



# Oregon

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**DATE:** February 13, 2017

**TO:** Senate Committee on Business and Transportation

**FROM:** Amy Joyce, Legislative Liaison

**SUBJECT:** SB 37, compliance with federal CDL requirements

## INTRODUCTION

The Department of Transportation, Driver and Motor Vehicle Services Division (DMV) is responsible for issuing Commercial Driver Licenses to qualifying applicants. States must comply with the federal requirements for CDL issuance, and the federal regulations are constantly updated. Senate Bill 37 will bring Oregon CDL law into federal compliance.

## BACKGROUND

A Commercial Driver License (CDL) is needed to legally operate most commercial motor vehicles. Recent changes in law mandate that drivers obtain a Commercial Learners Permit (CLP) before taking a CDL drive test, in order to train on these heavy trucks. Requirements for commercial driving privileges (CDP), a term that describes both the CDL and CLP, include knowledge testing, an extensive practical/drive test, and certification by a medical professional of fitness to drive that must be updated at least every two years. The vast majority of Oregon law related to CDP, including issuance, renewal, and some sanctions for violations, are required by federal law. Failure of a state to meet the federal regulations can result in the withholding of federal Highway Funds and, eventually, the decertification of Oregon's CDL for use in interstate commerce.

## WHAT THE BILL DOES

The bill makes changes to Oregon CDL law to match the most recent changes in federal regulation. Most significant is the electronic submission of the medical certification, which will simplify what is currently a labor-intensive process. Today, CDP applicants and holders obtain a certificate from a medical examiner who performed their medical exam and certifies their fitness to drive a commercial motor vehicle. The customer provides that certificate to DMV, which records the information including effective dates in the system. The measure would amend Oregon law to comply with federal regulations requiring medical certificates to be submitted electronically by the examiner, and pushed electronically to a driver's DMV record. This alleviates the need for customers to provide the certificate to DMV at application, at the eight-year renewal, and every two years in between. It will be much more efficient for drivers, the companies that employ them, and for DMV.

The federal system the state will connect with is not yet ready, and while a date certain for compliance is in the regulation, the federal government has assured the states it will move the date out. However, the bill is crafted in a way that will allow DMV to administratively make the change, when the federal system is ready, without seeking additional statutory changes. The agency is committed to outreach to ensure companies, drivers, and the medical professionals, know the expectations.

The bill makes a number of smaller changes. It permits Oregon residents who are from the Compact of Free Association (COFA) nations to apply for CDLs and CLPs, as allowed under new federal guidance. The bill also makes numerous small changes to definitions so they match federal regulations. These include definitions of “gross combination weight rating” and “tank vehicle.” Finally, the bill gives DMV authority to require drivers to be re-tested under certain conditions. This is not due to the federal regulation change, but was identified as a missing need to ensure drivers of commercial motor vehicles have the appropriate skills, specifically in cases where providers in the Third Party Testing Program are not appropriately performing tests or in cases of fraud.

## **SUMMARY**

Compliance with federal law is necessary for Oregon to maintain its CDL program. The most significant change to be made is to allow us to participate in the national electronic system for medical certification, which will be an efficiency for industry and the agency. Smaller definitional changes will bring us into compliance. The ability to re-test those who were not qualified when issued is also a federal requirement.

Attachment: Section by Section description of bill

## SB 37 CDL Compliance Section-by-Section Analysis

### Section 1 – Reestablishment and Proof of Eligibility

Clarifies that in addition to requiring a driver to reestablish eligibility, the department may require a person to re-test, if it believes the person was not eligible for the privilege at the time of issuance. This section adds the authority for the department to take action to cancel the persons driving privilege under ORS 809.310.

### Section 2 –Serious Traffic Offenses

Technical fix. Amends ORS 809.525 by replacing the word “violation(s)” with “offense(s).” Federal law requires that specific serious offenses be noted on the record, and in sufficient number can result in suspension of commercial driving privileges. Most of the offenses are traffic violations, but at least one is at traffic crime. The word “offense” more clearly describes the list that can lead to suspension.

### **Passenger Endorsements**

Section 3- Amends ORS 807.035 to clarify that a passenger endorsement is needed (on a Class A or Class B commercial driving privilege) when operating a commercial motor vehicle that is “designed to transport people in commerce.” Existing Oregon law requires the endorsement only when the commercial motor vehicle is designed to seat 16 or more people (including the driver). While the language of the federal regulation did not change, new federal guidance was issued, resulting in all 50 states needing to make this change.

Section 4 - Clarifies requirement that the skills test for a passenger endorsement must be in a vehicle the endorsement would allow the applicant to drive. (Existing language is tied to the 16 passenger standard under the former interpretation.)

### **Medical Requirements and COFA Citizens**

Sections 5 & 6 – To facilitate federal change to secure electronic transmission of Medical Examiner Certification (MEC) data, this change shifts the responsibility to the department to “receive and record” a medical report, from the current responsibility of the driver to submit the report. This section also clarifies that the MEC establishes that the person meets the medical standards to operate a CMV, even if the person is not required to hold commercial driving privileges. Note that no HIPPA-protected medical data is sent or stored in the process.

Also, this section specifies that Oregonians who are citizens of a country with a Compact of Free Association with the United States (COFA nations) may obtain commercial driving privileges. Federal law limits commercial driving privileges to US citizens, Legal Permanent Residents, and now people from COFA nations.

Section 6 – Technical fix. Clarifies department has rulemaking authority to administer the medical qualification provisions.

### **Gross Vehicle Weight**

Section 7 – When determining commercial motor vehicle class, federal regulations use either the gross vehicle weight rating (GVWR, a value specified by the manufacturer) or gross vehicle weight (the actual

## SB 37 CDL Compliance Section-by-Section Analysis

loaded weight of the vehicle), whichever is greater. ORS 807.031 presently considers only the vehicle's GVWR. This section adds "gross vehicle weight" to the class descriptions so that they can conform to the federal definitions.

This section also clarifies that a commercial driver license authorizes a person to operate any vehicle that may be operated by the holder of a Class C driver license (e.g. passenger vehicle).

### **Commercial Learner Driver Permit**

Section 8 – Amends ORS 807.285 to include the requirement that the applicant for a commercial learner's permit (CLP) must first have a valid Oregon driver license. This section also adds that citizens of COFA nations are eligible to apply for a CLP. Specifies that the holder of a commercial driver license who accompanies a CLP holder for training purposes must have at least the license, endorsements, and lack of restrictions that would allow them to operate the training vehicle. Clarifies that CLP holders may take their skills examination without an accompanying CDL holder, if the test is administered by an examiner employed by the department.

### **Definitions**

Sections 9 & 10 – Amends definitions of "Gross combination weight rating" and "tank vehicle" to mirror the federal language. (These were new definitions in the 2013 bill to meet federal changes; the language needs slight change to achieve federal compliance.)

### **Valid License Without a Photograph**

Section 11 – To comply with federal law, clarifies that a commercial driver license may not be issued without a photograph. (Class C licenses may be issued without photo for very limited reasons.)

### **Third-party testing allowed for lifting license restrictions**

Section 12 – Clarifies that private third-party testing is acceptable for purposes of removing a license restriction, as well as for base licensure and adding endorsements.

### **Persons Considered to Hold Commercial Driving Privileges**

Section 13 – Amends the recently added ORS 807.018, defining "persons considered to hold commercial driving privileges," to include drivers who may have renewed a noncommercial license while holding an unexpired CLP, and to remove drivers who downgrade their commercial driving privileges (e.g. to obtain a hardship permit.) The term is used to determine sanctions for driving offenses under ORS Chapter 809, including whether a person can be granted Diversion for a charge of DUII or other driving offenses.

### **Applicant Temporary Driver Permit**

Section 14 – Prohibits issuance of Applicant Temporary Permits for commercial driving privileges. These permits are used to grant an applicant short-term driving privileges when the only missing element for issuance is that the person is in the process of obtaining documentation of legal presence. Federal law prohibits issuing any type of commercial driving privileges unless the applicant has demonstrated they are a US Citizen, legal permanent US resident, or member of a COFA nation.