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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/13

SPONSOR Gallegos, D.M. LAST UPDATED _____ HB 485

SHORT TITLE Farm-Related Industry Driver's License SB _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$0.0	\$0.0	\$0.0		None

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 183, Commercial Driver's License Testing
 Relates to HB 486, Commercial Driver's License Disqualification
 Relates to HB 491, Clarify Commercial Driver's License Permit Language
 Duplicates SB 202, Farm-Related Industry Driver's License

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Department of Public Safety (DPS) (for duplicate bill SB202)
 Attorney General's Office (AGO) (for duplicate bill SB202)

SUMMARY

Synopsis of Bill

Vehicles in excess of 26,000 lbs are generally defined to be commercial vehicles, and individuals driving such vehicles are required to hold a commercial driver's license (CDL).

This bill authorizes the TRD Motor Vehicle Division (MVD) to issue a restricted CDL to employees of agriculture-chemical businesses, custom harvesters, farm retail outlets and suppliers and livestock feeders. The bill directs the motor vehicles division to waive the knowledge and skills tests required for a CDL under NMSA 1978, Section 66-5-60 in connection with such restricted CDL's; all other CDL requirements remain in effect.

The bill restricts issuance of restricted CDL's to applicants with a "good driving record" and defines what constitutes a good driving record, making adjustments depending on the length of time a person has held a motor vehicle driver's license. Persons who have possessed a motor

vehicle driver's license less than one year would not be eligible for a restricted CDL; more experienced drivers must have good driving records for a specified length of time.

Restricted CDL's must be limited to periods of validity not exceeding one hundred eighty days in any twelve-month period and must be revalidated for each successive period of validity, with good driving record confirmation prior to each renewal or revalidation. Restricted CDL holders would be authorized to operate only class B and C vehicles. Restricted CDL's would automatically carry tank vehicle and hazardous materials endorsement privileges limited to: diesel fuel in quantities of 1,000 gallons or less; liquid fertilizers in vehicles or implements of husbandry in total quantities of 3,000 gallons or less; and solid fertilizers that are not transported with any organic substance. A restricted CDL holder may not simultaneously hold an unrestricted CDL and may not operate a commercial motor vehicle beyond one 150 miles from the place of business or the farm currently being served.

FISCAL IMPLICATIONS

No substantial impact noted.

SIGNIFICANT ISSUES

If enacted, the bill would exercise New Mexico's option to issue restricted CDLs for certain drivers in certain farm-related service industries and to waive the required knowledge and skills tests, pursuant to the regulations of the Federal Motor Carrier Safety Administration (FMCA). See 49 CFR 383.3. The MVD points out that enactment of this bill may have the unintended effect of replacing the existing CDL-exempt Class E license (explained below) with the new restricted CDL for farm and ranch vehicle operators of commercial size vehicles.

A CDL-exempt Class E license is issued only to individuals who are exempt from the requirements of the New Mexico Commercial Driver's License Act; NMAC 18.19.5.112 states that for purposes of licensing drivers of commercial vehicles and issuing CDL's, the driver of one of the following vehicles is not required to have a CDL to operate such a vehicle upon the public roads and highways in New Mexico:

- Recreational vehicles (registered and used as recreational vehicles)
- Farm and ranch vehicles that are: 1) controlled and operated by a farmer or rancher or an employee of a farmer or rancher; 2) used to transport agricultural products, agricultural machinery or agricultural supplies to or from a farm or ranch; 3) used within 150 miles of the persons farm or ranch; and 4) not used in the operations of a common or contract motor carrier or otherwise used "for hire"
- Firefighting vehicles operated by members of a volunteer or paid fire organization
- Military vehicles owned or operated by the Department of Defense and operated by non-civilian operators

The CDL-exempt Class E farm and ranch exemption is available only to farmers, ranchers and their employees. It does not extend to employees of those farm-related service industries (agriculture-chemical businesses, custom harvesters, farm retail outlets and suppliers and livestock feeders) that have a limited, seasonal need to operate commercial-size vehicles in support of farming.

This bill would, in a FMCSA-approved manner, extend to employees of those farm-related

service industries the ability to operate commercial-size vehicles as needed on a seasonally-restricted basis, without having to meet the testing requirements that apply to other commercial vehicle drivers.

AMENDMENTS

To help clarify the bill’s language to avoid the possible unintended consequence of replacing the existing CDL-exempt Class E license with the new restricted CDL for farm and ranch vehicle operators of commercial size vehicles, this bill could be modified to by including language indicating that nothing in the new section of the Motor Vehicle Code enacted by this bill should be construed to eliminate or replace the CDL-exempt Class E license. Further, to achieve this outcome, it may be possible to explicitly limit the scope of this bill’s applicability to those employees of the identified farm-related service industries who would otherwise not qualify for a CDL-exempt Class E Driver’s License pursuant to Rules 18.19.5.30(A) and 18.19.5.112 NMAC because they operate a vehicle used in the operations of a common or contract motor carrier or are otherwise used “for hire.”

There may be a safety concern about allowing someone to carry hazardous materials (for example, hauling 1,000 gallons of diesel fuel) without taking a CDL skills test. An amendment may be considered to require specific testing for the restricted CDL where the person is hauling hazardous materials.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Employees of the farm-related service industries specified in this bill will be required to meet all requirements for obtaining a commercial driver’s license, including the knowledge and skills test required by NMSA 1978, Section 66-5-60 if they desire to operate a vehicle for which a commercial driver’s license is required.

CEB/blm