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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 235

AN ACT TO AMEND CHAPTER 26, TITLE 21 OF THE DELAWARE CODE RELATING TO THE UNIFORM
COMMERCIAL DRIVERS LICENSE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2603, Title 21 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 (18) "Drug and Alcohol Clearinghouse" (the Clearinghouse) means the secure online database that gives
4 employers, FMCSA, State Driver Licensing Agencies, and State law enforcement personnel real-time information about
5 CDL holder's drug and alcohol program violations.

6 Section 2. Amend § 2608, Title 21 of the Delaware Code by making deletions as shown by strike through and
7 insertions as shown by underline as follows:

8 § 2608. Commercial driver license qualification standards.

9 (c) Limitations on issuance of license.

10 (1) A commercial driver license or CLP may not be issued to a person while the person is subject to a
11 disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended,
12 revoked, denied or cancelled in any state; nor may a commercial driver license be issued to a person who has a
13 commercial driver license issued by any other state unless the person first surrenders all such licenses, which must
14 be returned to the issuing state(s) for cancellation.

15 (2) The Division shall query the Drug and Alcohol Clearinghouse and deny the issuance, renewal,
16 upgrade, or transfer of a CDL and the issuance, upgrade, or renewal of a CLP if the query indicates the driver is
17 subject to the CMV driving prohibition due to a violation of 49 C.F.R. part 382.

18 Section 3. Amend § 2627, Title 21 of the Delaware Code by making deletions as shown by strike through and
19 insertions as shown by underline as follows:

20 § 2627. CDL Drug and Alcohol Clearinghouse requirements.

21 (a) The Division shall request information from the Clearinghouse, and if applicable, deny the issuance, renewal,
22 upgrade, or transfer of a CDL or CLP as stated in § 2608(c)(2).

(b) The Division shall, upon receiving notification from FMCSA that a CDL or CLP holder is prohibited from operating a CMV due to a drug and alcohol program violation, downgrade the CDL or CLP by removing the commercial privilege from the driver license. The downgrade must be completed and recorded on the CDLIS driver record within 60 days of the Division's receipt of such notification.

(1) Reinstatement after FMCSA notification that the driver is no longer prohibited:

a. If, after the Division completes and records the downgrade on the CDLIS driving record, FMCSA notifies the State that a driver is no longer prohibited from operating a commercial motor vehicle, the Division must make the driver eligible for reinstatement of the CDL or CLP privilege to the driver's license within 10 calendar days of receiving notification from FMCSA.

(2) Reinstatement after Clearinghouse error correction:

a. If, after the Division completes and records the downgrade on the CDLIS driver record, FMCSA notifies the State the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the Division shall:

1. Reinstatement the CDL or CLP privilege to the driver's license within 5 business days of receiving notification of the correction from FMCSA; and

2. Expunge from the CDLIS driver record and, if applicable, the motor vehicle record, any reference related to the driver's erroneous prohibited status within 5 business days of receiving notification of the correction from FMCSA.

SYNOPSIS

This Act brings the State in compliance with the federal regulation published by FMCSA on October 7, 2021, to establish a national drug and alcohol clearinghouse as mandated by the Moving Ahead for Progress in the 21st Century Act (MAP-21). This act established requirements for Division access to and use of driver-specific drug and alcohol program violation information contained in the Drug and Alcohol Clearinghouse. The Act prohibits the Division from issuing, renewing, upgrading, or transferring a commercial driver license (CDL) or commercial learner's permit (CLP), as applicable, for any individual prohibited under FMCSA regulations from driving a commercial motor vehicle (CMV), due to one or more drug and alcohol program violations. In addition, the Division must, upon notification that a driver is prohibited from operating a CMV due to a drug and alcohol program violation, initiate the downgrade process to remove the CLP or CDL privilege from the driver's license within 60 days. This Federal requirement must be enacted by states by November 18, 2024.

Author: Senator Hansen