges have not been~~
5 ~~suspended, revoked, or canceled and that the applicant has not had a~~
6 ~~conviction for any disqualifying offense as described in § 27-23-112.~~
7 Certifies that he or she has not had during the two-year period immediately
8 prior to applying for a commercial driver license:

9 (a) More than one (1) license except for a
10 military license;

11 (b) A license suspended, disqualified,
12 revoked, or canceled;

13 (c) A conviction occurring in any type of
14 motor vehicle for a disqualifying offense contained in § 27-23-112 or 49
15 C.F.R. § 383.51(b), as in effect on January 1, 2013;

16 (d) A conviction occurring in any type of
17 motor vehicle for a serious traffic violation as defined under § 27-23-
18 103(37) or 49 C.F.R. § 383.51(c), as in effect on January 1, 2013;

19 (e) A conviction for a violation of a
20 military, state, or local law relating to motor vehicle traffic control,
21 other than a parking violation, arising in connection with a traffic
22 accident; or

23 (f) A traffic accident in which the applicant
24 was at fault; and

25 (iii) Provides evidence and certifies that he or
26 she:

27 (a) Is regularly employed or was regularly
28 employed within the last ninety (90) days in a military position requiring
29 operation of a commercial motor vehicle;

30 (b) Was exempted from the commercial driver
31 license requirements of 49 C.F.R. § 383.3(c), as in effect on January 1,
32 2013; and

33 (c) Was operating a vehicle representative of
34 the commercial motor vehicle the driver applicant operates or expects to
35 operate for at least the two (2) years immediately preceding discharge from
36 the military.

1 (C) The Department of Arkansas State Police shall:

2 (i) Indicate on the application for a commercial
3 driver license the class of license and any endorsements for which the
4 applicant has successfully completed the knowledge requirements; and

5 (ii) Return the application for a commercial driver
6 license, along with the military commercial ~~driver's~~ driver license, to the
7 office for the issuance of the commercial driver license.

8 (c) Limitations on Issuance of License.

9 (1) A commercial driver license, ~~special commercial license,~~
10 ~~restricted commercial license, temporary commercial license, provisional~~
11 ~~commercial license,~~ or commercial ~~driver instruction~~ learner's permit may not
12 be issued to a person while the person is subject to a disqualification from
13 driving a commercial motor vehicle, or while the person's driver license is
14 suspended, revoked, or ~~cancelled~~ canceled in any state; ~~nor may a.~~

15 (2) A commercial driver license shall not be issued to a person
16 who has a commercial driver license or any other driver license issued by any
17 other state unless the person first surrenders all such licenses, which ~~must~~
18 shall be returned to the issuing state(s) for cancellation.

19 (d) Commercial ~~Driver Instruction~~ Learner's Permit.

20 (1) A commercial ~~driver instruction~~ learner's permit may be
21 issued by the ~~Department of Arkansas State Police~~ Department of Finance and
22 Administration pursuant to the requirements of 49 C.F.R. part 383, subpart E,
23 as in effect on January 1, 2013, to an individual who: ~~holds a valid driver~~
24 ~~license.~~

25 (2) ~~The commercial driver instruction permit may not be issued~~
26 ~~for a period to exceed six (6) months. Only one (1) renewal may be granted~~
27 ~~within a one-year period. The holder of a commercial driver instruction~~
28 ~~permit may drive a commercial motor vehicle on a highway only when~~
29 ~~accompanied by the holder of a commercial driver license valid for the type~~
30 ~~of vehicle driven who occupies a seat beside the individual for the purpose~~
31 ~~of giving instruction in driving the commercial motor vehicle.~~

32 (A) Is domiciled in this state;

33 (B) Holds a valid driver's license license;

34 (C) Has passed the knowledge tests and endorsement tests
35 required by this section as applicable; and

36 (D) Has met all other requirements of the Department of

1 Finance and Administration.

2 (2)(A) A commercial learner's permit is valid for a period of
3 one hundred eighty (180) days from the date of issuance and may be renewed
4 for an additional one hundred eighty (180) days.

5 (B) If a commercial learner's permit holder has not been
6 issued a commercial driver license while his or her commercial learner's
7 permit is valid and the person wishes to obtain another commercial learner's
8 permit, the person shall reapply for a commercial learner's permit and retake
9 and pass the knowledge tests and endorsement tests, if applicable, as
10 provided in this section.

11 (3) A commercial learner's permit shall contain only the
12 following endorsements, as restricted by 49 C.F.R. § 383.25, as in effect on
13 January 1, 2013:

14 (i) "P" – passenger;

15 (ii) "S" – school bus; or

16 (iii) "N" – tank vehicle.

17 (4)(i) A commercial learner's permit holder with a passenger
18 ("P") endorsement shall have taken and passed the "P" endorsement knowledge
19 test.

20 (ii) A commercial learner's permit holder with a "P"
21 endorsement is prohibited from operating a commercial motor vehicle carrying
22 passengers, other than federal or state auditors and inspectors, test
23 examiners, other trainees, and the commercial driver license holder
24 accompanying the commercial learner's permit holder.

25 (iii) A "P" endorsement is class specific.

26 (5)(i) A commercial learner's permit holder with a school bus
27 ("S") endorsement shall have taken and passed the "S" endorsement knowledge
28 test.

29 (ii) A commercial learner's permit holder with an
30 "S" endorsement is prohibited from operating a school bus with passengers
31 other than federal and state auditors and inspectors, test examiners, other
32 trainees, and the commercial driver license holder accompanying the
33 commercial learner's permit holder.

34 (6)(i) A commercial learner's permit holder with a tank vehicle
35 ("N") endorsement shall have taken and passed the "N" endorsement knowledge
36 test.

1 (ii) A commercial learner's permit holder with an
 2 "N" endorsement may only operate an empty tank vehicle and is prohibited from
 3 operating any tank vehicle that previously contained hazardous materials that
 4 has not been purged of any residue.

5 (7) Other than the endorsements contained in subdivision (d)(3)
 6 of this section, no other endorsements may be contained on a commercial
 7 learner's permit.

8
 9 SECTION 14. Ark. Code § 27-23-110 is amended to read as follows:

10 27-23-110. Application for commercial driver license.

11 (a)(1) The application for a commercial driver license or commercial
 12 ~~driver instruction learner's permit~~ must shall include the following:

13 (A) The full name and current residential address of the
 14 applicant;

15 (B) A physical description of the applicant, including the
 16 applicant's sex, height, weight, eye color, and hair color;

17 (C) The applicant's date of birth;

18 (D) The applicant's social security number;

19 (E) The applicant's signature;

20 (F) A consent to release driving record information;

21 (G) Certifications, including without limitation those
 22 required by 49 C.F.R. § 383.71~~(a)~~, as in effect on January 1, ~~2011~~ 2013;

23 (H) Certification that the applicant is not subject to any
 24 disqualification under 49 C.F.R. § 383.51, as in effect on January 1, ~~2011~~
 25 2013, or any license suspension, revocation, or cancellation under state law
 26 and that the applicant does not have a driver license from more than one (1)
 27 state or jurisdiction;

28 (I) ~~Beginning on and after January 30, 2012, certification~~
 29 Certification that the applicant is or expects to be one (1) of the following
 30 types of drivers:

31 (i) Nonexcepted interstate;

32 (ii) Excepted interstate;

33 (iii) Nonexcepted intrastate; or

34 (iv) Excepted intrastate;

35 (J) ~~The~~ For an applicant for a commercial driver's license
 36 only, the surrender of the applicant's noncommercial driver licenses to the

1 state;

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

5 (L) For an applicant that certifies as nonexcepted
6 interstate or nonexcepted intrastate, the applicant shall provide the Office
7 of Driver Services with a medical examiner's certificate and any waiver,
8 exemption, or skills performance evaluation certificate required by the
9 medical examiner's certificate as provided in § 27-23-129; and

10 (M) Any other information required by the ~~Office of Driver~~
11 ~~Services~~ office.

12 (2) The application for a commercial driver license shall be
13 accompanied by an application fee of forty-one dollars (\$41.00).

14 (b) When a licensee changes his or her name or residential address, an
15 application for a duplicate license ~~must~~ shall be made to the office.

16 (c) No person who has been a resident of this state for thirty (30)
17 days may drive a commercial motor vehicle under the authority of a commercial
18 driver license issued by another jurisdiction.

19 (d) The license application ~~must~~ shall be accompanied by an
20 examination fee for each knowledge and skills test, which shall be set by
21 regulation of the Department of Arkansas State Police in an amount not to
22 exceed fifty dollars (\$50.00) for each examination and administration.

23 (e) The examination fee set in subsection (d) of this section shall be
24 collected by the Revenue Division of the Department of Finance and
25 Administration at the time of initial application for a commercial motor
26 vehicle license and any subsequent applications for examination. The funds
27 shall ~~then~~ be deposited as special revenues into the State Treasury and
28 distributed to the credit of the Department of Arkansas State Police Fund to
29 defray the cost of administering the examination of the knowledge and skills
30 tests required in § 27-23-108.

31 (f) If Office of Driver Services issues a commercial learner's permit
32 to an applicant, the applicant may take the commercial driver license skills
33 test no earlier than fourteen (14) calendar days following the date of
34 issuance of the commercial learner's permit.

35

36 SECTION 15. Arkansas Code § 27-23-111(b)(3), concerning the

1 endorsements and restrictions of a commercial driver license under the
 2 Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq. is
 3 amended to read as follows:

4 (3)(A) Endorsements ~~and restrictions~~ are:

5 "H" – authorizes the driver to drive a vehicle transporting
 6 hazardous materials;

7 ~~"K" – restricts the driver to vehicles not equipped with~~
 8 ~~airbrakes;~~

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

10 "P" – authorizes driving vehicles carrying passengers or
 11 carrying passengers for hire;

12 "N" – authorizes driving tank vehicles;

13 "X" – represents a combination of hazardous materials and
 14 tank vehicle endorsements;

15 "M" – authorizes the driver to drive a motorcycle; and

16 "S" – authorizes the driver to operate a school bus; and

17 (B) Restrictions are:

18 "L" – no air brake equipped commercial motor vehicle;

19 "Z" – no full air brake equipped commercial motor vehicle;

20 "E" – no manual transmission equipped commercial motor
 21 vehicle;

22 "O" – no tractor-trailer commercial motor vehicle;

23 "M" – no Class A passenger vehicle;

24 "N" – no Class A or Class B passenger vehicle;

25 "K" – for intrastate only; and

26 "V" – indicates there is information about a medical
 27 variance on the commercial driver license record for commercial driver
 28 licenses issued on or after January 30, 2012, if the Office of Driver
 29 Services is notified according to 49 C.F.R. § ~~383.73(j)(3)~~ 383.73(o), as in
 30 effect on January 1, ~~2011~~ 2013, that the driver has been issued a medical
 31 variance.

32
 33 SECTION 16. Arkansas Code § 27-23-112 is amended to read as follows:

34 27-23-112. Disqualification and cancellation.

35 (a)(1) A ~~driver or~~ driver, holder of a commercial driver license, or a
 36 holder of commercial learner's permit who is disqualified shall not drive a

1 commercial motor vehicle.

2 (2) An employer shall not knowingly allow, require, permit, or
3 authorize a driver who is disqualified to drive a commercial motor vehicle.

4 (3) A driver is subject to disqualification sanctions designated
5 in ~~subsections (b) and (c) of~~ this section if the holder of a commercial
6 driver license or commercial learner's permit drives a commercial motor
7 vehicle or noncommercial motor vehicle and is convicted of violations.

8 (4) Determining first and subsequent violations. For purposes of
9 determining first and subsequent violations of the offenses specified in this
10 section, each conviction for any offense listed in this section resulting
11 from a separate incident, whether committed in a commercial motor vehicle or
12 noncommercial motor vehicle, ~~must~~ shall be counted.

13 (5)(A) The Office of Driver Services may reinstate any driver
14 disqualified for life for offenses described in subdivisions (b)(1)-(7) of
15 this section after ten (10) years if that person has voluntarily entered and
16 successfully completed an appropriate rehabilitation program approved by the
17 Department of Health.

18 (B) Any person who has been reinstated in accordance with
19 ~~this provision~~ subdivision (5)(A) of this section and who is subsequently
20 convicted of a disqualifying offense described in subdivisions (b)(1)-(7) of
21 this section shall not be reinstated.

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

25 (7) A disqualification period imposed by this section or by 49
26 C.F.R. § 383.51, as in effect on January 1, 2013, is in addition to any other
27 previous period of disqualification.

28 (b) Disqualification for major offenses. Depending upon the type of
29 vehicle a driver required to have a commercial learner's permit or a
30 commercial driver license is operating at the time of the violation, a driver
31 shall be disqualified as follows:

32 (1) If a driver operates a motor vehicle and is convicted of
33 being intoxicated by drugs or alcohol as provided by § 5-65-103 or an
34 equivalent federal law or law of another state or ~~refusing~~ refuses to submit
35 to chemical testing as provided by § 5-65-202 or an equivalent federal law or
36 law of another state, the driver shall be disqualified as follows:

1 (A) For a first conviction or refusal to be tested while
2 operating a commercial motor vehicle, a person required to have a commercial
3 driver license or a commercial learner's permit, or a commercial driver
4 license holder or a commercial learner's permit holder shall be disqualified
5 from operating a commercial motor vehicle for one (1) year;

6 (B) For a first conviction or refusal to be tested while
7 operating a noncommercial motor vehicle, a commercial driver license holder
8 or a commercial learner's permit holder shall be disqualified from operating
9 a commercial motor vehicle for one (1) year;

10 (C) For a first conviction or refusal to be tested while
11 operating a commercial motor vehicle transporting hazardous materials
12 required to be placarded under the Hazardous Materials Regulations, 49 C.F.R.
13 part 172, subpart F, as in effect on January 1, 2013, a person required to
14 have a commercial driver license ~~and~~ or a commercial learner's permit, or a
15 commercial driver license holder or a commercial learner's permit holder
16 shall be disqualified from operating a commercial motor vehicle for three (3)
17 years;

18 (D) For a second conviction or refusal to be tested in a
19 separate incident of any combination of offenses in this section while
20 operating a commercial motor vehicle, a person required to have a commercial
21 driver license ~~and~~ or a commercial learner's permit, or a commercial driver
22 license holder or a commercial learner's permit holder shall be disqualified
23 from operating a commercial motor vehicle for life; and

24 (E) For a second conviction or refusal to be tested in a
25 separate incident of any combination of offenses in this section while
26 operating a noncommercial motor vehicle, a commercial driver license holder
27 or a commercial learner's permit holder shall be disqualified from operating
28 a commercial motor vehicle for life;

29 (2) If a driver operates a motor vehicle and is convicted of
30 having a blood alcohol concentration in violation of § 27-23-114(a), the
31 driver shall be disqualified as follows:

32 (A) For a first conviction or refusal to be tested while
33 operating a commercial motor vehicle, a person required to have a commercial
34 driver license ~~and~~ or a commercial learner's permit, or a commercial driver
35 license holder or a commercial learner's permit holder shall be disqualified
36 from operating a commercial motor vehicle for one (1) year;

1 (B) For a first conviction or refusal to be tested while
2 operating a commercial motor vehicle transporting hazardous materials
3 required to be placarded under the Hazardous Materials Regulations, 49 C.F.R.
4 part 172, subpart F, as in effect on January 1, 2013, a person required to
5 have a commercial driver license ~~and~~ or a commercial learner's permit, or a
6 commercial driver license holder or a commercial learner's permit holder
7 shall be disqualified from operating a commercial motor vehicle for three (3)
8 years; and

9 (C) For a second conviction or refusal to be tested in a
10 separate incident of any combination of offenses in this section while
11 operating a commercial motor vehicle, a person required to have a commercial
12 driver license ~~and~~ or a commercial learner's permit, or a commercial driver
13 license holder or a commercial learner's permit holder shall be disqualified
14 from operating a commercial motor vehicle for life; and

15 (3) If a driver operates a motor vehicle and is convicted of
16 leaving the scene of an accident, the driver shall be disqualified as
17 follows:

18 (A) For a first conviction while operating a commercial
19 motor vehicle, a person required to have a commercial driver license ~~and~~ or a
20 commercial learner's permit, or a commercial driver license holder or a
21 commercial learner's permit holder shall be disqualified from operating a
22 commercial motor vehicle for one (1) year;

23 (B) For a first conviction while operating a noncommercial
24 motor vehicle, a commercial driver license holder or a commercial learner's
25 permit holder shall be disqualified from operating a commercial motor vehicle
26 for one (1) year;

27 (C) For a first conviction while operating a commercial
28 motor vehicle transporting hazardous materials required to be placarded under
29 the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, as in
30 effect on January 1, 2013, a person required to have a commercial driver
31 license ~~and~~ or a commercial learner's permit, or a commercial driver license
32 holder or a commercial learner's permit holder shall be disqualified from
33 operating a commercial motor vehicle for three (3) years;

34 (D) For a second conviction in a separate incident of any
35 combination of offenses in this section while operating a commercial motor
36 vehicle, a person required to have a commercial driver license ~~and~~ or a

1 commercial learner's permit, or a commercial driver license holder or a
2 commercial learner's permit holder shall be disqualified from operating a
3 commercial motor vehicle for life; and

4 (E) For a second conviction in a separate incident of any
5 combination of offenses in this section while operating a noncommercial motor
6 vehicle, a commercial driver license holder or a commercial learner's permit
7 holder shall be disqualified from operating a commercial motor vehicle for
8 life;

9 (4) If a driver operates a motor vehicle and is convicted of
10 using the vehicle to commit a felony other than one described in subdivision
11 (b)(7) of this section, the driver shall be disqualified as follows:

12 (A) For a first conviction while operating a commercial
13 motor vehicle, a person required to have a commercial driver license ~~and~~ or a
14 commercial learner's permit, a commercial driver license holder, or a holder
15 of a commercial learner's permit shall be disqualified from operating a
16 commercial motor vehicle for one (1) year;

17 (B) For a first conviction while operating a noncommercial
18 motor vehicle, a commercial driver license holder or a commercial learner's
19 permit holder shall be disqualified from operating a commercial motor vehicle
20 for one (1) year;

21 (C) For a first conviction while operating a commercial
22 motor vehicle transporting hazardous materials required to be placarded under
23 the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, as in
24 effect on January 1, 2013, a person required to have a commercial driver
25 license ~~and~~ or a commercial learner's permit, a commercial driver license
26 holder, or a commercial learner's permit holder shall be disqualified from
27 operating a commercial motor vehicle for three (3) years;

28 (D) For a second conviction in a separate incident of any
29 combination of offenses in this section while operating a commercial motor
30 vehicle, a person required to have a commercial driver license ~~and~~ or a
31 commercial learner's permit, a commercial driver license holder, or a
32 commercial learner's permit holder shall be disqualified from operating a
33 commercial motor vehicle for life; and

34 (E) For a second conviction in a separate incident of any
35 combination of offenses in this section while operating a noncommercial motor
36 vehicle, a commercial driver license holder ~~must~~ or a commercial learner's

1 permit holder shall be disqualified from operating a commercial motor vehicle
2 for life;

3 (5) If a driver operates a motor vehicle and is convicted of
4 driving a commercial motor vehicle when the driver's commercial driver
5 license or a commercial learner's permit is revoked, suspended, or canceled
6 or if the driver is disqualified from operating a commercial motor vehicle as
7 a result of prior violations committed while operating a commercial motor
8 vehicle, the driver shall be disqualified as follows:

9 (A) For a first conviction while operating a commercial
10 motor vehicle, a person required to have a commercial driver license ~~and~~ or a
11 commercial learner's permit, or a commercial driver license holder or
12 commercial learner's permit holder shall be disqualified from operating a
13 commercial motor vehicle for one (1) year;

14 (B) For a first conviction while operating a commercial
15 motor vehicle transporting hazardous materials required to be placarded under
16 the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, as in
17 effect on January 1, 2013, a person required to have a commercial driver
18 license ~~and~~ or a commercial learner's permit, a commercial driver license
19 holder, or a commercial learner's permit holder shall be disqualified from
20 operating a commercial motor vehicle for three (3) years; and

21 (C) For a second conviction in a separate incident of any
22 combination of offenses in this section while operating a commercial motor
23 vehicle, a person required to have a commercial driver license ~~and~~ or a
24 commercial learner's permit, or a commercial driver license holder or a
25 commercial learner's permit holder shall be disqualified from operating a
26 commercial motor vehicle for life;

27 (6) If a driver operates a motor vehicle and is convicted of
28 causing a fatality through the negligent operation of a commercial motor
29 vehicle, including, ~~but not limited to,~~ without limitation the crimes of
30 murder, manslaughter, and negligent homicide, the driver shall be
31 disqualified as follows:

32 (A) For a first conviction while operating a commercial
33 motor vehicle, a person required to have a commercial driver license ~~and~~ or a
34 commercial learner's permit, or a commercial driver license holder or a
35 commercial learner's permit holder shall be disqualified from operating a
36 commercial motor vehicle for one (1) year;

1 (B) For a first conviction while operating a commercial
2 motor vehicle transporting hazardous materials required to be placarded under
3 the Hazardous Materials Regulations, 49 C.F.R. part 172, subpart F, as in
4 effect on January 1, 2013, a person required to have a commercial driver
5 license ~~and~~ or a commercial learner's permit, or a commercial driver license
6 holder or a commercial learner's permit holder shall be disqualified from
7 operating a commercial motor vehicle for three (3) years; and

8 (C) For a second conviction in a separate incident of any
9 combination of offenses in this section while operating a commercial motor
10 vehicle, a person required to have a commercial driver license ~~and~~ or a
11 commercial learner's permit, or a commercial driver license holder or a
12 commercial learner's permit holder shall be disqualified from operating a
13 commercial motor vehicle for life; and

14 (7) If a driver operates a motor vehicle and is convicted of
15 using the vehicle in the commission of a felony involving delivering,
16 manufacturing, or trafficking a controlled substance in violation of §§ 5-64-
17 419 – 5-64-442 or the former § 5-64-401, or an equivalent federal law or law
18 of another state, the driver shall be disqualified as follows:

19 (A) For a conviction while operating a commercial motor
20 vehicle, a person required to have a commercial driver license ~~and~~ or a
21 commercial learner's permit, or a commercial driver license holder or a
22 commercial learner's permit holder shall be disqualified from operating a
23 commercial motor vehicle for life and shall not be eligible for reinstatement
24 after ten (10) years; and

25 (B) For a conviction while operating a noncommercial motor
26 vehicle, a commercial driver license holder or a commercial learner's permit
27 holder shall be disqualified from operating a commercial motor vehicle for
28 life and shall not be eligible for reinstatement after ten (10) years.

29 (c) Disqualification for serious traffic violations, the offenses, and
30 the periods for which a driver ~~must be~~ is disqualified, depending upon the
31 type of vehicle the driver is operating at the time of the violation, shall
32 be as follows:

33 (1) For a second conviction of any combination of serious
34 traffic violations in a separate incident within a three-year period while
35 operating a commercial motor vehicle or a suspension, revocation, or
36 cancellation resulting from a conviction while operating a noncommercial

1 motor vehicle, a person required to have a commercial driver license ~~and~~ or a
2 commercial learner's permit, or a commercial driver license holder or a
3 commercial learner's permit holder shall be disqualified from operating a
4 commercial motor vehicle for sixty (60) days; and

5 (2) For a third or subsequent conviction of any combination of
6 serious traffic violations in a separate incident within a three-year period
7 while operating a commercial motor vehicle or a conviction that results in
8 suspension, revocation, or cancellation resulting from operating a

9 noncommercial motor vehicle, a person required to have a commercial driver
10 license ~~and~~ or a commercial learner's permit, or a commercial driver license
11 holder or a commercial learner's permit holder shall be disqualified from
12 operating a commercial motor vehicle for one hundred twenty (120) days;

13 (d) A driver shall be disqualified if the driver is convicted of
14 operating a commercial motor vehicle in violation of federal, state, or local
15 law or regulation because of the following railroad crossing violations:

16 (1) For drivers who are not required to always stop, failing to
17 slow down and check that the tracks are clear of an approaching train;

18 (2) For drivers who are not required to always stop, failing to
19 stop before reaching the crossing if the tracks are not clear;

20 (3) For drivers who are always required to stop, failing to stop
21 before driving onto the crossing;

22 (4) For all drivers failing to have sufficient space to drive
23 completely through the crossing without stopping;

24 (5) For all drivers failing to obey a traffic control device or
25 the directions of the enforcement official at the crossing; and

26 (6) For all drivers failing to negotiate a crossing because of
27 insufficient undercarriage clearance.

28 (e) A driver convicted of an offense listed in subsection (d) of this
29 section ~~is~~ shall be disqualified:

30 (1) For at least sixty (60) calendar days for a first
31 conviction;

32 (2) For at least one hundred twenty (120) calendar days for a
33 second conviction within a three-year period; and

34 (3) For at least one (1) year for a third or subsequent
35 conviction within a three-year period.

36 (f) A driver who violates an out-of-service order ~~is~~ shall be

1 disqualified as follows:

2 (1) If the driver operates a commercial motor vehicle and is
3 convicted of violating a driver or vehicle out-of-service order while
4 transporting nonhazardous materials, the driver ~~is~~ shall be disqualified as
5 follows:

6 (A) For a first conviction while operating a commercial
7 motor vehicle, a person required to have a commercial driver license ~~and or a~~
8 commercial learner's permit, or a commercial driver license holder is holder
9 or a commercial learner's permit holder shall be disqualified from operating
10 a commercial motor vehicle for at least one hundred eighty (180) days but not
11 more than one (1) year;

12 (B) For a second conviction in a separate incident within
13 a ten-year period while operating a commercial motor vehicle, a person
14 required to have a commercial driver license ~~and or a commercial learner's~~
15 permit, or a commercial driver license holder is holder or a commercial
16 learner's permit holder shall be disqualified from operating a commercial
17 motor vehicle for at least two (2) years but not more than five (5) years;
18 and

19 (C) For a third or subsequent conviction in a separate
20 incident within a ten-year period while operating a commercial motor vehicle,
21 a person required to have a commercial driver license ~~and or a commercial~~
22 learner's permit, or a commercial driver license holder is holder or a
23 commercial learner's permit holder shall be disqualified from operating a
24 commercial motor vehicle for at least three (3) years but not more than five
25 (5) years; and

26 (2) If the driver operates a commercial motor vehicle and is
27 convicted of violating a driver or vehicle out-of-service order while
28 transporting hazardous materials required to be placarded under the Hazardous
29 Materials Regulations, 49 C.F.R. part 172, subpart F, as in effect on January
30 1, 2013, or while operating a vehicle designed to transport sixteen (16) or
31 more passengers, including the driver, the driver ~~is~~ shall be disqualified as
32 follows:

33 (A) For a first conviction while operating a commercial
34 motor vehicle, a person required to have a commercial driver license ~~and or a~~
35 commercial learner's permit, or a commercial driver license holder is holder
36 or a commercial learner's permit holder shall be disqualified from operating

1 a commercial motor vehicle for at least one hundred eighty (180) days but not
2 more than two (2) years;

3 (B) For a second conviction in a separate incident within
4 a ten-year period while operating a commercial motor vehicle, a person
5 required to have a commercial driver license ~~and~~ or a commercial learner's
6 permit, or a commercial driver license holder is holder or a commercial
7 learner's permit holder shall be disqualified from operating a commercial
8 motor vehicle for at least three (3) years but not more than five (5) years;
9 and

10 (C) For a third or subsequent conviction in a separate
11 incident within a ten-year period while operating a commercial motor vehicle,
12 a person required to have a commercial driver license ~~and~~ or a commercial
13 learner's permit, or a commercial driver license holder is holder or a
14 commercial learner's permit holder shall be disqualified from operating a
15 commercial motor vehicle for at least three (3) years but not more than five
16 (5) years.

17 (g) Any driver disqualified by the Federal Motor ~~Carriers~~ Carrier
18 Safety Administration under 49 C.F.R. § 383.52, as in effect on January 1,
19 2013, shall be disqualified by the office. The disqualification shall be
20 concurrent with the disqualification ordered by the Federal Motor ~~Carriers~~
21 Carrier Safety Administration and shall be entered as part of the driver's
22 record.

23 (h) Convictions, disqualifications, and other licensing action for
24 violations as provided in this section shall be noted and retained by the
25 office on a person's commercial ~~driver's~~ driver license or commercial
26 learner's permit record for the periods of time required under 49 C.F.R. §
27 ~~384.225(d) and 49 C.F.R. § 384.231(d)~~ §§ 384.225(d) and 384.231(d), as in
28 effect on January 1, ~~2007~~ 2013.

29 (i) The commercial driver's license record released by the office to
30 the employer or prospective employer of a commercial driver pursuant to 49
31 C.F.R. § 384.225(c) and (e)(4), as in effect on January 1, ~~2007~~ 2013, shall
32 be a complete record that includes any convictions, disqualifications, and
33 other licensing actions for violations required to be retained on a
34 commercial ~~driver's~~ driver license or commercial learner's permit record
35 under 49 C.F.R. § ~~384.225(d) and 49 C.F.R. § 384.231(d)~~ §§ 384.225(d) and
36 384.231(d), as in effect on January 1, ~~2007~~ 2013.

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SECTION 17. Arkansas Code § 27-23-115 is amended to read as follows:

27-23-115. Implied consent requirements for commercial motor vehicle drivers.

(a) A person who drives a commercial motor vehicle within this state shall be deemed to have given consent, ~~subject to the provisions of § 5-65-202,~~ to take a test or tests of that person's blood, breath, saliva, or urine for the purpose of determining that person's blood alcohol concentration or the presence of other drugs.

(b)(1) ~~A test or tests~~ One (1) or more chemical tests may be administered at the direction of a law enforcement officer who, after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or a controlled substance in his or her system.

(2) It ~~shall be~~ is unlawful and punishable as provided in this chapter for any person so stopped or detained to refuse to submit to such chemical test or tests to determine that person's blood alcohol concentration or the presence of ~~other drugs~~ a controlled substance.

(c) A person requested to submit to a chemical test as provided in subsection (a) of this section ~~must~~ shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in that person's being disqualified from operating a commercial motor vehicle under § 27-23-112 and § 5-65-402.

(d) If the person is under arrest and refuses testing, no test shall be given, and the person's commercial driver license or commercial learner's permit shall be seized by the law enforcement officer. The officer shall immediately deliver to the person whose license or permit was seized a temporary commercial driving permit as provided by § 5-65-402 and shall cite the person for his or her refusal to submit to the test.

(e) The arresting officer shall remit the seized commercial driver license or commercial learner's permit to the Office of Driver Services as provided by § 5-65-402.

(f) The office shall disqualify the person from operating a commercial motor vehicle for a period specified in § 27-23-112 under the procedure set forth in § 5-65-402, and the disqualified person shall have the same right to administrative and judicial review provided by § 5-65-402.

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SECTION 18. Arkansas Code § 27-23-128 is amended to read as follows:

27-23-128. Deferment of sentence – Restrictions.

No circuit or district court judge may utilize § 5-4-321, § 16-90-115, § 16-90-904, §§ 16-93-301 – 16-93-303, § 16-93-314, or § 27-50-701 or any other program to defer imposition of sentence or enter the person into a diversion program in instances in which the ~~defendant~~ person holds a commercial driver license or a commercial learner's permit and is charged with violating any state or local traffic law other than a parking violation.

SECTION 19. Arkansas Code § 27-23-129 is amended to read as follows:

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

(a)(1) ~~Beginning January 30, 2012, an~~ An applicant for a commercial driver license or a commercial learner's permit that certifies as nonexcepted interstate or nonexcepted intrastate shall provide to the Office of Driver Services an original or a copy of a medical examiner's certificate prepared by a medical examiner, as required by 49 C.F.R. part 391, subpart E, as in effect on January 1, ~~2011~~ 2013.

(2) Upon approval of the application, the office shall post a certification status of "certified" on the commercial driver license record for the driver applicant or driver.

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

(1) Verify from the commercial driver license record that the medical certification status of the driver is "certified"; or

(2)(A) Obtain from the driver an original or a copy of a current medical examiner's certificate prepared by a medical examiner, as required by 49 C.F.R. part 391, subpart E, as in effect on January 1, ~~2011~~ 2013.

(B) Upon approval of the transfer, the office shall post a certification status of "certified" on the commercial driver license record for the driver.

(c)(1) Between January 30, 2012, and January 30, 2014, inclusive, a holder of a commercial driver license shall certify to the office that the

1 driver is one of the following types of drivers:

- 2 (A) Nonexcepted interstate;
- 3 (B) Excepted interstate;
- 4 (C) Nonexcepted intrastate; or
- 5 (D) Excepted intrastate.

6 (2) The office shall post to the commercial driver license
7 record the driver's certification.

8 (3) Between January 30, 2012, and January 30, 2014, inclusive, a
9 holder of a commercial driver license that certifies as nonexcepted
10 interstate or nonexcepted intrastate shall provide the office with an
11 original or a copy of a current medical examiner's certificate prepared by a
12 medical examiner, as required by 49 C.F.R. part 391, subpart E, as in effect
13 on January 1, ~~2011~~ 2013, and the office shall post a certification status of
14 "certified" on the commercial driver license record for the driver.

15 (d)(1) To maintain a medical certification status of "certified", a
16 commercial driver license holder ~~must~~ or a commercial learner's permit holder
17 shall provide the office with an unexpired original or a copy of each
18 subsequently issued medical examiner's certificate.

19 (2) ~~Beginning January 30, 2012, if~~ If a driver's medical
20 certification or medical variance expires, or if the Federal Motor Carrier
21 Safety Administration notifies the office that a medical variance was removed
22 or rescinded, the office shall:

23 (A) Post a certification status of "not certified" in the
24 commercial driver license or commercial learner's permit record for the
25 driver;

26 (B) Downgrade the commercial driver license or commercial
27 learner's permit of the driver effective in sixty (60) days; and

28 (C) Notify the driver in writing that:

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

31 (ii) The commercial driver license or commercial
32 learner's permit privilege will be downgraded unless the driver submits a
33 current medical certificate or medical variance.

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

1 (A) Post a certification status of “not certified” in the
2 commercial driver license record for the driver;

3 (B) Downgrade the commercial driver license or commercial
4 learner’s permit of the driver effective in sixty (60) days; and

5 (C) Notify the driver in writing that:

6 (i) The driver has a “not certified” medical
7 certification status; and

8 (ii) The commercial driver license privilege will be
9 downgraded unless the driver submits:

10 (a) The certification required by subsection
11 (c) of this section; and

12 (b) A current medical certificate or medical
13 variance, if applicable.

14 (4) Beginning January 30, 2014, if a holder of a commercial
15 driver license or a commercial learner’s permit that certifies as non-
16 excepted interstate or non-excepted intrastate fails to provide the office
17 with a current medical examiner’s certificate, the office shall:

18 (A) Post a certification status of “not certified” in the
19 commercial driver license record for the driver;

20 (B) Downgrade the commercial driver license or commercial
21 learner’s permit of the driver effective in sixty (60) days; and

22 (C) Notify the driver in writing that:

23 (i) The driver has a “not certified” medical
24 certification status; and

25 (ii) The commercial driver license or commercial
26 learner’s permit privilege will be downgraded unless the driver submits a
27 current medical certificate or medical variance.

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

30 (1) Date-stamp the medical examiner’s certificate;

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

33 (3) Post the information from the medical examiner’s certificate
34 within ten (10) calendar days to the commercial driver license record,
35 including:

36 (A) The medical examiner’s name;

- 1 (B) The medical examiner's telephone number;
- 2 (C) The date of the medical examiner's certificate
3 issuance;
- 4 (D) The medical examiner's license number and the state of
5 issuance;
- 6 (E) The medical examiner's National Registry
7 identification number if required by the National Registry of ~~Certified~~
8 Medical Examiners, mandated by 49 U.S.C. 31149(d), as in effect on January 1,
9 ~~2011~~ 2013;
- 10 (F) An indicator of medical certification status, that is,
11 "certified" or "not certified";
- 12 (G) The expiration date of the medical examiner's
13 certificate;
- 14 (H) The existence of any medical variance on the medical
15 certificate, including without limitation an exemption, skill performance
16 evaluation certification, or grandfather provision;
- 17 (I) Any restrictions, including without limitation
18 corrective lenses, a hearing aid, or a requirement to have possession of an
19 exemption letter or skill performance evaluation certificate while on duty;
20 and
- 21 (J) The date the medical examiner's certificate
22 information was posted to the commercial driver license record.
- 23 (f) ~~Beginning January 30, 2012, the~~ The office, within ten (10)
24 calendar days of a driver's medical certification status expiring or a
25 driver's medical variance expiring or being rescinded, shall update the
26 medical certification status of the driver as "not certified".
- 27 (g) ~~Beginning January 30, 2012, the~~ The office, within ten (10)
28 calendar days of receiving information from the administration regarding
29 issuance or renewal of a medical variance for a driver, shall update the
30 commercial driver license record to include the medical variance information
31 provided by the administration.
- 32 (h)(1) If the office determines in its check of an applicant's license
33 status and record before issuing a commercial driver license or commercial
34 learner's permit that the applicant falsified information or a document
35 required by this section, under 49 C.F.R. §§ 383.71(b) or (g), as in effect
36 on January 1, 2013, or by 49 C.F.R. §§ 383.151 – 383.155, as in effect on

1 January 1, 2013, the office shall:

2 (A) Deny the person's pending application for a commercial
3 driver license or commercial learner's permit; and

4 (B) Refuse to grant an application for a commercial driver
5 license or commercial learner's permit for a period of one (1) year.

6 (2) If the office determines at any time after a commercial
7 driver license or commercial learner's permit is issued that the driver
8 falsified information or a document required by this section, by 49 C.F.R. §§
9 383.71(b) or (g), as in effect on January 1, 2013, or by 49 C.F.R. §§ 383.151
10 - 383.155, as in effect on January 1, 2013, the office shall disqualify the
11 driver's commercial driver license or commercial learner's permit for a
12 period of one (1) year.

13

14 SECTION 20. Arkansas Code § 27-23-130(d), concerning the prohibition
15 against texting while driving a commercial motor vehicle under the Arkansas
16 Uniform Commercial Driver License Act, § 27-23-101 et seq., is amended to
17 read as follows:

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

20

21 SECTION 21. Arkansas Code Title 27, Chapter 23, Subchapter 1, is
22 amended to add an additional section to read as follows:

23 27-23-131. Prohibition against use of hand-held mobile telephone while
24 driving commercial motor vehicle.

25 (a)(1) For purposes of this section only, "driving" means operating a
26 commercial motor vehicle on a highway, including while temporarily stationary
27 because of traffic, a traffic control device, or other momentary delays.

28 (2) For purposes of this section only, "driving" does not
29 include operating a commercial motor vehicle if the driver has moved the
30 vehicle to the side of, or off, a highway and has halted in a location where
31 the vehicle can safely remain stationary.

32 (b)(1) A driver shall not use a hand-held mobile telephone while
33 driving a commercial motor vehicle.

34 (2) However, use of a hand-held mobile telephone is permissible
35 by a driver of a commercial motor vehicle when necessary to communicate with
36 a law enforcement official or other emergency service.

1 (c) A motor carrier shall not allow or require a driver to use a hand-
2 held mobile telephone while driving a commercial motor vehicle.

3 (d) A person who is convicted of violating this section is guilty of a
4 violation.

5
6 *SECTION 22. EFFECTIVE DATES.*

7 *(a) The following are effective on and after September 1, 2013:*

8 *(1) Section 27-23-103(37)(J) as added by Section 8 of the bill;*

9 *(2) Section 27-23-103(45) and (50) as added by Section 11 of the*
10 *bill; and*

11 *(3) Section 21 of the bill.*

12 *(b) The following are effective on and after July 8, 2014:*

13 *(1) Sections 1-7 of the bill;*

14 *(2) Section 27-23-103(37)(A)-(I) as amended by Section 8 of the*
15 *bill;*

16 *(3) Sections 9 and 10 of the bill;*

17 *(4) Section 27-23-103(42)-(49) as added by Section 11 of the*
18 *bill; and*

19 *(5) Sections 12-20 of the bill.*

20
21 /s/Catlett

22
23
24 **APPROVED: 04/04/2013**