

## **Title 27. Transportation**

### **Chapter V. Arkansas Department of Transportation, State Highway**

#### **Commission**

#### **Subchapter C. Motor Vehicles**

#### **Part 114. Rules for Commercial Driver License Waiver for Farm-Related Businesses**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

##### "REASONS FOR IMMEDIATE EFFECTIVENESS OF ATTACHED REGULATIONS

The Arkansas State Highway Commission on April 29, 1992 adopted a Minute Order and accompanying "Rules for Commercial Driver's License Waiver for Farm-Related Businesses" attached thereto. The Commission's finding was that imminent peril to the public health, safety and welfare requires the immediate effectiveness of these rules.

The reasons for such finding are as follows:

(1) Many of the custom harvesters, farm retail outlets and suppliers, agri-chemical businesses, and livestock feeders employ drivers on a temporary basis during peak agricultural seasons and, this being a time of such peak agricultural activity, the Commercial Driver's License (CDL) testing requirements may hamper this type of seasonal employment; and

(2) The recently amended portions of 49 CFR 383 are currently resulting in misunderstandings and confusion among those potentially effected seasonal employees with the result that some of such employees are attempting to operate vehicles under the assumption that they are fully exempt from all CDL requirements and, due to such confusion and misunderstandings, imminent peril to the public health, safety and welfare requires the immediate effectiveness of these rules.

These reasons are set out in substantially the same form in the Minute Order as recited above."

"WHEREAS, the United States Department of Transportation, Federal Highway Administration, recently amended Part 383 of Title 49 of the Code of Federal Regulations to allow limited waivers from 49 CFR Part 383 for certain employees of custom harvesters, farm retail outlets and suppliers, agri-chemical businesses, and livestock feeders while transporting farm-related products of those businesses. That amendment, more specifically, authorizes the states to waive, at their option, these employees from the Commercial Driver's License (CDL) knowledge and skill testing requirements, and to issue these employees restricted CDLs for a seasonal period or periods not to exceed a total of 180 days in any 12-month period, subject to certain conditions contained therein; and

WHEREAS, pursuant to Arkansas Code Ann. §27-23-119, in the event that it shall be determined by federal regulations that certain classes of drivers shall be exempted from the application of the federal Commercial Motor Vehicle Safety Act of 1986, this Commission has the authority to promulgate rules to exempt those certain classes of drivers from the application of Arkansas Code Ann. §27-23-102, et seq.; and

WHEREAS, many of the above-mentioned businesses employ drivers on a temporary basis during peak agricultural seasons and, this being a time of such peak agricultural activity, the CDL testing requirements may hamper this type of seasonal employment; and

WHEREAS, the above-cited amendments to the Code of Federal Regulations are currently resulting in misunderstandings and confusion among those potentially affected seasonal employees with the result that some of such employees are attempting to operate vehicles under the assumption that they are fully exempt from all CDL requirements and, due to such confusion and misunderstandings, imminent peril to the public health, safety and welfare requires the immediate effectiveness of these rules.

NOW, THEREFORE, pursuant to Arkansas Code Ann. §27-23-119 the Commission, on behalf of the State of Arkansas, opts to waive certain employees of custom harvesters, farm retail outlets and suppliers, agri-chemical businesses, and livestock feeders from the Commercial Driver's License (CDL) knowledge and skill testing requirements, and hereby authorizes the Office of Driver Services of the Department of Finance &

Administration, pursuant to and in accordance with Part I of the attached "Rules for Commercial Driver's License Waiver for Farm-Related Businesses" hereby adopted by the Commission and the guidelines set out in the recently amended portions of 49 CFR 383 and pursuant to the provisions of Arkansas Code Ann. §27-23-119, et seq., including Arkansas Code Ann. §27-23-120, to issue these employees restricted CDLs for a seasonal period or periods not to exceed a total of 180 days in any 12-month period, subject to any and all conditions set out in that recently amended portion of 49 CFR 383. Further, pursuant to Arkansas Code Ann. §27-23-119 and §27-65-107, the Commission hereby adopts rules for the operation of commercial motor vehicles on the highways of this State by such restricted CDL holders while transporting farm-related products of the above-mentioned businesses, which conditions for such operation are set out in the recently amended portion of 49 CFR 383 and further adopted by this Commission for this State in Part II of the attached "Rules for Commercial Driver's License Waiver for Farm-Related Businesses." It is the finding of this Commission that imminent peril to the public health, safety and welfare requires the immediate effectiveness of these rules and the attached "Rules for Commercial Driver's License Waiver for Farm-Related Businesses."

"Date Passed: APR 29 1992"

## **Subpart 1. Generally**

### **27 CAR § 114-101. Requirements.**

(a) The Office of Driver Services of the Department of Finance and Administration for this state may issue restricted commercial driver licenses (CDLs) to seasonal drivers for the following specific farm-related service industries:

- (1) Farm retail outlets and suppliers;
- (2) Agri-chemical businesses;
- (3) Custom harvesters; and
- (4) Livestock feeders.

(b) If issued, such restricted CDLs shall be issued only in accordance with those guidelines set out in the recently amended portion of 49 C.F.R. pt. 383 including, but not limited to, the following:

(1) Waived drivers shall not be required to take or pass the CDL skills or knowledge tests but shall be required to meet all other requirements of the CDL regulations included in 49 C.F.R. pt. 383;

(2)(A) A waived driver shall be issued only one (1) license.

(B) That restricted CDL shall also authorize the waived driver to drive any noncommercial vehicle for personal use;

(3)(A) A restricted CDL shall not be issued to an individual unless it is determined that such individual has a good driving record and at least one (1) year of driving experience in any type of vehicle.

(B) The good driving record criteria set out in the recently amended portion of 49 C.F.R. pt. 383 shall be utilized in making this determination;

(4) A restricted CDL shall allow the driving of automobiles by the holder of such a license as well as the driving of other noncommercial motor vehicles throughout the same renewal cycle as is allowed for regular CDLs by the laws and rules of this state;

(5) Validity of any restricted CDL issued for commercial motor vehicle driving shall be limited to a seasonal period or periods, as defined by rules to be made and promulgated by the office, in conformity with the guidelines contained in the recently amended portion of 49 C.F.R. pt. 383, not to exceed a total of one hundred eighty (180) days of commercial validity in any twelve-month period;

(6) The department shall revalidate each restricted CDL for commercial use by means of a confirmation of the holder's good driving record prior to each season, as defined by rules to be made and promulgated by the office in conformity with the guidelines contained in the recently amended portion of 49 C.F.R. pt. 383, in which the driver wishes to drive commercial motor vehicles;

(7) The office shall check the driver's record through the Commercial Driver's License Information System (CDLIS) prior to issuing a restricted CDL to that driver and shall enter each restricted CDL holder's record into the CDLIS;

(8) No such restricted CDL shall be issued to any drivers, seasonal or otherwise, who intend to transport any products of farm equipment suppliers, utilities, or cotton ginning services; and

(9) Use of the restricted CDL in activities not related to employment in the designated industries enumerated in subsection (a) of this section shall be grounds for revocation of the restricted CDL and the office shall include this provision in substantially this same form in any rules made and promulgated by the office.

**Authority.** Arkansas Code § 27-23-120.

**27 CAR § 114-102. Restrictions.**

(a)(1) Any individual issued a restricted commercial driver license (CDL) while operating on the highways of this state, whether such restricted CDL was issued by this state or any other state, shall be susceptible to and shall abide by all of the laws and rules of this state as well as all laws and regulations of the United States and the following rules.

(2) No such restricted CDL holder may operate a commercial motor vehicle beyond one hundred fifty (150) miles from the employer of that CDL holder's place of business or the farm currently being served by that employer.

(b)(1)(A) Such a restricted CDL holder may only operate Group B or Group C vehicles.

(B) That restricted CDL holder shall not operate Group A vehicles.

(2)(A) Group A vehicles are defined herein to mean and include combination vehicles with a gross combination weight rating of twenty-six thousand one pounds (26,001 lbs.) or more (inclusive of a towed vehicle with a gross vehicle weight rating (GVWR) of over ten thousand pounds (10,000 lbs.)).

(B) Drivers of such vehicles must continue to satisfy the knowledge and skill testing requirements and obtain CDLs without the farm-related service industries waiver.

(3) Group B vehicles are defined herein to mean and include any single vehicle with a GVWR of twenty-six thousand one pounds (26,001 lbs.) or more (or any such vehicle towing a vehicle not in excess of ten thousand pounds (10,000 lbs.) GVWR).

(4) Group C vehicles are defined herein to mean and include any vehicle that does not meet the thresholds for Groups A or B, but that is either designed to transport sixteen (16) or more passengers, including the driver, or is placarded for hazardous materials.

(c) Such a restricted CDL holder shall not transport any hazardous material requiring placarding unless such material being transported is:

- (1) Diesel fuel in quantities of one thousand gallons (1,000 gals.) or less;
- (2) Liquid fertilizers in vehicles with total capacities of three thousand gallons (3,000 gals.) or less; or
- (3) Solid fertilizers that are not mixed with any organic substance.

(d) All such restricted CDL holders shall be fully subject to all CDL disqualification penalties that may be imposed pursuant to the laws or rules of this state or laws or regulations of the United States.

(e) Use of the restricted CDL in activities not related to employment in the designated industries enumerated in 27 CAR § 114-101(a) shall be grounds for revocation of that driver's restricted CDL.

(f) Any restricted CDL issued pursuant to the waiver authority set out in the recently amended portion of 49 C.F.R. pt. 383 by this state or by any other state shall be accorded the same reciprocity in this state as a CDL holder meeting all of the requirements of 49 C.F.R. pt. 383.

**Authority.** Arkansas Code § 27-23-120.