

Department of Finance and Administration

Legislative Impact Statement

Bill: HB2013

Bill Subtitle: TO AMEND THE ARKANSAS UNIFORM COMMERCIAL DRIVER LICENSE ACT, ? 27-23-101 ET SEQ., TO COMPLY WITH FEDERAL COMMERCIAL DRIVER LICENSE REGULATIONS AND TO MAKE TECHNICAL CORRECTIONS.

Basic Change :

Sponsor: Representative Catlett

Federal law mandates that certain changes be implemented in the Arkansas Commercial Driver License program. The changes contained in this bill are designed to comply with those federal law requirements. If these changes are not enacted, federal highway funds to the state could be withheld.

This bill makes various changes to the Uniform Commercial Driver License Act regarding commercial driver testing, licensing, and disqualification. The changes include amendments to the definitions of "commercial motor vehicle," "downgrade," "disqualification," "driver applicant," "imminent hazard," "tank vehicle," "serious traffic violation," and "texting." In addition, the bill repeals the definitions of "commercial driver instruction permit" and "nonresident commercial driver license."

The bill also adopts the following new federal definitions for commercial driver's license purposes: "commercial learner's permit," "endorsement," "manual transmission," "mobile telephone," "non-commercial driver's license," "non-domiciled commercial learner's permit," "non-domiciled commercial driver's license," "third party skills test examiner," "third party tester," and "use a hand-held mobile telephone."

The bill also replaces the current system in which a commercial driver instruction permit is issued by the Arkansas State Police (ASP) with a "commercial learner's permit" (CLP) that is issued by the Department of Finance and Administration (DFA). ASP, in addition to third party testers licensed by ASP, will continue to administer the requisite tests in order to obtain a CLP or commercial driver license (CDL). However, once the test results are transmitted to DFA, DFA will issue the CLP to the applicant.

The CLP application requirements will also be amended by this bill to closely resemble the application requirements for a CDL. A CLP applicant will be required to certify to DFA what type of driving he or she intends to engage in, i.e., either interstate or intrastate driving. Also, a CLP applicant will be required to provide proof of medical fitness to operate a commercial motor vehicle (CMV). If the holder of a CLP commits any offense that would cause a CDL holder to be disqualified, a CLP holder will likewise be disqualified from operating a CMV for the same period of time.

In addition, the bill creates a new traffic violation for operation of a CMV while using a hand-held telephone. Under the new federal requirements, a CMV operator may continue to operate a CMV while speaking on a mobile telephone. However, the driver must be able to answer or initiate a call with one touch of a button and the phone cannot be held in the driver's hand during a phone conversation while the driver is operating a CMV. Violation of this prohibition will constitute a "serious traffic violation" for CDL disqualification purposes.

The bill also adopts federal changes to the testing requirements of the ASP and third party testers. CDL tests conducted by the ASP shall be given to an applicant electronically and test results will be transmitted to DFA electronically. The bill also requires ASP to conduct training classes for third party testers at least twice annually unless there are insufficient applicants for training classes. ASP must also update its third party testing rules to meet current federal requirements.

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Finally, Arkansas may waive the skills testing requirement for a CDL applicant that has military CMV experience.

Revenue Impact :

If this bill is not passed, the Arkansas Highway and Transportation Department may lose \$17 million in federal highway funding the first year and \$33 million the second year.

Taxpayer Impact :

Taxpayers who apply for a commercial driver's license will follow new procedures in the application and testing process. Commercial driver's license holders will follow new rules concerning the use of a hand held telephones and new definitions.

Resources Required :

Both DFA and ASP will be required to implement new programming and train personnel on the new rules and procedures. ASP has completed the programming and roll-out of the automated testing at the ASP testing facilities. Programming has been completed for transmission of test scores to DFA.

Time Required :

No additional time is required.

Procedural Changes :

New procedures will be developed and implemented at both DFA and ASP.

Other Comments :

If this bill is not passed, the Arkansas Highway and Transportation Department may lose \$17 million in federal highway funding the first year and \$33 million the second year.
The bill does not contain an emergency clause or an effective date.

Legal Analysis :

This bill makes various changes to the Uniform Commercial Driver License Act, § 27-23-101, et seq, pursuant to changes in the Federal Motor Carrier's Safety Regulations, 49 C.F.R. §§ 350-499, regarding commercial driver testing, licensing, and disqualification. The federal regulatory changes require the State of Arkansas to make mandatory changes to Arkansas law in order to receive federal highway funds. This is a DFA bill to make those changes.

The changes include amendments to § 27-23-103 to amend the definitions of "commercial motor vehicle," "downgrade," "disqualification," "driver applicant," "imminent hazard," "tank vehicle," "serious traffic violation," and "texting." In addition, the bill repeals the definitions of "commercial driver instruction permit" and "nonresident commercial driver license."

The bill adopts the following new federal definitions for commercial driver's license purposes: "commercial learner's permit," "endorsement," "manual transmission," "mobile telephone," "non-commercial driver's license," "non-domiciled commercial learner's permit," "non-domiciled commercial driver's license," "third party skills test examiner," "third party tester," and "use a hand-held mobile telephone."

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The bill replaces the current system in which a commercial driver instruction permit is issued by the Arkansas State Police (ASP) with a "commercial learner's permit" (CLP) that is issued by the Department of Finance and Administration (DFA). ASP, in addition to third party testers licensed by ASP, will continue to administer the requisite tests in order to obtain a CLP or commercial driver license (CDL). However, once the test results are transmitted to DFA, DFA will issue the CLP to the applicant.

The CLP application requirements will also be amended by this bill to closely resemble the application requirements for a CDL. A CLP applicant will be required to certify to DFA what type of driving he or she intends to engage in, i.e., either interstate or intrastate driving. Also, a CLP applicant will be required to provide proof of medical fitness to operate a commercial motor vehicle (CMV). If the holder of a CLP commits any offense that would cause a CDL holder to be disqualified under § 27-23-112, a CLP holder will likewise be disqualified from operating a CMV for the same period of time.

Another change of the bill creates a new traffic violation of operation of a CMV while using a hand-held telephone. Under the new federal requirements, a CMV operator may continue to operate a CMV while speaking on a mobile telephone. However, the driver must be able to answer or initiate a call with one touch of a button and the phone cannot be held in the driver's hand during a phone conversation while the driver is operating a CMV. Violation of this prohibition will constitute a "serious traffic violation" for CDL disqualification purposes.

The bill adopts federal changes to the testing requirements of the ASP and third party testers. CDL tests conducted by the ASP shall be given to an applicant electronically and test results will be transmitted to DFA electronically. The bill also requires ASP to conduct training classes for third party testers at least twice annually unless there are insufficient applicants for training classes. The bill also requires ASP to update its third party testing rules to meet current federal requirements.

Finally, under § 27-23-108 as currently codified, Arkansas may waive the skills testing requirement for a CDL applicant that has military CMV experience. The bill updates Arkansas law to reflect changes to federal law regarding the waiver of skills testing for an applicant with military CMV driving experience.

This bill does not have an emergency clause or effective date.