EXHIBIT 2
DATE 1-21-05
HB HB 192

QUICK GUIDE TO HB 192 PROPOSED CHANGES
Conform Commercial Driver Licensing Laws to Federal Requirements

FMCSA AUDIT CHANGES

Sec. 3, 30: Authorizes civil penalty impositions against employer or driver for certain violations – creates employer offense for knowingly allowing driver to operate without CDL, while CDL suspended or disqualified, out-of-service order or violate railroad crossing provisions

Sec. 4, 28: Clarifies when CDL suspensions start and how window for serious traffic violation is determined

Sec. 5, 31: Requires timely notification to other states of Montana convictions by out-of-state drivers and clarifies when convictions become final for reporting

Sec. 9, 25, 33: Conforms conviction definition for driver licensing and recordkeeping purposes to federal standard

Sec. 10: Clarifies commercial motor vehicle definition re: farmers, military and school bus

Sec. 13, 15: Authorizes issuance of CDL to nonresidents in limited circumstances; prohibits issuance in all other situations

Sec. 14: Moves current language from 61-5-129 and exempts federal district of Mexico CDLs

Sec. 15, 16, 24: Treats cancellations the same as suspensions and revocations; adds cancellation to status that must be disclosed upon application; incorporates 60-day CDL disqualification following cancellation due to omitted info or fraud on application

Sec. 17: Clarifies road test must be performed in representative vehicle; recognizes third-party testing processes already in current law

Sec. 26: Limits recordkeeping violation for speeding tickets to Montana convictions, unless driver has CDL

Sec. 27: Clarifies that DOJ will recognize out-of-state testing refusals or .08 or more administration determinations as applied to a person required to have a CDL

FEES (not federally mandated):

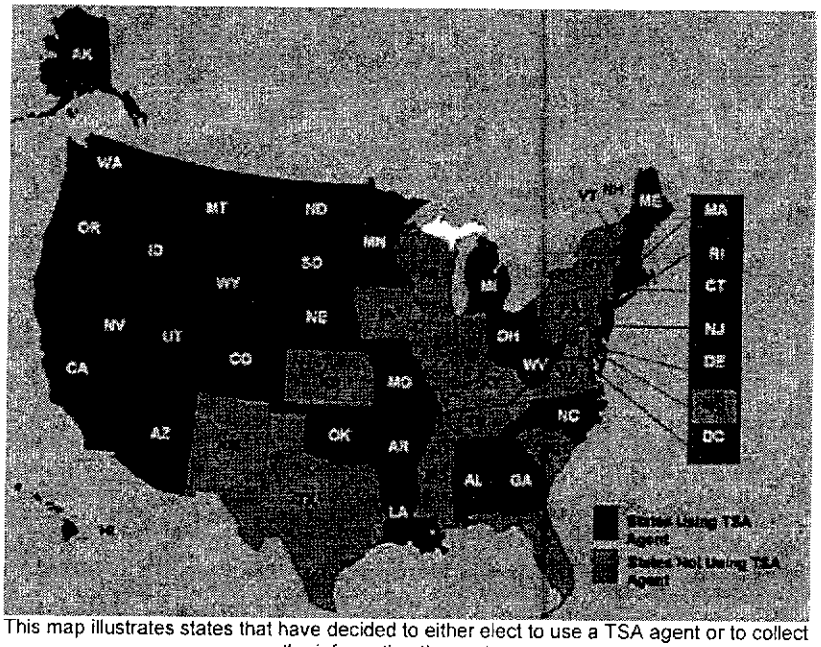
Section 18: $10 per endorsement combination vehicle, tanker, or air-brake notation; $25 for HME or passenger

Transportation Security Administration

Print

Hazmat Threat Assessment Program Information for the States

State Declarations



This map illustrates states that have decided to either elect to use a TSA agent or to collect the information themselves.

All states were required to provide the Transportation Security Administration (TSA) a state declaration by December 27, 2004, on their decision to either elect to use a TSA agent or to collect and submit Hazardous Materials Endorsement applicant fingerprints and information, and the associated TSA and Federal Bureau of Investigation (FBI) fees themselves, in accordance with the requirements of 49 CFR Part 1572 and applicable fingerprint submission standards of the FBI.

Below is the list submitted state declarations (please note that although a state may have submitted a declaration, it may still be under review and not yet posted to this Web page). The TSA point of contact for state declarations, Christopher Fallon (Hazmat Threat Assessment Program), can be reached at 571-227-3200.

States That Have Elected to Use the TSA Agent (as of 12/28/04): Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Washington, West Virginia, and Wyoming.

States That Have Elected to Collect/Submit Fingerprints, Application Data, and TSA/FBI Fees Themselves (as of 12/28/04): Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Mississippi, New Mexico, New York, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, and Wisconsin.

State questions and answers

Revised and newly-added questions and answers will be posted to this Web page shortly.

Driver's License Hazardous Materials Endorsement Application

Printed Last Name	First Name	Middle Name	Suffix
Previous Last Name	Previous First Name	Previous Middle Name	Suffix

Social Security Number	Telephone No. (With Area Code)	Commercial Driver's License No.	State CDL Was Issued (SOR)	Endorsement Type ☐ Hazmat ☐ Hazmat/Tanker Combined

Sex ☐ Male ☐ Female

Eye Color: ☐ Black ☐ Blue ☐ Brown ☐ Dichromatic ☐ Gray ☐ Green ☐ Hazel ☐ Maroon ☐ Pink

Hair Color: ☐ Bald ☐ Black ☐ Blond ☐ Brown ☐ Gray ☐ Red/Auburn ☐ Sandy ☐ White

Height (ft. and in.)	Weight

Residence Street Address	City	State	Zip Code

Mailing Address (If Different)	City	State/Province	Zip/Postal Code	Country

Date of Birth	City of Birth	State of Birth	Country of Birth

Country of Citizenship	Naturalization Date (If Naturalized US Citizen)	Alien Registration No. (If Lawful Permanent US Resident)

U.S. Military Service? ☐ Yes ☐ No

If Yes, Which Branch? ☐ Air Force ☐ Army ☐ Navy ☐ Marine ☐ Coast Guard ☐ Merchant Marine ☐ National Guard

Discharge Date	Dishonorable Discharge? ☐ Yes ☐ No

Previous Residential Address

Residence Street Address	City	State/Province	Zip/Postal Code	Country

Current Employer Name	Telephone No. (Including Area Code)

Current Employer Street Address	City or Municipality	State/Province	Zip/Postal Code	Country

Current Employer Name (If More Than One)	Telephone No. (Including Area Code)

Current Employer Street Address (If More Than One)	City or Municipality	State/Province	Zip/Postal Code	Country

Answer the following questions by checking the appropriate box

1. Have you been convicted or found not guilty by reason of insanity of any disqualifying crime listed in Section 1, Part A, in any jurisdiction, civilian or military, during the seven years before the date of this application? ..... ☐ Yes ☐ No
2. Have you been released from incarceration in any jurisdiction, civilian or military, for committing any disqualifying crime listed in Section 1, Part A, during the five years before the date of this application? ..... ☐ Yes ☐ No
3. Have you been convicted or found not guilty by reason of insanity of any disqualifying crime listed in Section 1, Part B, in any jurisdiction, civilian or military? ..... ☐ Yes ☐ No
4. Are you wanted or under indictment in any jurisdiction, civilian or military, of any disqualifying crime listed in Section 1? ☐ Yes ☐ No
5. Have you been adjudicated as lacking mental capacity or committed to a mental institution involuntarily? ..... ☐ Yes ☐ No
6. Do you meet the eligibility requirements for immigration status? (See Section 2)..... ☐ Yes ☐ No

I, the undersigned, have been informed that Federal regulations under 49 CFR 1572.11(c) impose a continuing obligation to disclose to the Transportation Security Administration (TSA) within 24 hours if I am convicted of, wanted, under indictment, or found not guilty by reason of insanity of any disqualifying crime, or adjudicated as lacking mental capacity or committed to a mental institution, renounce or lose my U.S. citizenship, or violate my immigration status and/or am ordered removed from the U.S. while I have a hazardous materials endorsement for a CDL.

The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement or an omission of a material fact on this application can be punished by fine or imprisonment or both (see section 1001 of Title 18 United States Code) and may be grounds for denial of a hazardous materials endorsement.

Applicant's Signature	Date Signed	Location Signed
Witnessed By (Licensing Representative)		Date Signed

Section 1. List of Disqualifying Criminal Offenses for Hazardous Materials Endorsement

Part A. Interim Disqualifying Offenses

These crimes are only disqualifying if they are considered felonies in the appropriate jurisdiction, civilian or military. A driver will be disqualified from holding a hazmat endorsement if he or she was convicted* or found not guilty by reason of insanity within the last seven years or was released from prison within the last five years for any of the following crimes:

- Assault with intent to murder
- Kidnapping or hostage taking
- Rape or aggravated sexual abuse
- Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export, or dealing in a firearm or other weapon
- Extortion
- Dishonesty, fraud, or misrepresentation, including identity fraud
- Bribery
- Smuggling
- Immigration violations
- Violations of RICO (Racketeer Influenced and Corrupt Organizations) Act or a comparable state law of an Interim Disqualifying crime
- Robbery
- Distributions of, possession with intent to distribute, or importation of a controlled substance (State laws vary on the quantity of marijuana required for the offense to be considered a felony. Typically, however, to be convicted of felony marijuana possession, a person must possess a quantity of marijuana greater than an amount considered for "personal use".)
- Arson
- Conspiracy or attempt to commit any of these crimes

Part B. Permanently Disqualifying Criminal Offenses

A driver will be permanently disqualified from holding a hazmat endorsement on a CDL if he or she was ever convicted or found not guilty by reason of insanity of any of the following crimes:

- Espionage
- Sedition
- Treason
- Any crime listed in 18 U.S.C. Chapter 113B – Terrorism or a comparable state law
- A crime involving a severe transportation security incident (i.e., security incident involving a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area)
- Improper transportation of a hazardous material under 49 U.S.C. 5124 or a comparable state law (minor infractions involving transportation of hazardous materials will not disqualify a driver. For instance, no driver will be disqualified for minor roadside infractions or placarding violations.)
- Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device
- Murder as defined in 18 U.S.C. 1111
- Conspiracy or attempt to commit any of these crimes
- Violations of RICO (Racketeer Influence and Corrupt Organizations) Act or a comparable state law of one of these Permanently Disqualifying crimes

Part C. Under Want or Warrant

A driver will be disqualified from holding a hazmat endorsement on a CDL if he or she is wanted or under indictment in any civilian or military jurisdiction for a felony listed under Part A or Part B until the want or warrant is released.

*Convicted means any plea of guilty or nolo contendere or any finding of guilt

Section 2. Permissible Immigration Status to Hold Hazardous Materials Endorsement

An applicant for an HME must be one of the following:

- A citizen of the U.S. who has not renounced his/her U.S. citizenship
- A lawful permanent resident of the U.S. as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101)
- A lawful nonimmigrant in possession of valid, unrestricted employment authorization
- A refugee admitted under section 8 U.S.C. 1157 in possession of valid unrestricted employment authorization
- In asylum status under section 8 U.S.C. 1158 in possession of valid, unrestricted employment authorization

Section 3. Privacy Act and Paperwork Reduction Act Notices

Privacy Act Notice: The authority for collecting this information is 49 U.S.C. 114, 40113 and 49 U.S.C. 5103a.

Purpose: This information is needed to verify your identity and to conduct a security threat assessment to evaluate your suitability for a hazardous materials endorsement for a commercial driver's license. Your Social Security Number (SSN) or alien registration number will be used as your identification number in this process and to verify your identity. Furnishing this information, including your SSN or alien registration number, is voluntary; however, failure to provide it will prevent the completion of your security threat assessment, without which you may not be granted a hazardous materials endorsement.

Routine Uses: Routine uses of this information include disclosure to the FBI to retrieve your criminal history record; to TSA contractors or other agents who are providing services relating to the security threat assessment; to appropriate governmental agencies for licensing, law enforcement, or security purposes, or in the interests of national security; and to foreign and international governmental authorities in accordance with law and international agreement.

HAZ MAT CHANGES:

Sec. 1: TSA background checks required for new, renewed or transferred hazardous materials endorsements (HMEs)

Secs. 2, 12, 20: Authority to revoke HME if security threat assessment determined or driver surrenders HME; requires issuance of replacement license if HME revoked or surrendered; conforms cancellation process to HME requirements

Secs. 10, 11: Revises commercial motor vehicle and hazardous materials definitions to conform to federal regulations

Sec. 18: Changes CDL term from 8 years to 5 years to conform to maximum term of TSA security threat assessment; prohibits mail renewals for CDLs with HME

Sec. 19: Incorporates security threat assessment process into DOJ rule-making authority

MINOR CHANGES:

Sections 6,7,8, 21, 22, 23, 29 are cross-reference or coordination amendments

Repealed sections are redundant – covered in 61-8-802

Severability clause included as a preventative measure – uncertainty of reaction to TSA background check implementation