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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Maestas **ORIGINAL DATE** 2/8/23

**BILL**

**SHORT TITLE** Commercial Driver's License Reciprocity **NUMBER** Senate Bill 294

**ANALYST** Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	Passage of this bill will prevent the loss of \$16,000.0 annually in federal highway funding				Recurring	State Road Fund

Parenthesis ( ) indicate revenue decreases.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$126.0			Nonrecurring	MVD Suspense Fund-Contractual Resources
	\$33.3			Nonrecurring	MVD Suspense Fund-Staff Workload Cost

Parenthesis ( ) indicate expenditure decreases.

### Sources of Information

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

#### No Response Received

Department of Transportation (DOT)

Department of Public Safety (DPS)

## SUMMARY

### Synopsis of Senate Bill 294

Senate Bill 294 (SB294) amends Section 66-5-60 NMSA 1978 to allow the issuance of a New Mexico Commercial Driver's License to individuals that have held a valid commercial driver's license issued from a state or jurisdiction in Canada or Mexico in accordance with the minimum standards of the federal highway administration for the issuance of commercial driver's licenses for one year or more. The bill also provides for the New Mexico license to expire 30 days after the applicant's birthday in the fourth year of the issuance of the license in the state or jurisdiction in Canada or Mexico used for the issuance of the New Mexico license.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

## FISCAL IMPLICATIONS

TRD/MVD indicates that noncompliance with this Federal Motor Carrier Safety Administration mandate by November 2024 will result in the Department of Transportation losing approximately \$16 million in funding from the federal government. As such, this bill preserves future federal funding.

## SIGNIFICANT ISSUES

TRD/MVD notes the following:

Per Federal Motor Carrier Safety Administration (FMCSA) regulations, New Mexico would not be in compliance with federal regulations under §§ 384.204 and 384.211 if MVD issued CDL to individuals licensed in Canada or Mexico. The compliance issue cited by FMCSA is that New Mexico will have to ensure that the Canadian or Mexican CDL has been wholly surrendered and transferred before issuing a New Mexico CDL. This would require a first time New Mexico CDL to be issued and proof of lawful status for individuals from Canada or Mexico provided before applying for a New Mexico CDL.

For reference, see the following FMCSA Regulations:

§383.21 indicates that no person who operates a commercial motor vehicle shall at any time have more than one driver's license.

Further, § 383.23 - Commercial driver's license.

(a) General rule. (1) No person shall operate a CMV unless such person has taken and passed knowledge and driving skills tests for a CLP or CDL that meet the Federal standards contained in subparts F, G, and H of this part for the CMV that person operates or expects to operate.

(2) Except as provided in paragraph (b) of this section, no person may legally operate a CMV unless such person possesses a CDL which meets the standards contained in subpart J of this part, issued by his/her State or jurisdiction of domicile.

(b) Exception. (1) If a CMV operator is not domiciled in a foreign jurisdiction that the Administrator has determined tests drivers and issues CDLs in accordance with, or under standards similar to, the standards contained in subparts F, G, and H of this part,<sup>1</sup> the person may obtain a Non-domiciled CLP or Non-domiciled CDL from a State that does comply with the testing and licensing standards contained in such subparts F, G, and H of this part, so long as that person meets the requirements of § 383.71(f).

Effective December 29, 1988, the Administrator determined that commercial driver's licenses issued by Canadian Provinces and Territories in conformity with the Canadian National Safety Code are in accordance with the standards of this part. Effective November 21, 1991, and as amended on January 19, 2017, the Administrator determined that the new Licencias Federales de Conductor issued by the United Mexican States are in accordance with the standards of this part. Therefore, under the single license provision of § 383.21, a *driver holding a commercial driver's license issued under the Canadian National Safety*

*Code or a new Licencia Federal de Conductor issued by Mexico is prohibited from obtaining a nondomiciled CDL, or any other type of driver's license, from a State or other jurisdiction in the United States. (emphasis added)*

§383.23 Commercial driver's license - interpretation

Question 1: May a foreign driver with an employment authorization document obtain a CDL to operate a CMV in the United States?

Guidance: Yes. A foreign driver holding an employment authorization document or an unexpired foreign passport accompanied by an approved Customs and Border Protection (CBP) I-94 Arrival/Departure Record may obtain a non-domiciled CDL. However, drivers who are citizens of Canada and Mexico are not eligible for non-domiciled CDLs because FMCSA has determined that commercial licenses issued by Canadian provinces and territories, and the United Mexican States, are in accordance with the standards established by our rules. Therefore, all Mexican and Canadian drivers must have an appropriate commercial license from his or her home country. Finally, a foreign driver who is in this country on an employment authorization document or an unexpired foreign passport accompanied by an approved CBP I-94 Arrival/Departure Record may not obtain a resident CDL since he or she is not "domiciled" in a U.S. State, as defined in § 383.5 ("State of domicile").

## ADMINISTRATIVE IMPLICATIONS

TRD/MVD notes moderate impact to TRD's Tapestry processing system.

Implementation of this bill will have a moderate impact on TRD's Information Technology Division (ITD). The estimated time to develop, test and implement the changes is approximately 600 hours or four months and approximately \$159,300 (\$126 thousand resources including gross receipts tax, and staff workload costs of \$33,300).

This bill requires adding functionality in Tapestry to issue a commercial driver's license to a person domiciled in New Mexico who has held a valid commercial driver's license in Canada (CA) or Mexico(MX).

This bill requires the following changes to Tapestry

- Add a new field to capture the issue date of CA or MX licenses
- Change hard stops for CA and MX CDL transfers
- New rules for exam requirements
- Change expiration date logic for MX and CA CDL transfers
- Add a K restriction for CA and MX CDL transfers that do not retest skills or knowledge exams

Considering the effort required, the effective due date of 6/16/2023 will not be feasible. A more feasible effective date would be 1/1/2024.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB269 requires TRD to search the federal alcohol and drug clearing house before issuing or renewing a commercial driver's license. This bill may also be required by the Federal Highway

Administration.

## **TECHNICAL ISSUES**

TRD/MVD notes a serious concern:

New Mexico's CDL program could lose its federal certification and federal funding may be withdrawn from the New Mexico Department of Transportation

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

TRD/MVD indicates that noncompliance with this Federal Motor Carrier Safety Administration mandate by November 2024 will result in the Department of Transportation losing approximately \$16 million in funding from the federal government. As such, this bill preserves future federal funding.

LG/rl/ne/mg