



Ohio Legislative Service Commission

Bill Analysis

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(As Reported by S. Highways and Transportation)

Reps. Rosenberger, Butler, Gonzales, Sears, O'Brien, Terhar, Antonio, Baker, Beck, Blessing, Bubp, Combs, DeGeeter, Derickson, Garland, Gerberry, Hackett, Hill, Letson, Luckie, Lundy, Mallory, McClain, McGregor, Murray, Newbold, Ruhl, Sprague, Batchelder

BILL SUMMARY

COMMERCIAL DRIVER'S LICENSING

- Beginning January 30, 2012, phases in requirements based on federal law for commercial driver's license (CDL) holders to verify and maintain medical certification based on the nature of the person'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.
- In regard to a CDL hazardous materials endorsement, requires the Registrar of Motor Vehicles to take specified actions based on a federal Transportation Security Administration determination indicating whether the individual poses a security risk warranting denial of the endorsement.
- Expands the types of acts that a CDL holder or covered 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.

* This analysis was prepared before the report of the Senate Highways and Transportation Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- 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.
- 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.
- Establishes guidelines relating to pre-trial diversion programs and intervention in lieu of conviction for CDL holders who commit certain motor vehicle-related offenses.
- 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.
- Establishes a waiver for the skills component of the CDL examination for certain drivers with military commercial vehicle experience.
- 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.

JOB AND FAMILY SERVICES

- Temporarily changes the formula used to trigger state extended unemployment benefits based on the total unemployment rate for the current time period the federal government is fully paying for those benefits for claimants of most private sector employers.
- Eliminates the 30-day period following an application or eligibility redetermination during which an assistance group may participate in Ohio Works First (OWF) before entering into a self-sufficiency contract with a county department of job and family services.

- Eliminates a prohibition against a county department delaying an assistance group's eligibility determination for OWF on the basis that the members of the group who are required to enter into a self-sufficiency contract have not yet done that.
- Eliminates the exemption that minor heads of household who participate in the Learning, Earning, and Parenting Program have from the requirement to enter into self-sufficiency contracts.
- Eliminates a requirement that a hearing authority have been admitted to the practice of law in Ohio in order to be employed by or contract with the Ohio Department of Job and Family Services (ODJFS) to make the decision in a state hearing appeal regarding a family services program.
- Eliminates a requirement that a person have been admitted to the practice of law in Ohio in order to be designated to make a decision on behalf of the ODJFS Director in an administrative appeal regarding a family services program.
- Declares an emergency.

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CONTENT AND OPERATION

COMMERCIAL DRIVER'S LICENSING

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

Under the bill, a person specifically must be medically certified as physically qualified to operate a commercial motor vehicle in accordance with the CDL law and must be 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

Beginning January 30, 2012, the bill requires every application for a CDL, restricted CDL, or commercial driver's temporary instruction permit to 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

Physical qualifications for driving a commercial motor vehicle

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

¹ R.C. 4506.05(A)(5).

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

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."³

Until January 30, 2012, 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 when applying for a CDL, that the person is in compliance with applicable federal standards.⁴

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 specifically reference 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,

³ R.C. 4506.10(A)(2)(a)(i) and (ii) and (b)(i) and (ii).

⁴ R.C. 4506.10(A)(1).

⁵ R.C. 4506.10(A)(3).

⁶ R.C. 4506.10(C)(3).

⁷ R.C. 4506.12(C)(13).

received by a driver from the Federal Motor Carrier Safety Administration (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, the Registrar is required to obtain information about the applicant's driving record before issuing a CDL as provided in current law but also before renewing, transferring, or upgrading a CDL. The Registrar must do this through the existing CDL Information System and, when available, the National Driver Register, and 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-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

⁸ R.C. 4506.01(X).

⁹ R.C. 4506.12(C)(2) and (3).

¹⁰ R.C. 4506.13(B)(1).

¹¹ R.C. 4506.13(B)(2)(a) to (c).

New duties of the Registrar upon issuance of a CDL

Under the bill, 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;

(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;

¹² R.C. 4506.13(C)(1).

¹³ R.C. 4506.13(C)(2)(a) to (d).

¹⁴ R.C. 4506.13(C)(3).

(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 FMCSA regarding issuance or renewal of a medical variance for a driver, the Registrar is required to update the driver's CDL Information 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

¹⁵ R.C. 4506.13(C)(4)(a) and (b).

¹⁶ R.C. 4506.13(C)(5).

¹⁷ R.C. 4506.13(C)(6).

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 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 must revoke any existing hazardous materials endorsement and refuse to issue a hazardous 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

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

¹⁸ R.C. 4506.13(D)(1) and (2).

¹⁹ R.C. 4506.131(A).

²⁰ R.C. 4506.131(B)(1).

²¹ R.C. 4506.131(B)(2).

²² R.C. 4506.131(C).

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

Under the bill, 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 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

If a person is convicted of a violation of an out-of-service order, and the person has not previously been so convicted, the bill requires the Registrar 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 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:

²³ R.C. 4506.14(C).

²⁴ R.C. 4506.15(A).

²⁵ R.C. 4506.15(A)(6).

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).

(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 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

³⁰ R.C. 4506.16(D)(1).

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).

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:

(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 FMCSA 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

³⁵ R.C. 4506.16(D)(5)(b).

³⁶ R.C. 4506.16(D)(6)(a).

³⁷ R.C. 4506.16(D)(6)(b).

³⁸ R.C. 4506.16(D)(10).

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 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

³⁹ R.C. 4506.16(E).

⁴⁰ R.C. 4506.17(E).

⁴¹ R.C. 4506.17(D).

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, 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

⁴² R.C. 4506.17(A) to (C).

⁴³ R.C. 4506.21.

⁴⁴ R.C. 4506.161.

⁴⁵ R.C. 4506.101.

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.

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

Waiver of the skills component of the CDL examination for certain military personnel

The bill requires the Director of Public Safety to adopt rules, in accordance with the Administrative Procedure Act, authorizing waiver of the skills component of the CDL examination for any applicant for a CDL who meets all of the following requirements:

⁴⁶ R.C. 4506.01(GG)(2).

⁴⁷ R.C. 4506.01(LL)

⁴⁸ R.C. 4506.01(KK).

⁴⁹ R.C. 4506.01(M).

(1) At the time of application, is a member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio National Guard, or separated from such service or employment within the preceding 90 days;

(2) Certifies that, during the two-year period immediately preceding application for a CDL, all of the following apply:

(a) The applicant has not had more than one license, excluding any military license;

(b) The applicant has not had any license suspended, revoked, or canceled;

(c) The applicant has not had any convictions for any type of motor vehicle for the offenses for which disqualification is prescribed in the CDL law;

(d) The applicant has not had more than one conviction for any type of motor vehicle for a serious traffic violation;

(e) The applicant has not had any violation of a state or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident, and has no record of an accident in which the applicant was at fault.

(3) In accordance with rules adopted by the Director, certifies and also provides evidence of all of the following:

(a) That the applicant is regularly employed or was regularly employed within the preceding 90 days in a military position requiring operation of a commercial motor vehicle;

(b) That the applicant was exempt from the requirements of the CDL law under a current provision of that law;

(c) That, for at least two years immediately preceding the date of application or at least two years immediately preceding the date the applicant separated from military service or employment, the applicant regularly operated a vehicle representative of the commercial motor vehicle type that the applicant operates or expects to operate.⁵⁰

⁵⁰ R.C. 4506.09(E)(1) to (3).

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.⁵¹

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 ten days after receipt of the abstract.⁵² 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.⁵³

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.⁵⁴

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

⁵¹ R.C. 4510.03(B) and 4513.37.

⁵² R.C. 4510.036(A).

⁵³ R.C. 4510.036(C).

⁵⁴ R.C. 2935.36(A)(5)(a) and (b).

eligible for such a program, including repeat offenders or dangerous offenders, persons accused of drug offenses, and persons accused of state or local OVI.⁵⁵

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.⁵⁶ 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.⁵⁷

Maximum motor vehicle dimensions

Under the bill, 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.⁵⁸

JOB AND FAMILY SERVICES

Extended unemployment benefits

The bill temporarily extends the look-back period from two years to three years for determining whether a state "on" indicator exists based on the total unemployment rate (TUR). When a state "on" indicator exists, claimants may be eligible to receive state extended unemployment compensation benefits. The change under the bill is in effect for compensation for weeks of unemployment beginning after December 17, 2010, and

⁵⁵ R.C. 2935.36(A).

⁵⁶ R.C. 2951.041(B)(10).

⁵⁷ R.C. 2951.041(A) and (B).

⁵⁸ R.C. 5577.05(F).

ending on the close of the last day of the week ending four weeks prior to the last week in which 100% federal sharing is available under Section 2005(a) of the "American Recovery and Reinvestment Act of 2009," P.L. 111-5, without regard to the extension of federal sharing for certain claims as provided under Section 2005(c) of that Act, and the option of a three-year look-back is authorized by the "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010," P.L. 111-312, as amended, or any other federal law that authorizes both. This extension applies retroactively as of December 31, 2011. (The look-back period was previously temporarily extended in Sub. H.B. 58 of the 129th General Assembly and was in effect for compensation for weeks of unemployment ending on or before December 31, 2011.)⁵⁹

Ohio's Unemployment Compensation Law contains two triggers for purposes of state extended benefits – one based on the insured unemployment rate and one based upon the TUR. Currently, the state "on" indicator exists based upon the TUR, and the federal government is currently fully funding state extended unemployment benefits for claimants of contributory employers (most private sector employers). Because the TUR trigger is based, in part, on a comparison of that rate from the previous two years, and because Ohio's unemployment rate has been high for an extended period of time, a possibility exists that Ohio will trigger "off" state extended benefits during the time period the federal government is fully funding the state extended benefits based upon the current method of calculating the state "off" indicator.

Ohio Works First self-sufficiency contracts

The bill revises the law governing self-sufficiency contracts that certain members of an Ohio Works First (OWF) assistance group must enter into with a county department of job and family services. OWF is the state's Temporary Assistance for Needy Families program that provides time-limited cash assistance to low-income families with children. A self-sufficiency contract is to set forth the assistance group members' rights and responsibilities under OWF, including their plan to achieve the goal of self-sufficiency and personal responsibility through unsubsidized employment within the OWF time limit.

Current law gives an assistance group up to 30 days after applying, or undergoing a redetermination of eligibility, for OWF to enter into a self-sufficiency contract with a county department. The bill eliminates the 30-day period.⁶⁰ The result is that an assistance group is ineligible to participate in OWF unless the members who are required to enter into a self-sufficiency contract have done so. The bill also

⁵⁹ Sections 3 and 4.

⁶⁰ R.C. 5107.14(A).

eliminates a law that prohibits a county department from delaying an eligibility determination on the basis that the members of the group who are required to enter into a self-sufficiency contract have not yet done that.⁶¹ With the prohibition eliminated, a county department can delay the determination until the members enter into the self-sufficiency contract.

Each adult member of an assistance group must enter into a self-sufficiency contract. Under current law, an assistance group member who is a minor head of household also must enter into a self-sufficiency contract unless the member participates in the Learning, Earning, and Parenting Program (LEAP). The bill eliminates the exemption for minor heads of household participating in LEAP.⁶² This means that all assistance group members who are minor heads of household must enter into self-sufficiency contracts. A minor head of household is a minor child who is (1) married, at least six months pregnant, and a member of an assistance group that does not include an adult or (2) married and a parent of a child included in the same assistance group that does not include an adult.⁶³ LEAP is a component of OWF under which a participating teen who is pregnant or a parent is encouraged to complete school.⁶⁴

Family services program appeals

The bill revises the law governing who may make the decision in an appeal regarding a family services program. The following are family services programs: (1) a Temporary Assistance for Needy Families program that provides assistance, (2) publicly funded child care, (3) Medicaid, (4) the Disability Financial Assistance program, (5) the Supplemental Nutrition Assistance Program (i.e., Food Stamps), (6) the Residential State Supplement program, (7) county child welfare services, (8) child welfare emergency services provided under a Prevention, Retention, and Contingency program, (9) adoption assistance provided for a child with special needs, and (10) social services provided under Title XX of the Social Security Act, other than such services provided by the Ohio Department of Mental Health, Ohio Department of Developmental Disabilities, a community behavioral health board, or a county board of developmental disabilities.

⁶¹ R.C. 5107.12.

⁶² R.C. 5107.14(A)(2).

⁶³ R.C. 5107.02(H), not in the bill.

⁶⁴ R.C. 5107.30, not in the bill.

Continuing law provides for an applicant, recipient, or former recipient of a family services program (an appellant) who appeals a decision or order made by a state or local agency that administers the program to receive a hearing by the Ohio Department of Job and Family Services (ODJFS). The ODJFS hearing is the state hearing. The appellant may appeal the state hearing decision to the ODJFS Director. The ODJFS Director hearing is the administrative appeal.

ODJFS is permitted to employ or contract with hearing authorities to issue decisions in state hearings. The bill eliminates a requirement that a hearing authority employed or contracted with after July 1, 2000, have been admitted to the practice of law in Ohio.⁶⁵

The ODJFS Director or the Director's designee is to conduct and make the decision in an administrative appeal. The bill eliminates a requirement that the Director's designee have been admitted to the practice of law in Ohio.⁶⁶

HISTORY

ACTION	DATE
Introduced	09-27-11
Reported, H. Transportation, Public Safety & Homeland Security	12-01-11
Passed House (88-3)	12-07-11
Reported, S. Highways and Transportation	--

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⁶⁵ R.C. 5101.351.

⁶⁶ R.C. 5101.35.

