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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/12
 LAST UPDATED 02/13/12 HB 261/aHJC

SPONSOR Vigil

SHORT TITLE Commercial Driver's License Retesting SB _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$0.0	\$0.0	\$0.0		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 261 strikes language permitting a commercial driver's license (CDL) applicant to test as often as the applicant chooses (or not more than once per 24 hours if the score is 50% or less of a passing score).

New language is added as per a TRD-suggested change to state a CDL applicant may not test more than once in a month or more than six times within a year.

Synopsis of Original Bill

House Bill 261 amends Section 66-5-60 NMSA 1978 to strike language limiting the number of times a commercial driver's license (CDL) applicant may take a knowledge/skills test to three times per year.

New language allows a CDL applicant to retest as often as desired provided that, if the applicant's score is 50% or less of a passing score (80%), the test is not attempted more than once in a 24 hour period.

See HB261 Attachment 1 for the New Mexico specific addendum to the CDL manual provided by the American Association of Motor Vehicle Administrators.

FISCAL IMPLICATIONS

None noted.

POLICY ISSUES

The TRD states there are no legal or policy issues with this bill. The regulations from the Federal Motor Carrier Safety Administration (FMCSA) do not impose any limits of the number of times a person can test for a commercial driver's license or the timeframe for testing; in fact, New Mexico's limit on the number of times and the timeframes was found to be a noteworthy business practice in the 2008 FMCSA audit.

PERFORMANCE ISSUES

The TRD notes that allowing unlimited CDL knowledge retesting will likely result in CDL applicants dominating the testing Kiosks in MVD's field offices, limiting opportunity for other customers to use the kiosks for non-CDL testing and registration renewals, and increasing field office wait times.

A more practical solution would be to increase the number of allowed attempts (e.g. to six times within one year) or to replace the 3 times per year limit with a specified period the applicant must wait (e.g. one week or one month) before retesting. Another possibility would be to allow a set number of attempts after which a specified waiting period would be required before the next retest.

TECHNICAL ISSUES

The TRD notes that current testing software vendor's retesting limits only look at FAILS. The system is capable of applying a rule of being able to test once per 24-hour period, however the testing software cannot at this time apply any rules based on previous pass rates.

CEB/amm:svb

LICENSING INFORMATION

VEHICLE GROUPS AND ENDORSEMENTS

CLASS DESCRIPTION

A Any combination of vehicles with a GCWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds. (Holders of a Class A License may, with appropriate endorsements, operate vehicles in any lesser class.)

B Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. (Holders of a Class B License may, with appropriate endorsements, operate vehicles in any lesser class.)

C Vehicles transporting hazardous materials in placarded quantities in a vehicle having a GVWR of less than 26,000 pounds, and may pull a trailer having a GVWR of less than 10,000 pounds; or a vehicle designed to transport 16 or more passengers including the driver. (Holders of a Class C License may operate all vehicles within Class D.)

ENDORSEMENTS

In addition to taking and passing the knowledge and skills tests required for a particular class of vehicle, all persons who operate the type of motor vehicles described below shall take and pass specialized tests to obtain each endorsement. The state shall issue endorsements only to drivers who successfully complete the tests.

ENDORSEMENTS	DESCRIPTION	TEST REQUIRED	SKILLS TEST
T	Combination Vehicles with double or triple trailers.	Doubles/ Triples	NO
N	Any vehicle intended for hauling liquids in bulk.	Tank Vehicle	NO
P	Any vehicle designed to transport 16 or more passengers including driver.	Passenger Transport	YES
H	Any vehicle used to transport hazardous materials.	Hazardous Materials	NO
X	Tank vehicles used to transport placarded amounts of hazardous materials.	Tank and Hazardous Materials	NO
S	School bus.	School Bus	YES
Z, Y & W	Motorcycle endorsements. Ask for information at field office on requirements.	Written Knowledge Test	YES

RESTRICTIONS

The following are some of the restrictions which may be attached to a Commercial Driver License:

RESTRICTION	DESCRIPTION
B	Corrective lenses must be worn while driving.
K	Driver limited to driving a commercial vehicle in intrastate commerce only.
L	Driver limited to driving commercial vehicles which do not have air brakes. (This restriction removed by passing Air Brake Knowledge Test and full Skills Test)
E	Limited to CMV with automatic transmissions. (This restriction removed by passing a full Skills Test)
S	Limited to government plated vehicles.
T	Limited to buses only.
O	Not tractor-trailer (This restriction removed by passing full Skills Test in a tractor trailer)
Y	Yearly Renewal.
M	Except Class A Bus.
N	Except Class A & B Bus.

PREQUALIFICATION

A driver applicant for a CDL Permit or License must have the following documentation for all CDL applications:

- 1.) State birth certificate or US passport or other proof of permanent US citizenship.
- 2.) Social Security Card
- 3.) DOT Medical Certification.
- 4.) Two verifiable proofs of physical residency in New Mexico.
- 5.) A valid New Mexico driver/CDL license.

CDL KNOWLEDGE TESTS: All drivers will be required to pass all required CDL Knowledge Tests for the Class and/or type of vehicle the applicant wants to operate. Any applicant who fails any one CDL Knowledge Test *must wait* one week (7 days) from day of testing before retesting. Any CDL Applicant may take any one CDL Knowledge Test three times within a one year period. After the third fail, the applicant *must wait* one year from the first time tested before retesting. No documentation of any kind and no cellular phones are permitted in the test area. Any applicant found cheating or committing an offense while testing, will have their CDL application or CDL license disqualified for a period of one year from the date of determination and will be required to obtain a Class D license if holding a CDL. The disqualified applicant may reapply (a full retest) for the CDL license after the one year period.

SKILLS TESTS: If you passed and obtained a CDL Learner's Permit, you may inquire where to take the Required Skills Test in your area. The Skills Tests consists of the Pre-Trip, Basic Control Skills and Road Testing and are administered by a third party examiner and will normally take two hours. A third-time fail in any part of the Skills Test will result in a one year wait before re-testing. First time test fees are \$150.00 and all applicable fees for Skills Testing are payable to the third party examiner or tester and NOT the State of New Mexico.

MEDICAL CERTIFICATIONS: All CDL applicants and licensees are required to submit their DOT Medical Examination Certification for all CDL issuances – including permits, first time issues, renewals, replacements, upgrades, and no-fee corrections with all other required documentation.

PASSING SCORE: Each part of the Knowledge and Skills Test is graded independently. A passing score is 80% or higher.

IMPLIED CONSENT

Section 66-8-107 of the New Mexico Laws provides:

A. Any person who operates a motor vehicle within this state shall be deemed to have given consent, subject to the provisions of the Implied Consent Act, to chemical tests of his breath or blood, as determined by a law enforcement officer, or for the purpose of determining the drug or alcoholic content of his blood if arrested for any offense arising out of the acts alleged to have been committed while the person was driving a motor vehicle while under the influence of an intoxicating liquor or drug.

B. A test of blood or breath shall be administered at the direction of the law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle within this state while under the influence of intoxicating liquor or drug.”

Refusal to comply with this requirement will result in a one year disqualification for the first offense and a disqualification for life for the second offense.