

SENATE BILL NO. 241

INTRODUCED BY E. BUTTREY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING THIRD-PARTY COMMERCIAL
5 DRIVER TESTING; ALLOWING THE DEPARTMENT OF JUSTICE TO CONTRACT WITH AND CERTIFY
6 THIRD-PARTY COMMERCIAL DRIVER TESTING PROGRAMS OPERATED BY CERTAIN ENTITIES;
7 REQUIRING THE THIRD-PARTY TESTING PROGRAM TO ADMINISTER THE SAME TESTS AS WOULD BE
8 ADMINISTERED BY THE DEPARTMENT; REQUIRING THE DEPARTMENT TO ADOPT RULES GOVERNING
9 THE CERTIFICATION AND MONITORING OF THIRD-PARTY TESTING PROGRAMS; REQUIRING THE
10 RULES TO COMPLY WITH CERTAIN FEDERAL REGULATIONS; ALLOWING THE DEPARTMENT TO
11 IMPOSE FEES FOR CERTIFICATION AND TESTING; AND AMENDING SECTIONS 61-5-112 AND 61-5-118,
12 MCA."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 **Section 1.** Section 61-5-112, MCA, is amended to read:

17 **"61-5-112. Types and classes of commercial driver's licenses -- classification -- rulemaking --**
18 **reciprocity agreements.** (1) The department shall adopt rules that it considers necessary for the safety and
19 welfare of the traveling public governing the classification of commercial driver's licenses and related
20 endorsements and the examination of commercial driver's license applicants and renewal applicants. The rules
21 must:

22 (a) subject to the exceptions provided in this section, comport with the licensing standards and
23 requirements of 49 CFR, part 383, the medical qualifications of 49 CFR, part 391, and the security threat
24 assessment provisions of 49 CFR, part 1572;

25 (b) allow for the issuance of a type 2 (intrastate only) commercial driver's license in accordance with
26 medical qualification and visual acuity standards prescribed by the department;

27 (c) allow for the issuance of a type 2 commercial driver's license to a person who is 18 years of age or
28 older;

29 (d) allow for issuance of a seasonal commercial driver's license based on standards established by the
30 department for the waiver of the knowledge and road or skills test for a qualified person employed in farm-related

- 1 service industries who has a good driving record and sufficient prior driving experience;
- 2 (e) prescribe the operational and seasonal restrictions for a seasonal commercial driver's license;
- 3 (f) prescribe the requirements for the medical statement that must be submitted in order for a person to
- 4 be qualified for a type 2 commercial driver's license; ~~and~~
- 5 (g) prescribe the minimum standards for certification of a third-party commercial driver testing program
- 6 and any test waiver under 61-5-118; and
- 7 (h) allow for the issuance of a commercial learner's permit.

8 (2) The department is authorized to enter into reciprocal agreements with adjacent states that would

9 allow certain drivers of vehicles transporting farm products, farm machinery, or farm supplies within 150 miles

10 of a farm to operate without a commercial driver's license because the vehicles are not considered commercial

11 motor vehicles as provided in 61-1-101(9)(b)(ii)."

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13 **Section 2.** Section 61-5-118, MCA, is amended to read:

14 **"61-5-118. Third-party commercial driver testing program -- certification of testing programs and**

15 **examiners -- rulemaking -- fees -- test waiver.** (1) The department may ~~certify as a third-party commercial~~

16 ~~driver testing program any company that:~~

17 ~~—— (a) in the course of its commercial enterprise, customarily transports or hauls any goods, including~~

18 ~~agricultural commodities, in company-owned class A commercial motor vehicles as prescribed by federal~~

19 ~~regulations;~~

20 ~~—— (b) regularly and continuously employs a minimum number of drivers. The department shall determine~~

21 ~~the minimum number of drivers and whether they are regularly and continuously employed by the company.~~

22 ~~—— (c) has a permanent Montana mailing address and maintains a place of business in this state that~~

23 ~~includes at least one permanent, regularly occupied structure with facilities and equipment to conduct offstreet~~

24 ~~skills testing;~~

25 ~~—— (d) employs at least one examiner with qualifications required by rules of the department; and~~

26 ~~—— (e) complies with rules adopted by the department under 61-5-112; contract with and certify the following~~

27 ~~as a third-party commercial driver testing program to administer the approved commercial driver skills test to a~~

28 ~~Montana commercial driver's license applicant:~~

29 (a) any person, employer of commercial drivers, private driver training facility, or other private company;

30 (b) a ~~state-certified college or university~~ POSTSECONDARY INSTITUTION AS DEFINED IN 20-26-603; ~~or~~

- 1 (c) a department, agency, or instrumentality of a local government of the state; OR
2 (D) A DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF A TRIBAL GOVERNMENT OF THE STATE.
3 (2) A certified third-party driver testing program shall administer the same skills test as would otherwise
4 be administered by the department.
5 (3) The department shall adopt rules governing the certification, operation, and monitoring of third-party
6 testing programs. The rules must:
7 (a) substantially comply with the licensing standards and requirements in 49 CFR, part 383, and the state
8 compliance standards in 49 CFR, part 384, including:
9 (i) issuance of a commercial driver's license skills testing certificate to a certified program upon execution
10 of a third-party skills testing agreement;
11 (ii) requiring that all third-party skills test examiners meet minimum qualifications, including passing
12 background checks paid for by the third-party testing program and successfully completing a formal skills test
13 examiner training course;
14 (iii) providing examiner test limitations, minimum testing standards, and refresher training requirements;
15 and
16 (iv) requiring recordkeeping and a detailed audit program that includes overt and covert test monitoring
17 and onsite audits by state and federal personnel;
18 (b) specifically address the requirements for certifying third-party commercial driver testing programs,
19 including place of business, appropriate bond and liability insurance, and facilities requirements; and
20 (c) specify minimum technology requirements for recordkeeping, scheduling applicants for the skills test,
21 conducting the skills test, and electronically transferring skills test results to the department.
22 (4) The department may decertify a third-party commercial driver testing program for failure to comply
23 with the department rules or federal regulations.
24 (5) The department may collect the following fees:
25 (a) a fee of \$5,000 to certify a third-party commercial driver testing program and a fee of \$2,500 for
26 certification renewal;
27 (b) a fee of \$500 to certify each third-party commercial driver examiner and a fee of \$100 for certification
28 renewal; and
29 (c) a fee of \$25 for each successfully completed skills test to be paid by the applicant.
30 (6) (a) A commercial driver's license applicant who is tested under the third-party commercial driver

1 testing program must have passed the knowledge test required by 61-5-110 and complied with commercial
2 driver's license department rules and federal regulations and must possess a valid Montana commercial learner's
3 permit issued under 61-5-112.

4 ~~(2)(b)~~ The road test or the skills test required by 61-5-110 may be waived by the department for a
5 commercial driver's license applicant upon certification of the applicant's successful completion of the road test
6 or the skills test by:

7 ~~(a)(i)~~ a third-party commercial driver testing program certified under ~~subsection (1)~~ this section; or

8 ~~(b)(ii)~~ a third-party commercial driver examiner from a jurisdiction that has a comparable third-party
9 commercial driver testing program, as determined by the department.

10 ~~(3) An examiner for a certified third-party commercial driver testing program may administer a road test~~
11 ~~or a skills test only to a company employee who has applied to the department for a commercial driver's license~~
12 ~~and who has passed the knowledge test required by 61-5-110 and by department or federal rules."~~

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