

115TH CONGRESS  
1ST SESSION

# H. R. 4719

To amend title 49, United States Code, to address delays in commercial driver's license skills testing and retesting, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2017

Mr. DUNCAN of Tennessee (for himself and Mr. COHEN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to address delays in commercial driver's license skills testing and retesting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. COMMERCIAL DRIVER'S LICENSE SKILLS TEST-**  
4 **ING AND RETESTING.**

5 (a) IN GENERAL.—Section 31305 of title 49, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 “(e) CDL SKILLS TESTING AND RETESTING WAIT  
9 TIMES.—

1           “(1) IN GENERAL.—Beginning not later than  
2           February 7, 2020, the Secretary shall carry out a  
3           program to ensure that States conduct in a timely  
4           manner skills tests and retests for individuals apply-  
5           ing for a CDL.

6           “(2) COMPLIANCE WITH PROGRAM REQUIRE-  
7           MENTS.—For purposes of section 31311(a), a State  
8           shall not be considered to be in compliance with the  
9           requirements of the program for a fiscal year if the  
10          Secretary determines as of the first day of the fiscal  
11          year that—

12                 “(A) in the case of a State that prohibits  
13                 or currently does not authorize public and pri-  
14                 vate commercial driving schools, or independent  
15                 CDL testing facilities, from offering a CDL  
16                 skills test as a third-party tester, there was a  
17                 skills test delay at 3 or more CDL skills test lo-  
18                 cations in the State during—

19                         “(i) 2 consecutive calendar quarters in  
20                         the preceding 12-month period; or

21                         “(ii) 3 calendar quarters in the pre-  
22                         ceding 18-month period;

23                 “(B) in the case of a State that has 2 or  
24                 fewer CDL skills test locations, there was a  
25                 skills test delay at any skills test location; or

1           “(C) the State failed to submit reports in  
2           accordance with paragraph (4) in the preceding  
3           12-month period.

4           “(3) INFORMATION SYSTEMS.—In carrying out  
5           the program, the Secretary shall add, or require to  
6           be added, to an information system described in sec-  
7           tion 31106 or 31309 (or other provision of law as  
8           applicable) appropriate fields to enter information  
9           concerning a CDL skills test location for the purpose  
10          of permitting the Administration and States to eas-  
11          ily track and tabulate the number of days between  
12          certification and skills tests and retests conducted at  
13          a CDL skills testing location.

14          “(4) STATE REPORTING REQUIREMENT.—Be-  
15          ginning on February 7, 2020, the Secretary shall re-  
16          quire each State to submit to the Secretary, on a  
17          quarterly basis, a report that describes the status of  
18          skills testing for individuals applying for a CDL at  
19          a CDL skills test location in the State, including—

20                  “(A) the average wait time beginning on  
21                  the date an individual is certified by a training  
22                  provider to sit for the CDL skills test and end-  
23                  ing on the date the individual completes the  
24                  test;

1           “(B) the average wait time beginning on  
2           the date an individual fails a CDL skills test  
3           and ending on the date the individual retakes  
4           the test;

5           “(C) the actual number of qualified CDL  
6           examiners available to test applicants; and

7           “(D) the number of testing sites available  
8           through the State agency responsible for admin-  
9           istering the CDL skills test and whether this  
10          number has increased or decreased from the  
11          previous year.

12          “(5) ANNUAL REPORT TO STATES.—Not later  
13          than October 1, 2020, and annually thereafter, the  
14          Secretary shall submit to each State a report that  
15          compiles the average wait times of such State, as de-  
16          scribed in subparagraphs (A) and (B) of paragraph  
17          (4).

18          “(6) ANNUAL REPORT TO CONGRESS.—Not  
19          later than February 1, 2021, and annually there-  
20          after, the Secretary shall submit to the Committee  
21          on Transportation and Infrastructure of the House  
22          of Representatives and the Committee on Commerce,  
23          Science, and Transportation of the Senate a report  
24          that—

1           “(A) contains a summary of the informa-  
2           tion received from States in the preceding year  
3           under paragraph (4); and

4           “(B) describes specific steps that the Sec-  
5           retary is taking to address skills test delays in  
6           States that have such delays.

7           “(7) DEFINITIONS.—In this subsection, the fol-  
8           lowing definitions apply:

9           “(A) CALENDAR QUARTER.—The term  
10          ‘calendar quarter’ means a 3-month period be-  
11          ginning on the first day of January, April, July,  
12          or October.

13          “(B) CDL.—The term ‘CDL’ means a  
14          commercial driver’s license, as that term is de-  
15          fined in section 31301.

16          “(C) CDL SKILLS TEST LOCATION.—The  
17          term ‘CDL skills test location’ means a CDL  
18          skills test location that is exclusively operated  
19          by a State and that employs State employees  
20          who are responsible for administering CDL  
21          skills testing.

22          “(D) INDEPENDENT CDL TESTING FACIL-  
23          ITY.—The term ‘independent CDL testing facil-  
24          ity’ means a CDL testing facility that is not—

1 “(i) a CDL skills test location (as de-  
2 fined in this paragraph);

3 “(ii) a public or private commercial  
4 driving school; or

5 “(iii) a trucking company.

6 “(E) PHYSICALLY ABSENT.—The term  
7 ‘physically absent’, with respect to a scheduled  
8 skills test, means that the individual scheduled  
9 to take the test was not physically present—

10 “(i) at least 10 minutes before the  
11 test; or

12 “(ii) for a longer period of time before  
13 the test, as determined by the State but  
14 not to exceed 1 hour.

15 “(F) SKILLS TEST DELAY.—

16 “(i) IN GENERAL.—The term ‘skills  
17 test delay’ means, with respect to a cal-  
18 endar quarter, an average period in excess  
19 of 7 days—

20 “(I) in the case of an initial CDL  
21 skills exam, beginning on the date an  
22 individual is certified by a training  
23 provider to sit for the CDL skills test  
24 and ending on the date the individual  
25 completes the test (after subtracting

1 from that period any day that is part  
2 of a mandatory notification or waiting  
3 period under Federal or State law);  
4 and

5 “(II) in the case of a CDL skills  
6 retest, beginning on the date an indi-  
7 vidual fails a CDL skills test and end-  
8 ing on the date the individual retakes  
9 the test (after subtracting from that  
10 period any day that is part of a man-  
11 datory notification or waiting period  
12 under Federal or State law).

13 “(ii) SPECIAL RULE.—For purposes of  
14 clause (i), any individual scheduled to take  
15 a skills exam who is physically absent from  
16 the skills exam on the date scheduled shall  
17 be recorded as a ‘no show’. Any State  
18 CDL test location that has a ‘no show’  
19 percentage above 25 percent of total ap-  
20 pointments scheduled at that location shall  
21 not be counted toward the State’s average  
22 skill test delays.”.

23 (b) WITHHOLDING OF APPORTIONMENTS.—

1           (1) IN GENERAL.—Section 31311(a) of title 49,  
2           United States Code, is amended by adding at the  
3           end the following:

4           “(26) Beginning in fiscal year 2021, the State  
5           shall be in compliance with the program require-  
6           ments established under section 31305(e), relating  
7           to commercial driver’s license skills testing and re-  
8           testing wait times, as determined by the Secretary  
9           under section 31305(e)(2).”.

10           (2) AVAILABILITY OF WITHHELD AMOUNTS.—  
11           Section 31314(d) of title 49, United States Code, is  
12           amended to read as follows:

13           “(d) AVAILABILITY FOR APPORTIONMENT.—

14           “(1) IN GENERAL.—Except as described in  
15           paragraph (2), amounts withheld under this section  
16           from apportionment to a State after September 30,  
17           1995, are not available for apportionment to the  
18           State.

19           “(2) EXCEPTION FOR CDL TESTING COMPLI-  
20           ANCE.—If the Secretary determines that a State  
21           that did not comply substantially with paragraph  
22           (26) of section 31311(a) begins to comply substan-  
23           tially with such paragraph, amounts withheld under  
24           this section from apportionment to the State as a re-  
25           sult of the prior noncompliance shall be provided to



1 the State in the same manner as such amounts  
2 would have been provided if not withheld.”.

3 (c) NOTICE TO STATES.—If the Secretary of Trans-  
4 portation makes a determination that a State does not  
5 comply substantially with section 31311(a)(26) of title 49,  
6 United States Code, the Secretary shall issue a notice to  
7 such State that identifies any reason for such determina-  
8 tion.

9 (d) COMPLIANCE PLANS.—A State having amounts  
10 withheld from apportionment under section 31314 of title  
11 49, United States Code, as a result of noncompliance with  
12 the requirements of section 31311(a)(26) of such title,  
13 shall submit to the Secretary of Transportation, not later  
14 than 270 days after the date on which the State is notified  
15 of the noncompliance, a plan to satisfy such requirements.

16 (e) FINANCIAL ASSISTANCE PROGRAM.—Section  
17 31313(a)(3) of title 49, United States Code, is amended—

18 (1) in subparagraph (D) by striking “or” at the  
19 end;

20 (2) in subparagraph (E) by striking the period  
21 at the end and inserting “; or”; and

22 (3) by adding at the end the following:

23 “(F) address delays in commercial driver’s  
24 license skills testing and retesting.”.

1       (f) REPEAL.—Effective February 7, 2020, section  
2 5506 of the FAST Act (Public Law 119–94; 129 Stat.  
3 1553), and the item relating to that section in the table  
4 of contents in section 1(b) of that Act, are repealed.

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