



Ohio Legislative Service Commission

Bill Analysis

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H.B. 337

129th General Assembly
(As Introduced)

Reps. Rosenberg, Butler, Gonzales, Sears, O'Brien, Terhar

BILL SUMMARY

- Beginning January 30, 2012, requires certain applicants for or holders of a commercial driver's license (CDL), in order to operate a commercial motor vehicle in interstate or foreign commerce, to be medically certified as physically qualified to operate a commercial motor vehicle in accordance with the CDL law and to provide the Registrar of Motor Vehicles with the original or a copy of the medical examiner's certificate.
- Beginning January 30, 2012, requires every person who applies for a new or renewal CDL or seeks to transfer a CDL from out of state to self-certify to the Registrar the category of operation that is applicable to the applicant's operation of a commercial motor vehicle.
- Creates the CDL restriction "V," which indicates the existence of a medical variance on the driver's CDL Information System driver record.
- Beginning January 30, 2012, requires the Registrar, before issuing, renewing, transferring, or upgrading a CDL, to check the applicant's driver record to ensure that an applicant who self-certified that the applicant's operation of a commercial motor vehicle is non-accepted interstate, is medically certified.
- Establishes conditions under which the Registrar is prohibited from issuing, renewing, upgrading, or transferring an applicant's CDL.
- Provides that if the Registrar is notified that a CDL holder has been issued a medical variance, the Registrar must indicate the existence of the medical variance on the CDL holder's CDL Information System driver record.
- Beginning January 30, 2014, requires the Registrar to post a CDL applicant's status of medically non-certified on the applicant's CDL Information System driver record

and downgrade the holder's CDL from non-excepted interstate if certain conditions apply.

- Establishes conditions under which a holder's CDL status may be changed to reflect no commercial driver's license privileges or to be downgraded to a noncommercial driver's license.
- Prohibits the Registrar from issuing, renewing, upgrading, or transferring a hazardous materials endorsement for a CDL to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the Registrar receives from the federal Transportation Security Administration a determination indicating that the individual does not pose a security risk warranting denial of the endorsement.
- Specifies that existing law's prohibitions apply to persons who hold a CDL or operate a motor vehicle for which a CDL is required and expands the types of acts that such a license holder or vehicle operator is prohibited from committing to include failing to stop after an accident, driving a motor vehicle in violation of the OVI statute or municipal ordinance, and refusing to submit to a test under the CDL Implied Consent law.
- Expands the causes for disqualification of any CDL holder or commercial motor vehicle operator from operating a commercial motor vehicle to include a license suspension for operating a vehicle under the influence of alcohol or drugs.
- Lengthens the period of disqualification for a driver upon a conviction for a first violation of an out-of-service order from 90 to 180 days and for a second violation in a ten-year period of an out-of-service order from one to two years.
- Provides for the disqualification from operating a commercial motor vehicle for a specified period to be imposed consecutively to a separate disqualification upon conviction of two or three serious traffic violations arising from separate incidents occurring in a three-year period.
- Requires the Registrar, upon receipt of notification that a person has been disqualified under the CDL Implied Consent law of another state or foreign jurisdiction that is similar to that of this state, to disqualify the person named in the report from driving a commercial motor vehicle for the applicable time period.
- Requires the Registrar, within ten days of receiving a report of the conviction of a nonresident for a violation of a state law or local ordinance or resolution relating to traffic control other than parking violations, committed in a commercial motor vehicle, to notify the driver licensing authority in the jurisdiction in which the

person resides and, if applicable, the driver licensing authority that issued the nonresident's CDL.

- Generally prohibits a court from modifying any record, or consent to the modification of any record, relating to an offense involving the operation of a commercial motor vehicle if the resulting record would no longer reflect the operation of a commercial motor vehicle.
- Prohibits any person from retaining a CDL if the retention of the CDL would violate federal law.
- Establishes texting while driving, either on the state or local level, as a serious traffic offense.
- Reduces from ten to seven days the time period within which a county court judge, mayor of a mayor's court, and clerk of a court of record must prepare and forward to the Department of Public Safety and Bureau of Motor Vehicles a certified abstract of the court record of a conviction or bail forfeiture involving a state or local motor vehicle traffic violation.
- Provides that pre-trial diversion programs are not applicable to persons who are accused of an offense while operating a commercial motor vehicle or who hold a CDL and are accused of any offense, if conviction of the offense would result in the offender being disqualified from operating a commercial motor vehicle or would subject the offender to any other sanction under the Commercial Driver's Licensing law.
- Provides that in order for an offender to be eligible for intervention in lieu of conviction, among other requirements the offender cannot be charged with an offense that would result in the offender being disqualified from operating a commercial motor vehicle or would subject the offender to any other sanction under the Commercial Driver's Licensing law.
- Expands the exceptions to the maximum motor vehicle lengths prescribed in current law for vehicles operated on the public roads to include nonproperty carrying devices or components that do not extend more than 24 inches beyond the rear of the vehicle and are needed for loading or unloading.

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CONTENT AND OPERATION

The bill makes changes to the Commercial Driver's Licensing law in order to bring that law into compliance with federal requirements. Areas the bill affects include issuance of commercial driver's licenses (CDLs), medical certification requirements for certain CDL holders, disqualification of CDL holders upon conviction of certain motor vehicle-related offenses, conviction records, the establishment of texting while driving as a serious traffic offense, and maximum motor vehicle lengths. The bill also contains provisions relating to pre-trial diversion programs and intervention in lieu of conviction for CDL holders who commit certain motor vehicle-related offenses.

Conditions for driving a commercial motor vehicle

The bill adds a new condition that a person must meet in order to drive a commercial motor vehicle on a highway in this state. Under the bill, the person must be medically certified as physically qualified to operate a commercial motor vehicle in accordance with the CDL law and is able to verify the medical certification when on duty as follows:

(1) Prior to January 30, 2012, the person must have in the person's possession the original or a copy of the person's current medical examiner's certificate when on duty.

(2) On or after January 30, 2012:

(a) A person who submitted a medical examiner's certificate to the Registrar of Motor Vehicles in accordance with a new provision contained in the bill and whose medical certification information is maintained in the CDL Information System is not required to have the medical examiner's certificate in the person's possession when on duty.

(b) A person whose medical certification information is not maintained in the CDL Information System is required to have in the person's possession when on duty the original or a copy of a current medical examiner's certificate that was issued prior to January 30, 2012. After January 30, 2014, however, such a person may operate a commercial motor vehicle with such proof of medical certification for not more than 15 days after the date the current medical examiner's certificate was issued to the person.

(c) A person who has a medical variance is required to have in the person's possession the original or a copy of the medical variance documentation at all times while on duty.¹

Application for a CDL

The bill provides that beginning January 30, 2012, every application for a CDL, restricted CDL, or commercial driver's temporary instruction permit must indicate, in addition to other information currently required, whether the applicant, prior to or at the time of applying, has self-certified to the Registrar the applicable status of the applicant regarding the nature of the applicant's operation of a commercial motor vehicle (that is, inside or outside the state).²

¹ R.C. 4506.05(A)(5).

² R.C. 4506.07(A)(4) and 4506.10(A)(2).

Physical qualifications for driving a commercial motor vehicle

The bill limits until January 30, 2012, the applicability of the provision of current law that provides that a person who drives or expects to drive a commercial motor vehicle in interstate or foreign commerce or is otherwise subject to the federal CDL law must certify to the Registrar at the time of application for a CDL that the person is in compliance with federal standards.³

The bill contains new provisions relating to records of a CDL holder's physical qualifications. Beginning on January 30, 2012, any person who applies for a new or renewal CDL or seeks to transfer a CDL from out of state is required to self-certify to the Registrar whichever one of the following four categories is applicable to the applicant's operation of a commercial motor vehicle:

(1) Non-excepted interstate – If the applicant operates or expects to operate a commercial motor vehicle in interstate or foreign commerce (outside Ohio) and is subject to and meets the federal requirements for drivers of such vehicles, the applicant must self-certify that the applicant is "non-excepted interstate." The applicant must provide the Registrar with the original or a copy of a medical examiner's certificate and each subsequently issued medical examiner's certificate prepared by a qualified medical examiner to maintain a medically certified status on the applicant's commercial driver licensing system driver record.

(2) Excepted interstate – If the applicant operates or expects to operate a commercial motor vehicle in interstate commerce but engages in transportation or operations excepted under federal law from all or parts of the qualification requirements of the federal CDL law, the applicant must self-certify that the applicant is "excepted interstate." Such an applicant is not required to obtain a medical examiner's certificate.

(3) Non-excepted intrastate – If the applicant operates only in intrastate commerce (within Ohio only) and therefore is subject to this state's driver qualification requirements, the applicant must self-certify that the applicant is "non-excepted intrastate."

(4) Excepted intrastate – If the applicant operates only in intrastate commerce and is excepted from all or parts of this state's driver qualification requirements, the applicant must self-certify that the applicant is "excepted intrastate."⁴

³ R.C. 4506.10(A)(1).

⁴ R.C. 4506.10(A)(2)(a)(i) and (ii) and (b)(i) and (ii).

Under the bill, notwithstanding the expiration date on a person's CDL, every holder of a CDL is required to provide the Registrar with the above certification on or after January 30, 2012, but prior to January 30, 2014.⁵

The bill specifies that any written documentation of a physical examination conducted pursuant to these provisions must be completed by the individual who performed the examination on a form that substantially complies with the requirements for such a form as prescribed in federal law. Current law does not contain any requirement relating to the form that is to be utilized.⁶

CDL restrictions

The bill creates a new restriction that may apply to a CDL. The restriction, "V," indicates the existence of a medical variance on the driver's CDL Information System driver record.⁷ "Medical variance" means an exemption letter or a skill performance evaluation certificate, either of which allows operation of a commercial motor vehicle, received by a driver from the FMCSA that allows the driver to be issued a medical certificate.⁸ Current restrictions, which the bill does not affect, include "K," which restricts the driver to only intrastate operation, and "L," which restricts the driver to vehicles not equipped with air brakes.⁹

Issuance of a CDL

Obtaining information about an applicant's driving record

Under the bill, before not only issuing a CDL as provided in current law but also before renewing, transferring, or upgrading a CDL, the Registrar is required to obtain information about the applicant's driving record. The Registrar must do this through not only the existing CDL Information System and, when available, the National Driver Register, but also the applicant's state of licensure. In addition, beginning January 30, 2012, before issuing, renewing, transferring, or upgrading a CDL, the Registrar is required to check the applicant's driver record to ensure that an applicant who self-

⁵ R.C. 4506.10(A)(3).

⁶ R.C. 4506.10(C)(3).

⁷ R.C. 4506.12(C)(13).

⁸ R.C. 4506.01(X).

⁹ R.C. 4506.12(C)(2) and (3).

certified that the applicant's operation of a commercial motor vehicle is non-excepted interstate, is medically certified.¹⁰

Instances when the Registrar must not issue, renew, upgrade, or transfer a CDL

The bill prohibits the Registrar from issuing, renewing, upgrading, or transferring the applicant's CDL if any of the following apply:

- (1) The Registrar obtains adverse information regarding the applicant's driving record;
- (2) There is no information regarding the driver's self-certification type as required by the bill;
- (3) The applicant's medical status is not certified if the applicant has self-certified as non-excepted interstate.¹¹

New duties of the Registrar upon issuance of a CDL

The bill provides that if the Registrar is notified that a CDL holder has been issued a medical variance, the Registrar must indicate the existence of the medical variance on the CDL holder's CDL Information System driver record.¹²

The bill also requires the Registrar to perform the following four actions beginning on January 30, 2012:

- (1) For those drivers self-certifying as non-excepted interstate, post the applicant's medical status as certified or non-certified on the applicant's CDL Information System driver record upon receiving a valid original or copy of the medical examiner's certificate;
- (2) Post the driver's self-certification type;
- (3) Post information from the medical examiner's certificate, if applicable, on the CDL holder's CDL Information System driver record within ten business days of issuing the CDL;

¹⁰ R.C. 4506.13(B)(1).

¹¹ R.C. 4506.13(B)(2)(a) to (c).

¹² R.C. 4506.13(C)(1).

(4) Retain the original or a copy of the CDL holder's medical certificate for a minimum of three years after the date the certificate was issued.¹³

The Registrar also is required to post and maintain as part of the CDL Information System driver record all convictions, disqualifications, and other licensing actions for violations of any state or municipal ordinances related to motor vehicle traffic control, other than parking violations, for all persons who hold a CDL or operate a motor vehicle for which a CDL is required.¹⁴

Status of a CDL holder as medically non-certified

Beginning January 30, 2014, the Registrar is required to post an applicant's status of medically non-certified on the applicant's CDL Information System driver record and downgrade the holder's CDL from non-excepted interstate if either of the following applies:

(1) The CDL holder fails to provide the driver's self-certification type as required by the bill;

(2) The CDL holder who self-certified as non-excepted interstate fails to provide the Registrar with a current medical examiner's certificate.¹⁵

In addition, the Registrar is required to mark the CDL Information System driver record as non-certified for any commercial driver's license holder who has not self-certified by January 30, 2014, as required by the bill and to initiate the CDL license downgrade procedures contained in the bill.¹⁶

Downgrade of a holder's CDL

Under the bill, beginning on January 30, 2012, within ten days after a CDL holder's medical certification status expires or a medical variance expires or is rescinded, the Registrar must update the person's medical certification status to non-certified. Within ten calendar days after receiving information from the Federal Motor Carrier Safety Administration (FMCSA) regarding issuance or renewal of a medical variance for a driver, the Registrar is required to update the driver's CDL Information

¹³ R.C. 4506.13(C)(2)(a) to (d).

¹⁴ R.C. 4506.13(C)(3).

¹⁵ R.C. 4506.13(C)(4)(a) and (b).

¹⁶ R.C. 4506.13(C)(5).

System driver record to include the medical variance information provided by the FMCSA.¹⁷

If a CDL holder's medical certification or medical variance expires or the FMCSA notifies the Registrar that a medical variance was removed or rescinded, the Registrar must do the following:

(1) Send notice to the CDL holder of the holder's medically not certified status. The notice must inform the holder that the holder's CDL privileges will be removed unless the holder resolves the medical certification or medical variance defect by submitting a current medical certificate or medical variance, as applicable, or changing the driver's self-certification from non-excepted interstate to driving only in excepted interstate or excepted intrastate commerce within 60 days.

(2) Sixty days after the change to medically not certified status, if the CDL holder has not resolved the above-described medical certification or medical variance defect, the Registrar is required to change the person's CDL status to reflect no commercial driver's license privileges. The Registrar also must send the holder a second notice informing the holder that the CDL privilege has been removed from the driver's license and that, unless the driver resolves the medical certification or medical variance defect by submitting a current medical certificate or medical variance, as applicable, or changing the driver's self-certification to driving only in excepted interstate or excepted intrastate commerce within 180 days, the person's CDL will be downgraded to a noncommercial driver's license.¹⁸

CDL hazardous materials endorsement

The bill enacts a new restriction relating to the hazardous materials endorsement for a CDL. The bill provides that the Registrar may not issue, renew, upgrade, or transfer a hazardous materials endorsement for a CDL to any individual authorizing that individual to operate a commercial motor vehicle transporting a hazardous material in commerce unless the Registrar has received from the federal Transportation Security Administration (TSA) a determination indicating that the individual does not pose a security risk warranting denial of the endorsement.¹⁹ Immediately upon receiving a determination from the TSA that an individual poses a security risk warranting denial of a hazardous materials endorsement, the Registrar is required to revoke any existing hazardous materials endorsement and refuse to issue a hazardous

¹⁷ R.C. 4506.13(C)(6).

¹⁸ R.C. 4506.13(D)(1) and (2).

¹⁹ R.C. 4506.131(A).

materials endorsement for the individual named as a security risk.²⁰ Within 15 days of receiving any determination from the TSA indicating the status of an individual's security risk, the Registrar must notify the CDL Information System of the results of the security assessment.²¹

The Registrar is required to order any revocation under these provisions without a hearing. A person adversely affected by the order may request an administrative hearing before the Registrar. The scope of the hearing is limited to whether the Bureau of Motor Vehicles (BMV) properly revoked the hazardous material endorsement after receiving notification from the TSA. The hearing cannot include consideration of whether the TSA acted properly in sending the notification.²²

Renewal of a CDL

The bill provides that beginning on January 30, 2012, prior to applying for renewal of a CDL, each applicant must submit a new copy or original medical examiner's certificate as required by the bill. If the person's medical status has changed, the Registrar is required to take the appropriate action to address the change in medical status.²³

CDL prohibitions relating to operation of a commercial motor vehicle

The bill provides that no person who holds a CDL or operates a motor vehicle for which a CDL is required, rather than "no person" as provided in current law, may do any of a number of specified actions, especially relating to alcohol and driving a commercial motor vehicle.²⁴ The bill specifically prohibits such a person from driving any motor vehicle (not just a commercial motor vehicle) in violation of the state OVI statute or a municipal OVI ordinance.²⁵ The bill also prohibits such a person from (1) refusing to submit to a chemical test under the general state Implied Consent law, as

²⁰ R.C. 4506.131(B)(1).

²¹ R.C. 4506.131(B)(2).

²² R.C. 4506.131(C).

²³ R.C. 4506.14(C).

²⁴ R.C. 4506.15(A).

²⁵ R.C. 4506.15(A)(6).

well as under the CDL Implied Consent law as specified in existing law,²⁶ and (2) failing to stop after an accident, as required by existing law.²⁷

Driver disqualification from operating a commercial motor vehicle

Driver disqualification for violation of an out-of-service order

The bill provides that if a person is convicted of a violation of an out-of-service order, and the person has not previously been so convicted, the Registrar is required to disqualify the person from operation of a commercial motor vehicle for a period of 180 days, rather than 90 days as provided in current law.²⁸ If, during any ten-year period, the person is convicted of a second violation of an out-of-service order in an incident that resulted in the first violation, the period of disqualification is two years, rather than one year as provided in current law.²⁹

Driver disqualification for certain motor vehicle-related offenses

Under the bill, the Registrar is required to disqualify any holder of a CDL, or any operator of a commercial motor vehicle for which a CDL is required, from operating a commercial motor vehicle as follows:

(1) Upon a first suspension imposed under the general Implied Consent law of this state or a similar law of another state or foreign jurisdiction, the period of disqualification is one year. Current law prescribes such a period of disqualification upon a first conviction for a violation of the state OVI law or the state provisions that require a driver to stop after an accident.³⁰

(2) Upon a second suspension imposed under the general Implied Consent law of this state or a similar law of another state or foreign jurisdiction, the period of disqualification is life or any other period of time as determined by the United States Secretary of Transportation and designated by the Director of Public Safety by rule. Current law prescribes such a period of disqualification upon a second conviction for a

²⁶ R.C. 4506.15(A)(8).

²⁷ R.C. 4506.15(A)(11).

²⁸ R.C. 4506.16(A)(1).

²⁹ R.C. 4506.16(A)(2).

³⁰ R.C. 4506.16(D)(1).

violation of the state OVI law or the state provisions that require a driver to stop after an accident.³¹

(3) The bill makes nonsubstantive changes to the provisions relating to disqualification upon a first conviction for violation of any of the prohibitions relating to the operation of a commercial motor vehicle specified elsewhere in the CDL law or of a similar law of another state or foreign jurisdiction while transporting hazardous materials.³²

Driver disqualification for serious traffic violations involving the operation of a commercial motor vehicle

The bill requires a person to be disqualified from operating a commercial motor vehicle upon conviction for serious traffic violations, as follows:³³

(1) Upon conviction of two serious traffic violations involving the operation of a commercial motor vehicle by a person and arising from separate incidents occurring in a three-year period, the person must be disqualified for 60 days, which must be imposed consecutively to any other separate disqualification imposed due to serious traffic violations.³⁴

(2) Upon conviction of three serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person must be disqualified for 120 days, which must be imposed consecutively to any other separate disqualification imposed due to serious traffic violations.³⁵

Driver disqualification for serious traffic violations involving the operation of a vehicle other than a commercial motor vehicle

The bill requires a person to be disqualified from operating a commercial motor vehicle upon conviction for serious traffic violations involving the operation of a vehicle other than a commercial motor vehicle for the same periods of time as those that must be imposed upon conviction for serious traffic violations involving the operation of a commercial motor vehicle:

³¹ R.C. 4506.16(D)(2).

³² R.C. 4506.16(D)(3).

³³ Serious traffic violations are specified in R.C. 4506.01(GG).

³⁴ R.C. 4506.16(D)(5)(a).

³⁵ R.C. 4506.16(D)(5)(b).

(1) Upon conviction of two serious traffic violations committed by the person and arising from separate incidents occurring in a three-year period if the conviction results in the suspension, cancellation, or revocation of the holder's commercial driver's license or noncommercial motor vehicle driving privileges, the period of disqualification is 60 days. This period of disqualification must be imposed consecutively to any other separate period of disqualification imposed due to serious traffic violations.³⁶

(2) Upon conviction of three serious traffic violations committed by the person and arising from separate incidents occurring in a three-year period if the conviction results in the suspension, cancellation, or revocation of the holder's commercial driver's license or noncommercial motor vehicle driving privileges, the period of disqualification is 120 days. The period of disqualification must be imposed consecutively to any other separate disqualification imposed due to serious traffic violations.³⁷

Disqualification due to notice from the Federal Motor Carrier Safety Administration

Existing law requires the Registrar, upon receiving notification from the Federal Motor Carrier Safety Administration to disqualify any commercial motor vehicle driver whose driving is determined to constitute an imminent hazard as defined under the applicable federal motor carrier safety regulation. The bill requires the Registrar to take such action immediately and prior to any hearing.³⁸

Effect of conviction under a municipal ordinance relative to the disqualification provisions

The bill specifies that for purposes of the disqualification provisions, conviction of a violation for which disqualification is required includes conviction under any municipal ordinance that is substantially similar to any Revised Code section that is set forth in the disqualification provisions.³⁹

CDL Implied Consent law

The bill requires the Registrar, upon receipt of notification that a person has been disqualified under the CDL Implied Consent law of another state or foreign jurisdiction

³⁶ R.C. 4506.16(D)(6)(a).

³⁷ R.C. 4506.16(D)(6)(b).

³⁸ R.C. 4506.16(D)(10).

³⁹ R.C. 4506.16(E).

that is similar to that of Ohio, to disqualify the person named in the report from driving a commercial motor vehicle for the appropriate time period prescribed in current law. Specifically, upon a first such incident, the period of disqualification is one year; upon a second or subsequent such incident, the period of disqualification is for life or such lesser period as the Registrar may prescribe by rule.⁴⁰

The bill makes a nonsubstantive change in the provisions that result in a CDL holder being disqualified from operating a commercial motor vehicle under the CDL Implied Consent law. It eliminates specific prohibited alcohol concentrations from that law and replaces them with a cross-reference to those same prohibited alcohol concentrations specified elsewhere in the CDL law.⁴¹

Under the CDL Implied Consent law, any person who holds a CDL or operates a commercial motor vehicle requiring a CDL within this state is deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance or a metabolite of a controlled substance. Such a test may be administered at the direction of a peace officer having reasonable ground to stop or detain the person and, after investigating the circumstances surrounding the operation of the commercial motor vehicle, also having reasonable ground to believe the person was driving the commercial vehicle while having a measurable or detectable amount of alcohol or of a controlled substance or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine. A person who is requested to submit to such a test must be advised by the peace officer requesting the test that a refusal to submit to the test will result in the person immediately being placed out-of-service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year, and that the person will be required to surrender the person's CDL to the peace officer.⁴²

Notice of conviction of a nonresident CDL holder

The bill requires the Registrar, within ten days of receiving a report of the conviction of a nonresident for a violation of a state law or local ordinance or resolution relating to traffic control, other than parking violations, committed in a commercial motor vehicle, to notify the driver licensing authority in the jurisdiction in which the person resides and the driver licensing authority that issued the nonresident's CDL, if different from the state of residence. This requirement is broader than existing law,

⁴⁰ R.C. 4506.17(E).

⁴¹ R.C. 4506.17(D).

⁴² R.C. 4506.17(A) to (C).

which requires the Registrar, upon receipt of such a report, to notify the driver licensing authority of only the state that issued the nonresident's CDL of the conviction.⁴³

Prohibition against modification of a record relating to an offense involving the operation of a commercial motor vehicle

The bill prohibits a court from modifying any record, or consent to the modification of any record, relating to an offense involving the operation of a commercial motor vehicle, if the resulting record would no longer reflect the operation of a commercial motor vehicle by a person, unless a determination of the facts indicates that the person was not operating a commercial motor vehicle at the time of the offense.⁴⁴

No retention of a CDL if retention violates federal law

The bill prohibits any person from retaining a CDL if the retention of the CDL would violate federal law. This new prohibition is in addition to the existing provision that prohibits the BMV from issuing or renewing a CDL if issuance or renewal of the license would violate federal law.⁴⁵

Texting while driving

The bill establishes as a serious traffic violation operating a commercial motor vehicle in violation of a law of this state, or any municipal ordinance or county or township resolution prohibiting texting while driving, or any other substantially similar law of another state or political subdivision of another state.⁴⁶ The bill defines "texting while driving" to mean texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of or off a highway and is stopped in a location where the vehicle can safely remain stationary.⁴⁷ The bill does not enact a texting while driving prohibition.

⁴³ R.C. 4506.21.

⁴⁴ R.C. 4506.161.

⁴⁵ R.C. 4506.101.

⁴⁶ R.C. 4506.01(GG)(2).

⁴⁷ R.C. 4506.01(LL)

The bill defines "texting" to mean manually entering alphanumeric text into, or reading text from, an electronic device. The term includes short message service, e-mail, instant messaging, a command or request to access a World Wide Web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include any of the following:

(1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or receive a telephone call;

(2) Inputting, selecting, or reading information on a global positioning system or navigation system.⁴⁸

The bill defines "electronic device" to include a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.⁴⁹

Post-conviction records provisions

Abstract of a motor vehicle-related conviction forwarded to the BMV

The bill reduces from ten days to seven days the time period within which a county court judge, mayor of a mayor's court, or clerk of a court of record must prepare and forward to the Department of Public Safety and the BMV a certified abstract of the court record of every case in which a person is charged with a state or local motor vehicle traffic law or equipment violation or a violation of any other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets. This abstract must be sent when a person is convicted of, or forfeits bail in relation to, such an offense, and the new seven-day time period starts upon the conviction or bail forfeiture.⁵⁰

Recording of the information contained in an abstract by the BMV

The bill reduces the period of time the BMV has to enter into its records abstracts it receives from judges, mayors, and clerks of courts of record for cases involving state and local motor vehicle traffic law and equipment violations. The bill requires the BMV to record all such abstracts within ten days of conviction or bail forfeiture, rather than

⁴⁸ R.C. 4506.01(KK).

⁴⁹ R.C. 4506.01(M).

⁵⁰ R.C. 4510.03(B) and 4513.37.

ten days after receipt of the abstract.⁵¹ This information determines whether the BMV is required to assess any points against an offender's driver's license and if so, the number of points so assessed.⁵²

Pre-trial diversion programs

The bill adds another class of offender who is not eligible for an adult pre-trial diversion program: persons who are accused of an offense while operating a commercial motor vehicle or persons who hold a CDL and are accused of any offense, if conviction of the offense would disqualify the person from operating a commercial motor vehicle under the Ohio CDL law or would subject the person to any other sanction under that law.⁵³

Current law authorizes a prosecuting attorney to establish a pre-trial diversion program for adults who are accused of committing criminal offenses and whom the prosecuting attorney believes probably will not offend again. Some offenders are not eligible for such a program, including repeat offenders or dangerous offenders, persons accused of drug offenses, and persons accused of state or local OVI.⁵⁴

Intervention in lieu of conviction

The bill adds another condition for an offender who is charged with a criminal offense to be eligible for intervention in lieu of conviction: the offender is not charged with an offense that would result in the offender being disqualified under the Ohio CDL law or would subject the offender to any other sanction under that law.⁵⁵ Under intervention in lieu of conviction, a court, if it has reason to believe that drug or alcohol usage was a factor in an offender's criminal behavior, prior to entry of a guilty plea, may accept the offender's request for intervention in lieu of conviction. If the court elects to consider the offender's request, a hearing must be held to determine if the offender is eligible for intervention in lieu of conviction. An offender is so eligible if the court finds all of a number of specified conditions are true relative to the offender.⁵⁶

⁵¹ R.C. 4510.036(A).

⁵² R.C. 4510.036(C).

⁵³ R.C. 2935.36(A)(5)(a) and (b).

⁵⁴ R.C. 2935.36(A).

⁵⁵ R.C. 2951.041(B)(10).

⁵⁶ R.C. 2951.041(A) and (B).

Maximum motor vehicle dimensions

The bill provides that in addition to the exceptions to the maximum motor vehicle lengths prescribed in current law, the maximum motor vehicle lengths specified for all vehicles other than certain passenger buses do not include nonproperty carrying devices or components that do not extend more than 24 inches beyond the rear of the vehicle and are needed for loading or unloading. Current exceptions include safety devices, bumpers attached to the front or rear of a bus or combination, and energy conservation devices as provided in any regulations adopted by the United States Secretary of Transportation.⁵⁷

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 09-27-11 |

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⁵⁷ R.C. 5577.05(F).