

Stricken language would be deleted from and underlined language would be added to present law.
Act 758 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S4/1/13
A Bill

HOUSE BILL 2013

By: Representative Catlett

For An Act To Be Entitled

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

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.

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

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driver instruction permit” under the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq., is repealed.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Improper or erratic traffic lane changes;

(D) Following the vehicle ahead too closely;

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

other than a parking violation.

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

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

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

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

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

(I) Driving while texting; or

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

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

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

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

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

(40) “Texting” means manually entering alphanumeric text into, or reading text from, an electronic device.

(A) “Texting” includes without limitation using a short message service, ~~e-mailing~~ emailing, instant messaging, entering a command or request to access an Internet page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication.

(B) “Texting” does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motor Vehicle Administrators 2005 CDL Test System; and

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

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

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

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

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

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

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

(i) The same version of the skills test;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) The Department of Arkansas State Police shall:

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

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

(c) Limitations on Issuance of License.

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

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

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

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

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

(A) Is domiciled in this state;

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

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

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

Finance and Administration.

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

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

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

(i) "P" – passenger;

(ii) "S" – school bus; or

(iii) "N" – tank vehicle.

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

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

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

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

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

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

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

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

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

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

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

- (A) The full name and current residential address of the applicant;
- (B) A physical description of the applicant, including the applicant's sex, height, weight, eye color, and hair color;
- (C) The applicant's date of birth;
- (D) The applicant's social security number;
- (E) The applicant's signature;
- (F) A consent to release driving record information;
- (G) Certifications, including without limitation those required by 49 C.F.R. § 383.71~~(a)~~, as in effect on January 1, ~~2011~~ 2013;
- (H) Certification that the applicant is not subject to any disqualification under 49 C.F.R. § 383.51, as in effect on January 1, ~~2011~~ 2013, or any license suspension, revocation, or cancellation under state law and that the applicant does not have a driver license from more than one (1) state or jurisdiction;
- (I) ~~Beginning on and after January 30, 2012, certification~~ Certification that the applicant is or expects to be one (1) of the following types of drivers:
 - (i) Nonexcepted interstate;
 - (ii) Excepted interstate;
 - (iii) Nonexcepted intrastate; or
 - (iv) Excepted intrastate;
- (J) ~~The~~ For an applicant for a commercial driver's license only, the surrender of the applicant's noncommercial driver licenses to the

state;

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

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

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

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

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

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

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

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

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

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

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

(3)(A) Endorsements and restrictions are:

“H” – authorizes the driver to drive a vehicle transporting hazardous materials;

~~“K” – restricts the driver to vehicles not equipped with airbrakes;~~

“T” – authorizes driving double and triple trailers;

“P” – authorizes driving vehicles carrying passengers or carrying passengers for hire;

“N” – authorizes driving tank vehicles;

“X” – represents a combination of hazardous materials and tank vehicle endorsements;

“M” – authorizes the driver to drive a motorcycle; and

“S” – authorizes the driver to operate a school bus; and

(B) Restrictions are:

“L” – no air brake equipped commercial motor vehicle;

“Z” – no full air brake equipped commercial motor vehicle;

“E” – no manual transmission equipped commercial motor vehicle;

“O” – no tractor-trailer commercial motor vehicle;

“M” – no Class A passenger vehicle;

“N” – no Class A or Class B passenger vehicle;

“K” – for intrastate only; and

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

SECTION 16. Arkansas Code § 27-23-112 is amended to read as follows:
27-23-112. Disqualification and cancellation.

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

commercial motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) For a third or subsequent conviction of any combination of serious traffic violations in a separate incident within a three-year period while operating a commercial motor vehicle or a conviction that results in suspension, revocation, or cancellation resulting from operating a noncommercial motor vehicle, a person required to have a commercial driver license ~~and~~ or a commercial learner's permit, or a commercial driver license holder or a commercial learner's permit holder shall be disqualified from operating a commercial motor vehicle for one hundred twenty (120) days;

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

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

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

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

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

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

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

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

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

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

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

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

disqualified as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

driver is one of the following types of drivers:

- (A) Nonexcepted interstate;
- (B) Excepted interstate;
- (C) Nonexcepted intrastate; or
- (D) Excepted intrastate.

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

(3) Between January 30, 2012, and January 30, 2014, inclusive, a holder of a commercial driver license that certifies as nonexcepted interstate or nonexcepted intrastate shall provide the office with 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, and the office shall post a certification status of "certified" on the commercial driver license record for the driver.

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

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

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

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

(C) Notify the driver in writing that:

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

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

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

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

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

(C) Notify the driver in writing that:

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

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

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

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

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

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

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

(C) Notify the driver in writing that:

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

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

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

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

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

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

(A) The medical examiner’s name;

- (B) The medical examiner's telephone number;
- (C) The date of the medical examiner's certificate issuance;
- (D) The medical examiner's license number and the state of issuance;
- (E) The medical examiner's National Registry identification number if required by the National Registry of ~~Certified~~ Medical Examiners, mandated by 49 U.S.C. 31149(d), as in effect on January 1, ~~2011~~ 2013;
- (F) An indicator of medical certification status, that is, "certified" or "not certified";
- (G) The expiration date of the medical examiner's certificate;
- (H) The existence of any medical variance on the medical certificate, including without limitation an exemption, skill performance evaluation certification, or grandfather provision;
- (I) Any restrictions, including without limitation corrective lenses, a hearing aid, or a requirement to have possession of an exemption letter or skill performance evaluation certificate while on duty; and
- (J) The date the medical examiner's certificate information was posted to the commercial driver license record.

(f) ~~Beginning January 30, 2012, the~~ The office, within ten (10) calendar days of a driver's medical certification status expiring or a driver's medical variance expiring or being rescinded, shall update the medical certification status of the driver as "not certified".

(g) ~~Beginning January 30, 2012, the~~ The office, within ten (10) calendar days of receiving information from the administration regarding issuance or renewal of a medical variance for a driver, shall update the commercial driver license record to include the medical variance information provided by the administration.

(h)(1) If the office determines in its check of an applicant's license status and record before issuing a commercial driver license or commercial learner's permit that the applicant falsified information or a document required by this section, under 49 C.F.R. §§ 383.71(b) or (g), as in effect on January 1, 2013, or by 49 C.F.R. §§ 383.151 – 383.155, as in effect on

January 1, 2013, the office shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 22. EFFECTIVE DATES.

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

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

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

(3) Section 21 of the bill.

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

(1) Sections 1-7 of the bill;

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

(3) Sections 9 and 10 of the bill;

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

(5) Sections 12-20 of the bill.

/s/Catlett

APPROVED: 04/04/2013