

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

FMCSA AUDIT CHANGES

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| <p>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</p> <p>Sec. 4, 28: Clarifies when CDL suspensions start and how window for serious traffic violation is determined</p> <p>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</p> <p>Sec. 9, 25, 33: Conforms conviction definition for driver licensing and recordkeeping purposes to federal standard</p> <p>Sec. 10: Clarifies commercial motor vehicle definition re: farmers, military and school bus</p> <p>Sec. 13, 15: Authorizes issuance of CDL to nonresidents in limited circumstances; prohibits issuance in all other situations</p> | <p>Sec. 14: Moves current language from 61-5-129 and exempts federal district of Mexico CDLs</p> <p>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</p> <p>Sec. 17: Clarifies road test must be performed in representative vehicle; recognizes third-party testing processes already in current law</p> <p>Sec. 26: Limits recordkeeping violation for speeding tickets to Montana convictions, unless driver has CDL</p> <p>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</p> |
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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

DEPARTMENT OF JUSTICE
HB 192: Revision of Commercial Driver Licensing
to Conform to Federal Mandates

Background

The Department of Justice, Motor Vehicle Division administers Montana's commercial driver licensing program. However, the program must meet the standards and requirements set forth in federal regulations adopted by the Federal Motor Carrier Safety Administration of the federal Department of Transportation. These regulations are based on laws passed by Congress.

National Security After 9/11

After the September 11 tragedy, Congress adopted the USA Patriot Act and additional standards requiring background checks for commercial drivers endorsed to transport hazardous materials. On January 13, 2005, the federal Transportation Security Administration (TSA) of the Department of Homeland Security finalized the fee and agent rules governing this background check process.

Penalties for Noncompliance

With one exception pertaining to additional department-proposed amendments noted below, federal law mandates every change now proposed in HB 192.

If Montana's commercial driver licensing program is not brought into substantial compliance with federal standards, trucking companies and truck drivers who operate out of Montana will be negatively impacted, as will the State of Montana. Specifically, the state will:

- **lose the ability to issue and renew commercial driver licenses** to Montana drivers, potentially causing Montana trucking companies and drivers to relocate to other states;
- **lose federal funding** for the state's motor carrier safety assistance program (MCSAP); and
- **lose five percent of its federal aid highway funds** in the fiscal year following the state's first year of noncompliance, and 10 percent of the funds in each year following the state's second or subsequent year of noncompliance.

Hazmat Endorsements

In addition, if Montana does not incorporate the TSA background checks for commercial drivers with hazardous materials (Hazmat) endorsements, the department will be prohibited from issuing Hazmat endorsements to commercial drivers licensed in Montana beginning January 31, 2005, and from renewing Hazmat endorsements beginning May 31, 2005.

Support for HB 192

The Montana Motor Carriers Association and the major trucking companies it represents all support HB 192.

Proposed Changes

	Section Numbers
USA Patriot Act/TSA background checks for commercial drivers with hazardous materials endorsements (Hazmat)	1, 2, 10-12, 18-20 and 33
Findings from the August, 2003, audit of DOJ's commercial driver licensing program	3-5, 9, 10, 13-17, and 20-32
Coordination amendments	6-8, 21-23, and 29

House Amendments

A subsection requiring new fees for endorsements to commercial driver's licenses was amended out of the bill in committee, with the support of the Motor Vehicle Division (Section 18, page 17, line 14-25). These new fees were not federally mandated.

Effective Dates

- January 31, 2005 – Hazmat background check requirements for new endorsements
- May 31, 2005 – Hazmat background checks for license renewals and transfers
- October 1, 2005 – Remainder of the bill

Additional Department-Proposed Amendments

To correct an unintended consequence of clarifying driver's license fee amounts in current law (Mont. Code Ann. § 61-5-111(6) – p. 17, lines 19-20), the Department is requesting amendments to adjust the driver's license fee distributions in Mont. Code Ann. § 61-5-121 to account for commercial driver's license fees separate from driver's license fees.

These amendments will ensure that the distribution of fees remains revenue-neutral as applied to the two state special revenue funds that are funded in part from driver's license fees, the MHP Retirement Account and the State Traffic Education Account. See, Assumption 8 in HB 192's Fiscal Note, As Amended.