



Wisconsin Department of Transportation

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DATE: August 18, 2015

TO: Members, Assembly Committee on Transportation
The Honorable Keith Ripp, Chair

FROM: Nate Yahn, Legislative Advisor, Wisconsin Department of Transportation

SUBJECT: Assembly Bill 209 (commercial driver licenses)

Chairman Ripp and Committee Members:

Thank you for giving me the opportunity to testify in support of Wisconsin Assembly Bill 209 (AB 209). AB 209 makes a number of necessary modifications to existing state law, relating to commercial motor vehicles (CMVs) and commercial driver licenses (CDLs), in order to bring Wisconsin into compliance with Federal Motor Carrier Safety Administration (FMCSA) regulations.

NOTE: The department also supports Assembly Amendment 1 (AA 1), to AB 209, which will allow CMV operators to use a hand-free telephone in the same manner as what is currently allowed under existing FMCSA regulations. This ensures that the bill is not more restrictive than what is currently required under federal law.

Under current federal law, all states are required to comply with federal regulations affecting commercial motor vehicles and their drivers, or face withholding of federal highway funds (49 CFR 384.401). The amounts to be withheld from a state for failing to conform to these federal regulations are up to 5% of federal highway aid for the first year of noncompliance and up to 10% per year for the second and subsequent years of noncompliance. For Wisconsin, a loss in federal highway funding by such amounts would translate into approximately \$26 million in the first year and \$52 million in subsequent years.

Current Wisconsin law also requires state regulations affecting driver licenses not to conflict with, and be at least as stringent as, standards set by the federal Commercial Motor Vehicle Safety Act of 1986 and the regulations adopted under that act. Implementation of the provisions prescribed in this bill will prevent the withholding of federal highway funds, and help maintain a stable regulatory environment for Wisconsin's motor carriers by ensuring the state's ability to continue issuing new CDLs.

Specifically, AB 209 makes the following changes related to CMVs and CDLs:

- 1) Prohibits CMV operators from using a hand-held mobile telephone while driving, except to report an emergency to law enforcement officials or other emergency service providers.
- 2) Specifies that the CDL or CDL endorsement of a person may be cancelled by WisDOT, and disqualified from operating a CMV for one year, if the person:
 - a. Secures, or attempts to secure, a license or endorsement by hiring or permitting another person to appear in place of that person during an examination;
 - b. Gains, or attempts to gain, a passing score in an examination by fraud; or
 - c. Obtains a CDL or CDL endorsement by fraud.
- 3) Requires a person holding a CDL to submit to an examination, if WisDOT receives credible information that the person holding a CDL committed fraud related to the issuance of the CDL.
- 4) Classifies as "serious traffic violations", the driving of a vehicle while composing or sending a text message, and driving of a CMV while using a cellular or other wireless phone. Serious traffic violations are grounds for disqualification from operating CMVs and range in duration from one year to life, depending on the particular circumstances.
- 5) Creates several additional standard restrictions that may be included on a CDL, indicating that a person is prohibited from one of the following: 1) operating a CMV equipped with a manual transmission; 2) operating certain large passenger vehicles; 3) operating tractor-trailer CMVs; 4) operating a CMV equipped with full air brakes; or 5) operating any CMV without a medical variance.
- 6) Incorporates certain federal regulations regarding the documentation necessary to receive, and restrictions on, a limited-term or "non-domiciled" CDL issued to Wisconsin residents. The primary restriction on a "non-domiciled" license is that the person cannot be a citizen of Canada or Mexico, as Canada and Mexico have standardized CDL programs that citizens of those countries will be required to obtain their CDLs from.
- 7) Clarifies standards for determining which vehicles are equipped with full air brakes and partial air brakes.
- 8) Changes the period of an instruction permit to operate CMVs or school buses from 6 months to 180 days, which clarifies the exact amount of time a person has to use the permit.
- 9) Modifies the definition of "tank vehicle" and allows CDL instruction permit holders to operate tank vehicles if the tanks are appropriately emptied.

10) Requires biennial, instead of annual, on-site inspections of third-party CDL skills testers, and expands audit procedures associated with these inspections.

The subject matter of AB 209 is clearly a matter of statewide importance. This will ensure that a stable regulatory environment for Wisconsin's motor carriers is maintained and the state's conformity with federal regulations affecting commercial motor vehicles and their drivers is continued. The department remains committed to providing Wisconsin residents and businesses with the safest and most efficient transportation system, and will continue working closely with our industry partners to effectively implement these federal motor carrier safety requirements.

If you have any questions, please contact me at (608) 266-1114.

JOHN SPIROS

State Representative • 86th Assembly District

Assembly Bill 209

August 18, 2015

Good afternoon and thank you for allowing me to have the opportunity to talk to you today regarding Assembly Bill 209, a bill that makes a number of changes to the statutes that relates to commercial motor vehicles (CMVs). This legislation was brought to myself and Senator Petrowski by the Department of Transportation (DOT).

The changes prescribed in this bill are necessary for the state to become in compliance with certain federal regulations; primarily, Federal Motor Carrier Safety Administration (FMCSA) regulations. Failure to be in compliance with the federal requirements will result in a potential loss of federal highway funding and would jeopardize the state's ability to issue new CDLs.

This bill makes a number of miscellaneous changes to the statutes related to commercial motor vehicles (CMVs), including the following:

1. Current law prohibits inattentive driving of a motor vehicle, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Current law also specifically prohibits a person who holds a probationary license or instruction permit from driving a motor vehicle while using a cellular or other wireless telephone, except to report an emergency.

This bill specifically prohibits a person from driving a CMV while using a cellular telephone or other wireless telephone, except to report an emergency.

2. Under current law, a person's operator's license may be cancelled for a variety of reasons. For example, a license may be cancelled if the Department of Transportation (DOT) finds that the application for the license contained a material false statement or if a license has been altered and returned to DOT for cancellation.

This bill specifies that the license of a person who secures, or attempts to secure, a license or endorsement by hiring or permitting another to appear in the person's place to take an examination or otherwise gaining or attempting to gain a passing score in an examination by fraud or otherwise obtain a commercial driver license (CDL) or CDL endorsement by fraud may be cancelled by DOT.

3. Under current law, if DOT has good cause to believe that a licensed operator is not qualified to be licensed, DOT may require the licensee to submit to an examination. After the examination, DOT may take any necessary action, including cancelling the license or permitting the licensee to retain the license subject to restrictions.

Under this bill, if DOT receives credible information that a person holding a CDL committed fraud related to the issuance of the CDL, DOT must require the person to submit to an examination.

4. Under current law, a person licensed to drive a CMV may be disqualified from operating a CMV for several reasons. Among these, a person may be disqualified upon being convicted of certain traffic-related offenses that are classified as “serious traffic violations.” A person who is convicted of committing two serious traffic violations within a three-year period is disqualified from operating a CMV for 60 days and a person who is convicted of committing three serious traffic violations within a three-year period is disqualified from operating a CMV for 120 days.

Under this bill, driving a motor vehicle while composing or sending a text message and driving a CMV while using a cellular or other wireless phone are classified as serious traffic violations.

Also under this bill, a person whose CDL is cancelled because the person secured, or attempted to secure, a license or endorsement by hiring or permitting another to appear in the person’s place to take an examination or otherwise gained or attempted to gain a passing score in an examination by fraud or otherwise obtain a CDL or CDL endorsement by fraud, is disqualified from operating a CMV for one year.

5. Under current law, a person may be issued a CDL that is subject to certain standard restrictions. Under current law, these standard restrictions are a prohibition from operating a CMV in interstate commerce and a restriction from operating a CMV that is equipped with air brakes.

This bill adds several standard restrictions that may be included on a CDL. These restrictions indicate that a person is prohibited from one of the following: operating a CMV equipped with a manual transmission, operating certain large passenger vehicles, operating tractor-trailer CMVs, operating a CMV equipped with full air brakes, or operating any CMV without a medical variance.

This bill also does all of the following:

1. Incorporates certain federal regulations regarding the documentation necessary to receive, and restrictions on, a CDL and requires the labeling of certain CDLs as non-domiciled licenses.
2. Modifies the standards for determining which vehicles are air brake equipped.
3. Changes the period of an instruction permit to operate CMVs or school buses from 6 months to 180 days.
4. Modifies the definition of “tank vehicle” and limits the operation of tank vehicles by persons holding an instruction permit.
5. Requires on-site inspections of third-party driver skills testers biennially rather than annually and permits scoring drivers along with the third-party tester during skills tests as an acceptable manner of evaluating the performance of these testers.

I also have offered an amendment on behalf of Senator Marklein that would not allow the Department of Transportation to establish any more restrictive standards for an applicant with diabetes controlled by insulin. Any applicant would still need to be certified by two physicians and could not have any moving violations in the past 3 years.

Again, thank you for your time and I would be happy to answer any questions you may have.