

Regular Session, 2012

HOUSE BILL NO. 696

BY REPRESENTATIVE ST. GERMAIN

MTR VEHICLE/COMMERCIAL: Provides for the testing and licensing of commercial motor vehicle drivers and third parties who give commercial motor vehicle driving tests and examinations

1 AN ACT

2 To amend and reenact R.S. 15:587(A)(1)(e) and R.S. 32:408(A)(4)(b) and (d),  
3 (B)(2)(introductory paragraph) and (a)(ii) and (F)(1) and to enact R.S. 32:408.1(5)  
4 and 414(K)(3), relative to commercial motor vehicle driver's licenses; to provide for  
5 background checks; to provide for commercial motor vehicle driver's licenses tests  
6 matters; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:587(A)(1)(e) is hereby amended and reenacted to read as follows:

9 §587. Duty to provide information; processing fees; Louisiana Bureau of Criminal  
10 Identification and Information

11 A.(1)

12 \* \* \*

13 (e)(i) The office of motor vehicles shall be entitled to the criminal history  
14 record and identification files of the bureau of any person who is required to register  
15 as a sex offender pursuant to R.S. 15:542 et seq., and who is seeking a driver's  
16 license or required to obtain a special identification card pursuant to R.S. 40:1321(J),

17 (ii) The office of motor vehicles shall submit fingerprint cards or other  
18 identifying information of the principal of any third-party tester or examiner who has  
19 or is seeking a contract to administer commercial driving examinations and tests  
20 pursuant to R.S. 32:408.1 to the bureau. The bureau shall, upon request and after  
21 receipt of fingerprint cards or other identifying information from the office of motor

1 vehicles, make available to the office of motor vehicles all arrest and conviction  
2 information contained in the bureau's criminal history record and identification files  
3 which pertains to the principal. In addition, in order to determine a principal's  
4 eligibility or suitability, the fingerprints shall be forwarded by the bureau to the  
5 Federal Bureau of Investigation for a national criminal history record check.

6 (iii) The office of motor vehicles may submit fingerprint cards or other  
7 identifying information of a person seeking employment with the office of motor  
8 vehicles whose duties will include the issuance of commercial drivers' licenses or  
9 any current office of motor vehicles employee who as part of his employment issues  
10 commercial driver's licenses. The bureau shall, upon request and after receipt of  
11 fingerprint cards or other identifying information from the office of motor vehicles,  
12 make available to the office of motor vehicles all arrest and conviction information  
13 contained in the bureau's criminal history record and identification files which  
14 pertains to the employee or potential employee. In addition, in order to determine  
15 an employee or potential employee's eligibility or suitability, the fingerprints shall  
16 be forwarded by the bureau to the Federal Bureau of Investigation for a national  
17 criminal history record check.

18 \* \* \*

19 Section 2. R.S. 32:408(A)(4)(b) and (d), (B)(2)(introductory paragraph) and (a)(ii)  
20 and (F)(1) are hereby amended and reenacted and R.S. 32:408.1(5) and 414(K)(3) are hereby  
21 enacted to read as follows:

22 §408. Examination of applicants required; classes of licenses

23 A.

24 \* \* \*

25 (4)

26 \* \* \*

27 (b) All ~~third party~~ third-party examiners shall meet the same qualifications  
28 and training as state examiners to the extent necessary to conduct knowledge and  
29 skills tests in compliance with this Subsection. Department employees shall at least

1       ~~annually~~ every two years take the tests actually administered by the third party as if  
2       the employee were a test applicant, or the department shall ~~at least annually~~ test a  
3       sample of drivers who were examined by the third party to compare pass/fail results.  
4       These requirements and conditions shall be included in any ~~third party~~ third-party  
5       contract or agreement and shall be a part of any license, certificate, or permit issued  
6       to such third parties. The department shall devise a system to regulate such third  
7       parties and the regulations shall have the full force and effect of law.

\*       \*       \*

9             (d) The third party shall provide ~~evidence to the applicant who has~~  
10       ~~successfully passed the written knowledge and driving skills tests on a form~~  
11       ~~approved by the department. The applicant shall provide this form to the department~~  
12       ~~before being issued a commercial driver's license~~ proof of testing in a manner  
13       prescribed by the department.

\*       \*       \*

B.

\*       \*       \*

17            (2) A commercial driver's license shall be required when a vehicle is used  
18       in commerce as defined in this Chapter, and is a commercial motor vehicle as  
19       defined in this Chapter. A farmer shall not need a commercial driver's license when  
20       operating a motor vehicle as provided for in Subparagraph (e) of this Paragraph. The  
21       department may elect to or, if required by the Federal Highway Administration, shall  
22       change the weight and passenger limits expressed herein to conform to regulations  
23       by the Federal Highway Administration. The department shall do so by regulations  
24       promulgated in accordance with the Administrative Procedure Act subject to  
25       oversight by the Joint Legislative Committee on Transportation, Highways and  
26       Public Works. A commercial learner's permit issued to an individual of this state or  
27       another jurisdiction, in accordance with rules and regulations of the Federal Motor  
28       Carrier Administration, when carried with a valid driver's license issued by the same  
29       state or jurisdiction, authorizes the permittee to operate a class of motor vehicle

1 when accompanied by a holder of a valid commercial driver's license for purposes  
2 of behind-the-wheel training. When issued to the holder of a commercial driver's  
3 license, a commercial learner's permit serves as authorization to take part in behind-  
4 the-wheel training in a commercial motor vehicle for which the driver is not licensed  
5 to drive. The different classes of drivers' licenses to be issued shall be as follows:

6 \* \* \*

7 (a)

8 \* \* \*

9 (ii) Restriction. An individual who takes a skills test for a Class "A"  
10 Commercial Driver's License in a motor vehicle other than a tractor-trailer  
11 combination, sometimes referred to as an "eighteen wheeler", shall be issued a  
12 license with a restriction prohibiting the operation of a tractor-trailer combination.  
13 This restriction shall be lifted only if the individual successfully completes a skills  
14 test in a tractor-trailer combination. In all cases, the party completing the skills test  
15 certificate shall fully describe on the face of the certificate the vehicle in which the  
16 skills test was administered. For purposes of this Item, a power unit with a gross  
17 vehicle weight rating of less than twenty-six thousand one pounds shall not qualify  
18 as the tractor portion of a tractor-trailer combination. An individual who takes a  
19 skills test for a Class "A" commercial driver's license in a motor vehicle with the  
20 power unit and towed unit connected with a pintel hook or other non-fifth wheel  
21 connection, shall be issued a license with a restriction prohibiting the operation of  
22 a tractor-trailer combination connected by a fifth wheel that requires a Class "A"  
23 commercial driver's license.

24 \* \* \*

25 F.(1) The department shall make provisions for testing noncommercial  
26 driver's license or special certificate applicants in languages other than English and  
27 for testing deaf applicants. However, this shall not be construed to require the  
28 department to furnish an interpreter. Except as required by 49 CFR Part 383.133, a

1 skills test for a commercial driver's license shall be conducted in English without the  
2 use of interpreters.

3 \* \* \*

4 §408.1. ~~Third party~~ Third-party testing; proof of testing

5 The Department of Public Safety and Corrections, public safety services, may  
6 contract with or license another state, an employer, a private driver training facility,  
7 driver education course provider, or other private institution, or a department,  
8 agency, or instrumentality of a local government to administer the skills tests as  
9 specified herein if all of the following conditions are met:

10 \* \* \*

11 (5) The principal of the third-party examiner or tester who has or is seeking  
12 a contract with the Department of Public Safety and Corrections, public safety  
13 services, to administer commercial driving examinations and tests shall consent to,  
14 pass, and pay the costs of an annual background check.

15 \* \* \*

16 §414. Suspension, revocation, renewal, and cancellation of licenses; judicial review

17 \* \* \*

18 K.

19 \* \* \*

20 (3) Reinstatement under this provision does not apply to the commercial  
21 driver license (CDL) disqualification of the license.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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St. Germain

HB No. 696

**Abstract:** Provides for the testing and licensing of commercial motor vehicle drivers and third parties who give commercial motor vehicle driving tests and examinations.

Present law provides that OMV shall be entitled to the criminal history record and identification files of the bureau of any person who is required to register as a sex offender pursuant to R.S. 15:542 et seq., and who is seeking a driver's license or required to obtain a special identification card.

Proposed law provides that OMV shall submit fingerprint cards or other identifying information of the principal of any third-party tester or examiner who has or is seeking a contract to administer commercial driving examinations and tests to the bureau. The bureau shall, upon request and after receipt of fingerprint cards or other identifying information from OMV, make available to OMV all arrest and conviction information contained in the bureau's criminal history record and identification files which pertains to the principal. In addition, in order to determine a principal's eligibility or suitability, the fingerprints shall be forwarded by the bureau to the FBI for a national criminal history record check.

Proposed law provides that OMV may submit fingerprint cards or other identifying information of a person seeking employment with OMV whose duties will include the issuance of commercial drivers' licenses or any current OMV employee who as part of his employment issues commercial driver's licenses. The bureau shall, upon request and after receipt of fingerprint cards or other identifying information from OMV, make available to OMV all arrest and conviction information contained in the bureau's criminal history record and identification files which pertains to the employee or potential employee. In addition, in order to determine an employee or potential employee's eligibility or suitability, the fingerprints shall be forwarded by the bureau to the FBI for a national criminal history record check.

Present law provides that all third-party examiners shall meet the same qualifications and training as state examiners to the extent necessary to conduct knowledge and skills tests in compliance with present law. Department employees shall, at least annually, take the tests actually administered by the third-party as if the employee were a test applicant, or the department shall, at least annually, test a sample of drivers who were examined by the third-party to compare pass/fail results.

Proposed law provides that all third-party examiners shall meet the same qualifications and training as state examiners to the extent necessary to conduct knowledge and skills tests in compliance with proposed law. DPS&C employees shall at least every two years take the tests actually administered by the third party as if the employee were a test applicant, or the department shall test a sample of drivers who were examined by the third party to compare pass/fail results.

Present law provides that the third party shall provide evidence to the applicant who has successfully passed the written knowledge and driving skills tests on a form approved by the department. The applicant shall provide this form to the department before being issued a commercial driver's license.

Proposed law provides that the third party shall provide proof of testing in a manner prescribed by the department.

Proposed law provides that a commercial learner's permit issued to an individual of this state or another jurisdiction, in accordance with rules and regulations of the Federal Motor Carrier Administration, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the permittee to operate a class of motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to the holder of a commercial driver's license, a commercial learner's permit serves as authorization to take part in behind-the-wheel training in a commercial motor vehicle for which the driver is not licensed to drive.

Proposed law provides that an individual who takes a skills test for a Class "A" commercial driver's license in a motor vehicle with the power unit and towed unit connected with a pintle hook or other non-fifth wheel connection, shall be issued a license with a restriction prohibiting the operation of a tractor-trailer combination connected by a fifth wheel that requires a Class "A" commercial driver's license.

Proposed law provides that except as required by 49 CFR Section 383.133, a skills test for a commercial driver's license shall be conducted in English without the use of interpreters.

Proposed law provides that the principal of the third-party examiner or tester who has or is seeking a contract with DPS&C, public safety services, to administer commercial driving examinations and tests shall consent to, pass, and pay the costs of an annual background check.

Present law provides that when any person's driver's license has been seized, suspended, or revoked, and the seizure, suspension, or revocation is connected to a charge or charges of violation of a criminal law, and the charge or charges do not result in a conviction, plea of guilty, or bond forfeiture, the person charged will have his license immediately reinstated and will not be required to pay a reinstatement fee if at the time for reinstatement of driver's license, it can be shown that the criminal charges have been dismissed or that there has been a permanent refusal to charge a crime by the appropriate prosecutor or there has been an acquittal.

Proposed law provides that reinstatement under present law does not apply to the commercial driver's license disqualification of the license.

(Amends R.S. 15:587(A)(1)(e) and R.S. 32: 408(A)(4)(b) and (d), (B)(2)(intro. para.) and (a)(ii) and (F)(1); Adds R.S. 32:408.1(5) and 414(K)(3))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill.

1. Made changes to method by which OMV can obtain background information on third-party testers and examiners who administer or will administer examinations for commercial drivers' licenses.
2. Made changes to method by which OMV can obtain background information on OMV employees or potential employees whose job duties include or will include the issuance of commercial drivers' licenses.
3. Clarified that certain reinstatement procedures following the seizure, suspension, or revocation, of a driver's license following a DWI do not apply to apply to the commercial driver's license disqualification of the license.