



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Office of the Director

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DATE: March 29, 2007

TO: Senate Committee on Business, Transportation Workforce Development

FROM: Jack Evans

SUBJECT: HB 2268 CDL Compliance

INTRODUCTION

This bill brings the Department of Motor Vehicle Services (DMV) into compliance with federal Commercial Driver Licensing (CDL) laws and regulations. It also incorporates changes recently clarified by federal guidance and clears up several ambiguities in existing statute.

BACKGROUND

During the 2005 legislative session, Oregon law dealing with commercial driver licenses was brought in compliance with federal regulations. Following that session, DMV received additional guidance from federal regulators that necessitate some further changes in Oregon law.

We are recommending these statutory changes since failure to comply with federal law jeopardizes full allocation of federal-aid highway funds and Motor Carrier Safety Assistance Program grant funds to Oregon. In a worst case scenario, Oregon could lose approximately \$2.7 million annually in Motor Carrier Safety Assistance Program funds, of which \$1.6 million is allocated to Oregon State Police. In addition, annual federal-aid highway funds could be withheld equaling \$12.5 million (5%) the first year and \$25.2 million (10%) each year thereafter. Non-compliance could also result in federal decertification of the Oregon CDL program meaning that Oregonians would have to go to other states to obtain a commercial driver license.

WHAT THE BILL DOES

1. In 2005, legislation amended Oregon law to require anyone operating a school bus to obtain a CDL with a bus endorsement. Subsequent federal guidance has revealed that federal regulations do not require a school bus endorsement for manufacturers, dealers, or mechanics operating an empty school bus. This measure provides for that exemption.
2. Legislation adopted in 2005 to comply with federal law, enhanced disqualifying offenses when a person holds a CDL or is operating a CMV, including a provision that prohibits courts from issuing a diversion. FMCSA interprets "holds a commercial driver license" to mean that the person has a CDL that is valid and current, or a CDL that has been expired for less than one year, or a CDL that is suspended. This measure adds this definition to statute to provide consistency in the manner in which Oregon courts treat certain disqualifying offenses.
3. Federal regulations require a civil penalty of \$1,100 to \$2,750 for a driver who violates an out-of-service order and a penalty of \$2,750 to \$11,000 for an employer who allows, permits,

requires or authorizes an employee to violate an out-of-service order. Current Oregon statutes set these penalties at \$1,000 to \$2,000 for a driver violation and not more than \$10,000 for an employer. This bill increases the penalties to comply with federal regulations.

4. Under existing Oregon law anyone with a farm endorsement on their driver license is exempted from sanctions for offenses that are not exempt under federal regulation for all CDL holders. For example, a farmer is currently immune from suspension for a blood alcohol level of .04 to .079 while operating a farm truck with a farm endorsement. Federal regulations do not exempt holders of farm endorsements from sanctions that apply to CDL holders. This measure allows sanctions to be applied to all individuals operating commercial motor vehicles.

5. Current Oregon law allows the suspension of a CDL for “serious violations.” The 2005 session created a new suspension for drivers exceeding posted speeds by more than 30 miles per hour or driving at 100 miles per hour or more. Under federal rules, offenses that may result in suspension meet the requirements for “serious traffic violations” that impact a CDL. This measure adds these two offenses to the statutory definition of serious violation. The definition will apply to a person that has a commercial driver license and is operating any motor vehicle (commercial or private) at the time of the citation.

6. Additionally, the statute needs to be clarified to specify that a Class A farm endorsement authorizes a person to also operate a tank vehicle or double trailer combination. This is the current interpretation by ODOT and needs to be reflected accurately in statute.

7. Clarification is required to ensure that a trailer endorsement (which authorizes the operation of double and triple trailers) applies only to commercial vehicles. In addition, a Class A CDL, by definition, includes the authority to operate with a single trailer. This makes the term “trailer endorsement” unclear. This measure changes the reference for this endorsement to “double/triple trailer endorsement,” a term used in Federal Motor Carrier Safety Regulations (FMCSA).

8. In 2005, the Oregon Legislature provided for the reinstatement of a “lifetime suspension” of a CDL after 10 years. Although the statute dealing with suspension was changed, the corresponding statute dealing with reinstatement was not changed. To be consistent, this change must be added.

SUMMARY

Enactment of these changes is necessary in order to bring Oregon into compliance with federal laws, to eliminate the risk of losing federal funds, and to clarify confusing CDL statutes. We ask for your support on this bill.