

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 341

5 By: Senator J. Boyd  
6 By: Representative McClure  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE COMMERCIAL DRIVER ALCOHOL AND  
10 DRUG TESTING ACT TO COMPLY WITH FEDERAL MOTOR CARRIER  
11 SAFETY ADMINISTRATION REGULATIONS; AND FOR OTHER  
12 PURPOSES.  
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## Subtitle

16 TO AMEND THE COMMERCIAL DRIVER ALCOHOL  
17 AND DRUG TESTING ACT TO COMPLY WITH  
18 FEDERAL MOTOR CARRIER SAFETY  
19 ADMINISTRATION REGULATIONS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 27, Chapter 23, Subchapter 2 is amended  
25 to read as follows:

26 27-23-202. Definitions.

27 (a) As used in this subchapter:

28 (1) "Commercial Driver's License Drug and Alcohol Clearinghouse"  
29 means the Federal Motor Carrier Safety Administration's database that:

30 (A) Contains information required to be reported by  
31 employers and service agents regarding drivers who are subject to the  
32 Department of Transportation's controlled substance and alcohol testing  
33 regulations; and

34 (B) Is used to provide information for queries concerning  
35 driver records;

36 (2)(A)(i) "Consortium/third-party administrator" means a service



1 agent that provides or coordinates the provision of drug and alcohol testing  
2 services to employers that are required to comply with the drug and alcohol  
3 testing provisions under the Federal Motor Carrier Safety Regulations, 49  
4 C.F.R. pts. 350-399, as in effect on ~~January 1, 2009~~ November 8, 2021.

5 (ii) A consortium/third-party administrator performs  
6 tasks concerning the operation of an employer’s drug and alcohol testing  
7 programs.

8 (B) “Consortium/third-party administrator” includes  
9 without limitation, groups of employers who join together to administer, as a  
10 single entity, the drug and alcohol testing programs of its members that are  
11 required under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts.  
12 350-399, as in effect on ~~January 1, 2009~~ November 8, 2021.

13 (C) A consortium/third-party administrator is not an  
14 “employer” for purposes of this subchapter;

15 ~~(2)(A)(3)~~ “Department of Transportation” means an agency or  
16 operating administration of the United States Department of Transportation  
17 administering regulations requiring alcohol or drug testing under 14 C.F.R.  
18 pts. 61, 63, 65, 121, and 135 and 49 C.F.R. parts 199, 219, 382, and 655 as  
19 in effect on November 8, 2021.

20 (4)(A) “Employee” means a person who is a holder of an Arkansas  
21 commercial driver license and is subject to drug and alcohol tests under the  
22 Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399, as in  
23 effect on ~~January 1, 2009~~ November 8, 2021.

24 (B) “Employee” includes an individual currently performing  
25 safety-sensitive transportation jobs and an applicant for employment in  
26 safety-sensitive transportation jobs subject to preemployment testing; and

27 ~~(3)(5)(A)~~ “Employer” means an Arkansas person or entity  
28 employing one (1) or more employees subject to the drug and alcohol testing  
29 provisions under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts.  
30 350-399, as in effect on ~~January 1, 2009~~ November 8, 2021.

31 (B) “Employer” includes:

32 (i) An individual who holds an Arkansas commercial  
33 driver license who is self-employed in a safety-sensitive transportation job  
34 for which drug and alcohol tests are required under the Federal Motor Carrier  
35 Safety Regulations, 49 C.F.R. pts. 350-399, as in effect on ~~January 1, 2009~~  
36 November 8, 2021; and

1 (ii) An Arkansas employer’s officer, representative,  
2 or management personnel.

3 (b) Except as provided in this subchapter, the definition  
4 under 49 C.F.R. § 40.3, as in effect on ~~January 1, 2009~~ November 8, 2021,  
5 applies to a term that is used in this subchapter if that term is defined  
6 under 49 C.F.R. § 40.3, as in effect on ~~January 1, 2009~~ November 8, 2021.

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8 SECTION 2. Arkansas Code § 27-23-203 is amended to read as follows:  
9 27-23-203. Applicability – Exemptions.

10 (a) This subchapter applies to:

11 (1) An Arkansas employer who is required to comply with the drug  
12 and alcohol testing provisions under the Federal Motor Carrier Safety  
13 Regulations, 49 C.F.R. pts. 350-399, as in effect on ~~January 1, 2009~~ November  
14 8, 2021;

15 (2) An employee who holds an Arkansas commercial driver license  
16 and who either:

17 (A) Is employed by an Arkansas employer in a safety-  
18 sensitive transportation job for which drug and alcohol tests are required  
19 under the Federal Motor Carrier Safety Regulations, 49 C.F.R. pts. 350-399,  
20 as in effect on ~~January 1, 2009~~ November 8, 2021; or

21 (B) Has submitted an application for employment with an  
22 Arkansas employer for a safety-sensitive transportation job for which drug  
23 and alcohol tests are required under the Federal Motor Carrier Safety  
24 Regulations, 49 C.F.R. pts. 350-399, as in effect on ~~January 1, 2009~~ November  
25 8, 2021; and

26 (3) A consortium/third-party administrator that provides or  
27 coordinates the provision of drug and alcohol testing services to Arkansas  
28 employers that are required under the Federal Motor Carrier Safety  
29 Regulations, 49 C.F.R. pts. 350-399, as in effect on ~~January 1, 2009~~ November  
30 8, 2021.

31 (b) This subchapter does not apply to an individual who is exempt from  
32 holding a commercial driver license notwithstanding whether the individual  
33 holds a commercial driver license.

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35 SECTION 3. Arkansas Code § 27-23-205 is repealed:  
36 ~~27-23-205. Reporting test results.~~

1           ~~(a) An Arkansas employer shall report to the Office of Driver Services~~  
2 ~~within three (3) business days the results of an alcohol screening test that~~  
3 ~~is performed on an employee who holds an Arkansas commercial driver license~~  
4 ~~if:~~

5                     ~~(1) The alcohol screening test is performed pursuant to 49~~  
6 ~~G.F.R. § 382.303 or § 382.305, as in effect on January 1, 2009; and~~

7                     ~~(2) One (1) of the following occurs regarding the alcohol~~  
8 ~~screening test:~~

9                             ~~(A) A valid positive result; or~~

10                            ~~(B) The refusal to provide a specimen for an alcohol~~  
11 ~~screening test.~~

12           ~~(b) An Arkansas employer shall report within three (3) business days~~  
13 ~~to the Office of Driver Services any of the following occurrences regarding a~~  
14 ~~drug test result of an employee who holds an Arkansas commercial driver~~  
15 ~~license:~~

16                     ~~(1) A valid positive result on a drug test for any of the~~  
17 ~~following drugs:~~

18                             ~~(A) Marijuana metabolites;~~

19                             ~~(B) Cocaine metabolites;~~

20                             ~~(C) Amphetamines;~~

21                             ~~(D) Opiate metabolites; or~~

22                             ~~(E) Phencyclidine;~~

23                     ~~(2) The refusal to provide a specimen for a drug test; or~~

24                     ~~(3) The submission of an adulterated specimen, a dilute positive~~  
25 ~~specimen, or a substituted specimen on a drug test performed.~~

26           ~~(c) A consortium/third party administrator shall report to the Office~~  
27 ~~of Driver Services within three (3) business days the results of an alcohol~~  
28 ~~screening test that is performed on an Arkansas employer or employee who~~  
29 ~~holds an Arkansas commercial driver license if:~~

30                     ~~(1) The alcohol screening test is performed pursuant to 49~~  
31 ~~G.F.R. § 382.303 or § 382.305, as in effect on January 1, 2009; and~~

32                     ~~(2) One (1) of the following occurs regarding the alcohol~~  
33 ~~screening test:~~

34                             ~~(A) A valid positive result; or~~

35                            ~~(B) The refusal to provide a specimen for an alcohol~~  
36 ~~screening test.~~

1           ~~(d) A consortium/third party administrator shall report within three~~  
2 ~~(3) business days to the Office of Driver Services any of the following~~  
3 ~~occurrences regarding a drug test result of an Arkansas employer or employee~~  
4 ~~who holds an Arkansas commercial driver license.~~

5                   ~~(1) A valid positive result on a drug test for any of the~~  
6 ~~following drugs:~~

7                           ~~(A) Marijuana metabolites;~~

8                           ~~(B) Cocaine metabolites;~~

9                           ~~(C) Amphetamines;~~

10                          ~~(D) Opiate metabolites; or~~

11                          ~~(E) Phenethylidine;~~

12                   ~~(2) The refusal to provide a specimen for a drug test; or~~

13                   ~~(3) The submission of an adulterated specimen, a dilute positive~~  
14 ~~specimen, or a substituted specimen on a drug test performed.~~

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16           SECTION 4. Arkansas Code § 27-23-206 is amended to read as follows:

17           27-23-206. Maintenance of information – Confidentiality.

18           ~~(a) The Office of Driver Services shall maintain the information~~  
19 ~~provided under this section in a database to be known as the “Commercial~~  
20 ~~Driver Alcohol and Drug Testing Database” for at least three (3) years.~~

21           ~~(b) Notwithstanding any other provision of law to the contrary,~~  
22 ~~personally identifying information of employees in the database is~~  
23 ~~confidential and shall be released by the Office of Driver Services only as~~  
24 ~~provided under § 27-23-207.~~

25           ~~(c) The use of one (1) report generated from the database to establish~~  
26 ~~noncompliance for the imposition of a penalty under § 27-23-209 shall not~~  
27 ~~subject the contents of the entire database to disclosure.~~

28                   (1) The Office of Driver Services shall obtain a driver’s record  
29 from the Commercial Driver’s License Drug and Alcohol Clearinghouse when the  
30 driver has applied for a commercial driver’s license.

31                   (2) A driver consents to the release of information from the  
32 Commercial Driver’s License Drug and Alcohol Clearinghouse by applying for a  
33 commercial driver’s license under 49 C.F.R. § 382.725 as in effect on  
34 November 8, 2021.

35           (b) The Office of Driver Services:

36                   (1) Shall only use the information received from the Commercial

1 Driver's License Drug and Alcohol Clearinghouse to determine a driver's  
 2 qualifications to operate a commercial motor vehicle; and

3 (2) May not divulge or permit any other person or entity to  
 4 divulge any information from the Commercial Driver's License Drug and Alcohol  
 5 Clearinghouse to any person or entity not directly involved in determining a  
 6 driver's qualifications to operate a motor vehicle.

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 8 SECTION 5. Arkansas Code §§ 27-23-207 - 27-23-209 are repealed.

9 ~~27-23-207. Use of database by employers.~~

10 ~~(a) An Arkansas employer shall submit a request for information from~~  
 11 ~~the Commercial Driver Alcohol and Drug Testing Database for each employee who~~  
 12 ~~is subject to drug and alcohol testing under this subchapter.~~

13 ~~(b) The request for information shall be submitted to the Office of~~  
 14 ~~Driver Services by the Arkansas employer with an authorization that is signed~~  
 15 ~~by the employee.~~

16 ~~(c)(1)(A) The fee for the request for information is a nominal fee not~~  
 17 ~~to exceed one dollar (\$1.00) per employee per request.~~

18 ~~(B) The Office of Driver Services shall determine the~~  
 19 ~~amount of the fee.~~

20 ~~(C) The Office of Driver Services shall set the fee before~~  
 21 ~~implementation by rule.~~

22 ~~(2) The fee shall be assessed to and paid by the Arkansas~~  
 23 ~~employer requesting the information.~~

24 ~~(d) The Arkansas employer shall maintain a record of the report from~~  
 25 ~~the database that results from the request for information submitted under~~  
 26 ~~this section for at least three (3) years.~~

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 28 ~~27-23-208. Use of database by employee.~~

29 ~~(a) An employee who holds a commercial driver license may submit a~~  
 30 ~~request for information from the Commercial Driver Alcohol and Drug Testing~~  
 31 ~~Database for his or her report.~~

32 ~~(b) The request for information shall be submitted with a signed~~  
 33 ~~authorization to the Office of Driver Services by the employee who holds a~~  
 34 ~~commercial driver's license.~~

35 ~~(c)(1) The fee for the request for information is one dollar (\$1.00)~~  
 36 ~~per request.~~



1 (a) The Office of Driver Services shall pursue grants available  
2 through the United States Department of Transportation or other entity to  
3 assist with the cost of ~~this program~~ compliance with the Commercial Driver's  
4 License Drug and Alcohol Clearinghouse.

5 (b) The Office of Driver Services may:

6 (1) Adopt rules to administer this subchapter; and

7 (2) Receive and expend any moneys arising from grants,  
8 contributions, or reimbursements from the United States Department of  
9 Transportation or other entity for performing its duties under this  
10 subchapter; ~~and~~

11 ~~(3) Contract with a third party to administer the Commercial~~  
12 ~~Driver Alcohol and Drug Testing Database.~~

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