SENATE BILL NO. 47

INTRODUCED BY T. MANZELLA

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COMMERCIAL DRIVER'S LICENSE LAW TO COMPLY WITH FEDERAL REQUIREMENTS; REQUIRING THE DEPARTMENT OF JUSTICE TO QUERY THE ENTRY-LEVEL DRIVER TRAINING PROVIDER REGISTRY AND THE COMMERCIAL DRUG AND ALCOHOL CLEARINGHOUSE UNDER CERTAIN CONDITIONS; REQUIRING THE DEPARTMENT TO TAKE CERTAIN ACTIONS AS A RESULT OF REQUIRED QUERIES; PROVIDING RULEMAKING AUTHORITY; AMENDING ~~SECTION~~ SECTIONS 61-5-110 AND 61-14-202, MCA; AND PROVIDING ~~AN IMMEDIATE EFFECTIVE DATE~~ A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-110, MCA, is amended to read:

"**61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs -- reciprocal agreement with foreign country.** (1) ~~(a)~~ Prior to examining an applicant for a driver's license, the department shall conduct a check of the applicant's driving record by querying the national driver register, established under 49 U.S.C. 30302, and the commercial driver's license information system, established under 49 U.S.C. 31309.

~~(b) (i) The department shall conduct an electronic query to the entry-level driver training provider registry for a nonexempt commercial driver's license applicant prior to:~~

~~(A) administering a commercial driver's license skills test for a class A or class B commercial driver's license or for a passenger or school bus endorsement;~~

~~(B) upgrading from a class B commercial driver's license to a class A commercial driver's license; or~~

~~(C) administering a knowledge test for a hazardous materials endorsement.~~

~~(ii) The department may not act under subsection (1)(b)(i) when the entry-level driver training~~

~~provider registry does not validate that the nonexempt applicant completed the requisite entry-level driver training.~~

~~(c) Beginning November 18, 2024, prior to issuing, renewing, transferring, or upgrading a commercial driver's license or a commercial learner's permit, the department shall conduct a check of the applicant's eligibility by electronically querying the commercial drug and alcohol clearinghouse. The department may not issue, renew, transfer, or upgrade a commercial driver's license or commercial learner's permit when the result from the clearinghouse indicates the driver is prohibited from operating a commercial motor vehicle.~~

~~(d) On receiving notification that, pursuant to 49 CFR 382.501(a), as in effect on November 15, 2022, the commercial learner's permit or commercial driver's license holder is prohibited from operating a commercial motor vehicle, the department shall initiate established procedures for downgrading the commercial learner's permit or commercial driver's license. The downgrade must be completed and recorded on the commercial driver's license system driver record within 60 days of the notification.~~

~~(i) If, prior to the department completing and recording the downgrade on the commercial driver's license system driver record, the department receives notification that, pursuant to 49 CFR 382.503(a), as in effect on November 15, 2022, the commercial learner's permit or commercial driver's license holder is no longer prohibited from operating a commercial motor vehicle, the department shall terminate the downgrade process without removing the commercial learner's permit or commercial driver's license privilege from the driver's license.~~

~~(ii) If, after the department completes and records the downgrade on the commercial driver's license system driver record, the department receives federal motor carrier safety administration notification that, pursuant to 49 CFR 382.503(a), as in effect on November 15, 2022, a driver is no longer prohibited from operating a commercial motor vehicle, the department shall make the driver eligible for reinstatement of the commercial learner's permit or commercial driver's license privilege to the driver's license.~~

~~(iii) If, after the department completes and records the downgrade on the commercial driver's license system driver record, the department receives federal motor carrier safety administration notification that the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall:~~

~~(A) reinstate the commercial learner's permit or commercial driver's license privilege to the driver's~~

~~license as expeditiously as possible; and~~

~~(B) expunge from the commercial driver's license system driver record and motor vehicle record any reference related to the driver's erroneous prohibited status.~~

(2) (a) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or motorcycle. The road test or skills test must be performed by the applicant in a motor vehicle that the applicant certifies is representative of the class and type of motor vehicle for which the applicant is seeking a license or endorsement.

(b) The knowledge test, road test, or skills test may be waived by the department:

(i) upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program as provided in subsection ~~(3)~~(4) or by a certified third-party commercial driver testing program as provided in 61-5-118; or

(ii) in accordance with a driver's license reciprocity agreement between the department and a foreign country.

(c) The skills test may be waived by the department upon the applicant's completion of the requirements of 61-5-123.

(3) The department shall, pursuant to administrative rule authority granted in 61-14-202(4), (5), and (6), conduct records checks prior to processing a nonexempt commercial driver's license application and prior to renewing, transferring, or upgrading a commercial driver's license or commercial learner's permit, and shall act in conformity with the legislative direction provided in 61-14-202(5) and (6) upon receiving results from records checks.

~~(3)~~(4) The department is authorized to certify as a cooperative driver testing program any state-approved high school traffic education course offered by or in cooperation with a school district that employs an approved instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic education or any motorcycle safety training course approved by the board of regents and that employs an

approved instructor of motorcycle safety training and who agrees to:

(a) administer standardized knowledge and road tests or skills tests required by the department to students participating in the district's high school traffic education courses or motorcycle safety training courses approved by the board of regents;

(b) certify the test results to the department; and

(c) comply with regulations of the department, the superintendent of public instruction, and the board of regents.

~~(4)~~(5) (a) Except as otherwise provided by law, an applicant who has a valid driver's license issued by another jurisdiction may surrender that license for a Montana license of the same class, type, and endorsement upon payment of the required fees and successful completion of a vision examination. In addition, an applicant surrendering a commercial driver's license issued by another jurisdiction shall successfully complete any examination required by federal regulations before being issued a commercial driver's license by the department.

(b) The department may require an applicant who surrenders a valid driver's license issued by another jurisdiction to submit to a knowledge and road or skills test if:

(i) the applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the surrendered license does not include readily discernible adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

(c) When a license from another jurisdiction is surrendered, the department shall notify the issuing agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain the license from another jurisdiction for identification or other nondriving purposes, the department shall place a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return the marked license to the applicant.

~~(5)~~(6) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and exchange of a valid driver's license issued by this state or the foreign country if the

department determines that the licensing standards of the foreign country are comparable to those of this state. The agreement may not include the reciprocal exchange of a commercial driver's license."

Section 2. Section 61-14-202, MCA, is amended to read:

"**61-14-202. Rulemaking authority -- commercial driver licensing.** (1) The department shall adopt rules governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants that the department considers necessary for the safety and welfare of the traveling public. The rules must:

(a) subject to the department's functional and vision requirements, conform to the licensing standards and requirements of 49 CFR, part 383, the medical qualification of 49 CFR, part 391, and the security threat assessment provisions of 49 CFR, part 1572;

(b) allow for the issuance of an interstate commercial driver's license;

(c) allow for the issuance of an intrastate-only commercial driver's license, including the establishment of medical qualification and visual acuity standards;

(d) establish the requirement for the issuance of a seasonal commercial driver's license, including the waiver of the knowledge and skills test for a qualified person employed in a farm-related service industry;

(e) establish the operational and seasonal restrictions for a seasonal commercial driver's license;

(f) establish the requirements for the medical statement that must be submitted for a person to be qualified for a commercial driver's license; and

(g) allow for and establish the requirements for the issuance of a commercial learner's permit.

(2) The department shall adopt rules governing the minimum standards for certification of a third-party commercial driver testing program and any test waiver under 61-5-118 and governing the certification, operation, and monitoring of third-party skills testing programs. The rules must:

(a) substantially comply with the licensing standards and requirements of 49 CFR, part 383, and the state compliance standards of 49 CFR, part 384, including:

(i) issuance of a commercial driver's license skills testing certificate to a certified program upon execution of a third-party skills testing agreement;

(ii) requiring that all third-party skills test examiners meet minimum qualifications, including

passing background checks paid for by the third-party testing program and successfully completing a formal skills test examiner training course;

(iii) providing examiner test limitations, minimum testing standards, and refresher training requirements; and

(iv) requiring recordkeeping and a detailed audit program that includes overt and covert test monitoring and onsite audits by state and federal personnel;

(b) specifically address the requirements for certifying third-party commercial driver testing programs, including place of business, appropriate bond and liability insurance, and facilities requirements; and

(c) specify minimum technology requirements for recordkeeping, scheduling applicants for the skills test, conducting the skills test, and electronically transferring skills test results to the department.

(3) The department shall adopt rules governing the waiver of knowledge and skills tests related to commercial vehicle operators with military experience as provided in 61-5-123.

(4) The department shall adopt rules governing the administration of a commercial driver's license skills test for a nonexempt applicant for a class A or class B commercial driver's license, for upgrading a commercial driver's license from class B to class A, and for obtaining a passenger or school bus endorsement and the administration of a knowledge test for a hazardous materials endorsement. The rules must provide for the department conducting an electronic query to the entry-level driver training provider registry. The rules must provide that the department may not conduct a skills test or hazardous materials endorsement knowledge test when the entry-level driver training provider registry does not validate that the nonexempt applicant completed the requisite entry-level driver training.

(5) The department shall adopt rules that provide that prior to issuing, renewing, transferring, or upgrading a commercial driver's license or commercial learner's permit, the department shall conduct a check of the applicant's eligibility by electronically querying the commercial drug and alcohol clearinghouse. The rules must provide that the department may not issue, renew, transfer, or upgrade a commercial driver's license or commercial learner's permit when the result from the clearinghouse indicates the driver is prohibited from operating a commercial motor vehicle.

(6) The department shall adopt rules that provide that upon receiving federal motor carrier safety administration notification that the commercial learner's permit or commercial driver's license holder is

prohibited from operating a commercial motor vehicle, the department shall initiate established procedures for downgrading the commercial learner's permit or commercial driver's license. The rules must provide that downgrade must be completed and recorded on the commercial driver's license system driver record within 60 days of the notification. The rules must further provide that if, after the department completes and records the downgrade on the commercial driver's license system driver record, the department receives federal motor carrier safety administration notification that:

(a) a driver is no longer prohibited from operating a commercial motor vehicle, the department shall make the driver eligible for reinstatement of the commercial learner's permit or commercial driver's license privilege to the driver's license; and

(b) the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall:

(i) reinstate the commercial learner's permit or commercial driver's license privilege to the driver's license as expeditiously as possible; and

(ii) expunge from the commercial driver's license system driver record and motor vehicle record any reference related the driver's erroneous prohibited status."

~~NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.~~

NEW SECTION. **Section 3. Effective date**. [This act] is effective January 1, 2024.

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