



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #774

### Commercial Motor Vehicle Licensing Modifications (DOT -- Motor Vehicles)

[LFB 2003-05 Budget Summary: Page 433, #6]

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#### CURRENT LAW

State statutes, in compliance with federal requirements, require DOT to administer a commercial driver's license system and outline numerous requirements, also in compliance with federal law, related to the issuance of commercial driver's licenses and the suspension, revocation, or disqualification of commercial driver's licenses.

The federal Motor Carrier Safety Improvement Act of 1999 requires states to make several changes to the state's commercial driver's license laws by September 30, 2005. Failure to adopt these changes would result in a loss of federal highway aid beginning in federal fiscal year 2006, estimated by the Department to be \$27.4 million annually.

#### GOVERNOR

Modify provisions related to commercial motor vehicle licensing, as outlined below. Specify that these modifications first apply, unless otherwise noted, to licenses issued or renewed on September 30, 2005, or to violations committed on September 30, 2005, with respect to provisions related to actions required as the result of motor vehicle law violations.

A. *Commercial Driver's License Disqualification*

Modify a provision that requires a one-year disqualification of a person's commercial driver's license operating privilege for a conviction of certain offenses committed while driving or operating a commercial motor vehicle (including OWI and hit-and-run offenses), to require, instead, a one-year disqualification for a conviction of these offenses while driving or operating any vehicle. Add the following offenses to the list of offenses resulting in a one-year disqualification: (1) operating a commercial motor vehicle either: (a) when the person's

commercial driver's license is revoked, suspended, or canceled based on the person's operation of a commercial motor vehicle; or (b) when the person is disqualified from operating a commercial motor vehicle based on the person's operation of a commercial motor vehicle; and (2) causing a fatality through negligent or criminal operation of a commercial motor vehicle.

Modify a provision that requires a lifetime disqualification from commercial motor vehicle operating privileges if the person uses a commercial motor vehicle, on or after July 1, 1987, in the commission of a felony involving certain violations of controlled substance laws, to require, instead, a lifetime disqualification for the commission of such a felony using any motor vehicle.

Modify a provision that requires a 60-day commercial driver's license disqualification for two "serious traffic violations" or a 120-day disqualification for three "serious traffic violations" committed within a three-year period, where "serious traffic violations" are defined as any one of several listed offenses committed while operating a commercial motor vehicle (including speeding, reckless driving, a traffic violation resulting in a fatal accident, and other offenses related to the safe control of the vehicle), to instead define "serious traffic violations" as any of the listed offenses committed while operating a commercial motor vehicle or any of the offenses committed while operating any motor vehicle if the offense results in the revocation, cancellation, or suspension of the person's driver's license or operating privilege. Add the following offenses that are specific to commercial motor vehicle operation to the list of offenses constituting a "serious traffic violation" for the purposes of this provision: (1) operating a commercial motor vehicle when the person has not obtained a commercial driver's license; (2) operating a commercial motor vehicle when the person does not have in his or her immediate possession the person's commercial driver's license document, including any special restriction cards, unless the person produces in court or in the office of the law enforcement officer that issued the citation, by the date that the person must appear in court or pay a fine or forfeiture with respect to the citation, a commercial driver's license document issued to the person prior to the date of the citation and valid at the time of the citation; and (3) operating a commercial motor vehicle without the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported. Modify the offense considered a serious traffic violation for the purposes of this provision that is related to the violation of a law resulting in a fatal accident to create an exception (in addition to the current-law exceptions of parking, vehicle weight, or vehicle defect violations) for violations related to the operation of a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, canceled, or disqualified. (These offenses would be covered under the provision requiring a one-year disqualification.)

Specify that a person is disqualified from operating a commercial motor vehicle under Wisconsin law if the person is disqualified by federal authorities under emergency disqualification procedures under federal law on the basis that the person's continued operation of a commercial motor vehicle would create an imminent hazard, as defined under federal law. Specify that the period of disqualification is the period determined by the federal authorities, and is effective upon receipt by the Department of a notice from federal authorities.

Modify the definition of disqualification to reflect changes that allow such disqualification for violations committed while operating any motor vehicle, instead of just those involving commercial motor vehicles.

*B. Commercial Motor Vehicle Operating Privilege or Driver's License Revocation and Suspension.*

Delete a provision that prohibits DOT from revoking the commercial motor vehicle operating privileges in Wisconsin of a nonresident for a conviction of an offense in another jurisdiction that is related to the operation of a vehicle while intoxicated and that, if committed in Wisconsin, would result in license revocation, thereby giving effect to a current law provision that requires the revocation of the nonresident's Wisconsin operating privileges in these cases. Delete a similar provision that prohibits DOT from suspending or revoking the commercial motor vehicle operating privileges in Wisconsin of a nonresident for a conviction in another state related to operating a vehicle with a suspended, revoked, or canceled license that, if committed in Wisconsin, would have permitted a court to suspend the person's license, thereby giving effect to a current law provision that permits DOT to suspend the person's license in these cases.

*C. Fine for Operating a Commercial Motor Vehicle Under an Out-of-Service Order*

Modify the fine for a violation of operating a commercial motor vehicle while under an out-of-service order (the temporary prohibition against operating a commercial motor vehicle) by establishing a minimum fine of \$1,100 (there is currently no minimum) and increasing the maximum fine to \$2,750, from the current law maximum fine of \$2,500.

*D. Issuance and Renewal of Commercial Driver's Licenses and Elimination of Occupational Licenses for Commercial Driver's Licenses*

Prohibit the Department from issuing a commercial driver's license to any person whose operator's license or operating privilege is revoked, suspended, or canceled.

Require DOT, before renewing any driver's license, in addition to, as under current law, prior to issuing any license, to obtain driver record information from the national driver registry and commercial driver license information system to determine whether the applicant holds a commercial driver license, or a license that is revoked, suspended, or canceled, or is otherwise disqualified. Require the Department, prior to issuing or renewing a commercial driver's license, to request the complete driving record of the person from any other state that has issued an operator's license or commercial driver's license to the person within the previous 10 years. Specify that the request of records in the case of commercial driver's licenses must be conducted within the time frames established under federal law. Specify, however, that these record checks do not apply to a renewal of a person's commercial driver's license if the Department has previously issued a renewal of a commercial driver's license after September 30, 2005, and, in connection with the previous renewal, DOT recorded on the person's driving record the date on which the operator's record check was previously performed.

Prohibit the Department from issuing an occupational license (for the restricted operation of a vehicle during a period of suspension, revocation, or disqualification) for the operation of a commercial motor vehicle and modify statutory provisions to remove references to occupational licenses for commercial motor vehicles.

*E. Requirements Related to Notification of Disqualifications and Traffic Convictions and Reporting of Driver Records Upon Request*

Require DOT, within 10 days after the disqualification of the holder of a commercial driver's license from operating a commercial motor vehicle for at least 60 days, or within 10 days after the revocation, suspension, or cancellation of the commercial driver's license for at least 60 days, to notify the commercial driver's license information system and, if the license was not issued by the Department, the state that issued the license, of the disqualification, revocation, suspension, or cancellation, and of the violation that resulted in the disqualification, revocation, suspension, or cancellation.

Require DOT, within 30 days after a conviction of the holder of a commercial driver's license issued by another state for violating any state or local law of Wisconsin, or any law of a federally-recognized American Indian tribe or band of Wisconsin that is in conformity with any state law and that relates to traffic control, other than parking violations, to provide notice of the conviction to the driver licensing agency of the state that issued the license. Require DOT, within 30 days, to provide similar notice of the conviction of a person holding an operator's license issued by another state on a violation of operating a commercial motor vehicle without a commercial driver's license. Modify these notification requirements to require such notification within 10 days after conviction, effective September 30, 2008.

Require DOT, upon request and within federally-required time periods, to provide operating record file information related to traffic violations, other than parking violations, to any of the following requesters: (1) the person holding the commercial driver's license; (2) the U.S. Secretary of Transportation; (3) any employer or prospective employer of the person holding the commercial driver's license; (4) any driver licensing agency of another state or law enforcement agency; (5) any governmental entity having access to the commercial driver's license information system; or (6) any authorized agent of these requesters. Prohibit DOT from providing this operating record information to any requester other than these specified requesters.

Require DOT, upon request and within 30 days of receiving such a request, to provide to the driver licensing agencies of other states the complete driving record of any person currently or previously licensed in Wisconsin by the Department.

*F. Requirements Related to the Maintenance of Driver Records*

Specify that the driver record for a person holding a commercial driver's license issued by the Department shall include the following: (1) a record of any disqualification by another state or jurisdiction of the person from operating a commercial motor vehicle for at least 60 days or of

the revocation, suspension, or cancellation by another state or jurisdiction of the person's commercial driver's license for at least 60 days, and the violation that resulted in the disqualification, revocation, suspension, or cancellation, as specified in any notice received from the state or other jurisdiction in conformity with federal notification requirements; and (2) a record of any violation in another state of any state or local law of that state or any law of a federally-recognized American Indian tribe or band in that state in conformity with any state law relating to motor vehicle traffic control, other than a parking violation, as specified in any notice received from the state in conformity with federal notification requirements. Require DOT to record the information relating to law violations in another jurisdiction within 10 days after receiving notice of this information. Prohibit the Department from concealing, withholding, or masking from the Department's file, or otherwise allowing in any way a person to avoid the Department's recording in the file, any information of which the Department has notice that is required to be recorded under these provisions, regardless of whether the person has obtained deferral of imposition of judgment, been allowed to enter a diversion program, or otherwise obtained delayed or suspended judgment or alternative sentencing from a court.

Specify that the driver record for a person holding a commercial driver's license issued by any state shall include a record of each violation, while operating any motor vehicle, of any state or local law of Wisconsin or any law of a federally-recognized American Indian tribe or band in Wisconsin that is in conformity with any state law relating to motor vehicle traffic control, other than a parking violation. Require DOT to record this information in the person's driver record within 10 days after the date of conviction.

Specify that the driver record for a person holding an operator's license, other than a commercial driver's license, issued by DOT, shall include a record of any violation in another state or jurisdiction of operating a commercial motor vehicle without a commercial driver's license, as specified in any notice received from the state or other jurisdiction in conformity with federal notification requirements.

Specify that these driver record requirements (enumerated in the previous three paragraphs) shall be maintained for at least three years. Specify that statutory provisions that allow a court to expunge from the record any information about certain misdemeanors in certain circumstances do not apply to information required to be recorded in driver records under the above provisions.

#### *G. School Bus Endorsements*

Specify that an endorsement allowing the operation of a school bus that is a commercial motor vehicle may be issued only if the applicant meets all of the following requirements: (1) holds a valid commercial driver's license; (2) qualifies for a "P" endorsement authorizing the person to operate a vehicle designed to carry 16 or more passengers, including passing the knowledge and driving skills tests required for obtaining such an endorsement; (3) passes a knowledge test in compliance with federal school bus knowledge test requirements; (4) passes a driving skills test in compliance with federal driving skills test requirements, except that no additional test is required if the current test administered by DOT for school bus endorsements

meets these federal requirements; and (5) meets all the current law requirements to hold a school bus endorsement, including requirements related to age, holding a valid current license, driving and criminal record, and physical condition. Modify other statutory provisions related to school bus endorsements to reflect that the issuance of a school bus endorsement for the operation of a school bus that is a commercial motor vehicle would require an applicant to meet the additional qualifications outlined above. Specify that a nonresident may operate a school bus that is a commercial motor vehicle in Wisconsin only if the person has a commercial driver's license with an endorsement that allows such operation. Specify that: (1) an instructional permit limited to school bus instructional operation entitles the permittee to operate only a school bus that is not a commercial motor vehicle; (2) an instructional permit limited to commercial motor vehicle instructional operation entitles the permittee to operate only a commercial motor vehicle other than a school bus; and (3) a combination commercial motor vehicle and school bus instruction permit entitles the permittee to operate a school bus that is a commercial motor vehicle. Eliminate obsolete language related to the operation of a school bus in Wisconsin by residents of several surrounding states prior to December 20, 1991.

#### *H. Miscellaneous Modifications to References to Federal Law*

Include the federal Motor Carrier Safety Improvement Act of 1999 in a list of federal laws with which the Department must be in compliance in the administration of commercial motor vehicle regulations. Require the Department to comply with any other applicable provision of federal law in instituting a classified driver licensing system for commercial motor vehicles. Change a reference to the Federal Highway Administration in a statutory provision related to the enforcement of commercial motor vehicle laws to the Motor Carrier Safety Administration to reflect changes in the federal agency responsible for the administration of these laws and make other modifications to cross references to federal law in the state statutes to reflect modifications to the federal law.

## **MODIFICATION**

Make numerous modifications to fully comply with the federal law and to clarify the intent of provisions in the bill, as follows:

Modify provisions in the bill that would require certain periods of commercial driver's license disqualification following certain listed offenses committed while operating any vehicle (instead of only in a commercial motor vehicle, as under current law), to specify that the changes with respect to offenses committed in non-commercial motor vehicles would apply only to such offenses committed on or after September 30, 2005.

Modify provisions in the bill related to driver's license records and the sharing of driver's records with other licensing jurisdictions to: (a) require DOT to keep a record of commercial driver's license disqualifications; (b) eliminate a provision of the bill that would require the Department to keep a record, for a person holding a non-commercial driver's license, of violations of the prohibition against operating a commercial motor vehicle without a commercial

operator's license that are committed in another state or jurisdiction (this reflects a determination that the Department is required to keep records of such offenses under current law); (c) eliminate a provision of the bill that would prohibit DOT from releasing records upon request except to certain specified requesters, to reflect a determination that current law restrictions on the release of information are sufficient to comply with federal law; (d) replace the phrase "other state" with the phrase "other jurisdiction" in the driver record and driver record notification provisions to reflect a determination that these provisions apply to licenses issued or applied for, or offenses committed in, Canada and Mexico, as well as other states; (e) replace the term "local law" with the term "local ordinance" to more accurately reflect the correct terminology; (f) replace the term "complete record" with the term "record" in a provision related to the supply of records to other jurisdictions to reflect a determination that federal law may not require the Department to provide every piece of information that the Department currently collects, or may in the future collect; and (g) modify a provision in the bill that would prohibit the Department from concealing, withholding, or masking information in the driver record, to more closely conform to the wording of this prohibition in federal law.

Eliminate provisions in the bill that would delete a current law provision that prohibits DOT from suspending or revoking the commercial motor vehicle operating privileges in Wisconsin of a nonresident for certain offenses, to reflect a determination that federal license reciprocity provisions make no allowance for the suspension or revocation of a non-resident's commercial motor vehicle operating privileges if the state that issued the license to the non-resident has not suspended or revoked his or her operating privileges.

Modify a provision in the bill that, in a list of offenses that result in a 60-day commercial driver's license disqualification for two offenses and a 120-day disqualification for three or more offenses, creates an exception within one of the listed offenses related to a violation that results in a fatal accident if the violation is related to the operation of a commercial motor vehicle while the person's license is revoked, suspended, cancelled, or disqualified, to instead, specify that the exception applies only in cases where the fatality resulted from the criminal or negligent operation of a commercial motor vehicle (in this case, a longer period of disqualification would apply).

Modify provisions in the bill that create a distinction between the endorsement requirements associated with operating a school bus that is a commercial motor vehicle and the requirements associated with operating a school bus that is not a commercial motor vehicle, to: (a) eliminate changes to school bus instructional permit provisions reflecting a determination that no changes are necessary to comply with federal law; and (b) reorganize the statutory organization of the changes made by the bill to improve clarity.

Modify a current law provision that prohibits the operation of a commercial motor vehicle while ordered out-of-service to clarify that this prohibition applies while the person or the commercial motor vehicle is ordered out-of-service.

Modify various citations to federal law in the bill, generally to increase the specificity of the citation, in order to clarify the intent of the commercial driver's license provisions and avoid

unintended consequences of the changes. Make other modifications to the wording of provisions in the bill to improve clarity.

**Explanation:** Following the introduction of the bill, the Department conducted a review of the bill's provisions and the federal requirements under the Motor Carrier Safety Act of 1999. These modifications are the result of the Department's recommendations of what changes are needed for the state to be in full compliance with the law.

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