

Act 241 of the 1989 Regular Session.

Act 241

HB1094

By: Representatives D. Wood, O. Miller and Todd

"AN ACT TO ESTABLISH THE ARKANSAS CLASSIFIED DRIVER LICENSE SYSTEM; TO PROVIDE FOR TESTING AND LICENSING OF COMMERCIAL DRIVERS; TO DISQUALIFY COMMERCIAL DRIVERS WHO COMMIT CERTAIN SERIOUS TRAFFIC OFFENSES; AND FOR OTHER PURPOSES."

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

SECTION 1. Short Title. This act may be cited as the Arkansas Uniform Commercial Driver License Act.

SECTION 2. Statement of Intent and Purpose.

(a) The purpose of this act is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Title XII of Pub. Law 99-570) and reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

- (1) Permitting commercial drivers to hold only one license;
- (2) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;
- (3) Strengthening licensing and testing standards for commercial drivers.

(b) This act is a remedial law and shall be liberally construed to promote the public health, safety and welfare. To the extent that this act conflicts with general driver licensing provisions, this act prevails. Where this act is silent, the general driver licensing provisions apply.

SECTION 3. Definitions. As used in this act, unless the context otherwise requires:

- (1) "Alcohol" means ethyl alcohol, or ethanol.
- (2) "Blood alcohol concentration" means:
 - (a) The number of grams of alcohol per 100 milliliters of blood; or
 - (b) The number of grams of alcohol per 210 liters of breath; or
 - (c) Blood and breath quantitative measures in accordance with the current Arkansas Regulations for Blood Alcohol Testing, promulgated by the Arkansas State Department of Health.
- (3) "Commerce" means:
 - (a) Trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of the State, including a place outside the United States; and
 - (b) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of the State, including a place outside the United States.
- (4) "Commercial driver license" (CDL) means a license issued in accordance with the requirements of this act to an individual which authorizes the individual to drive a class of commercial motor vehicle.
- (5) The "Commercial Driver License Information System" (CDLIS) is the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
- (6) "Commercial driver instruction permit" means a permit issued pursuant

to Section 8 (d) of this act.

(7) "Commercial motor vehicle" means a motor vehicle used in commerce designed or used to transport passengers or property:

(a) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds;

(b) If the vehicle is designed to transport sixteen (16) or more passengers, including the driver; or

(c) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. part 172, sub-part F.

(8) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of the Uniform Controlled Substances Act (Ark. Code Ann. 5-64-101 et seq. (1987)).

(9) "Conviction" means the final judgment on a verdict or finding of guilty, a plea of guilty, or a forfeiture of bond or collateral upon a charge of disqualifying offense, as a result of proceedings upon any violation of the requirements of this act.

(10) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(11) "Drive" means to drive, operate or be in physical control of a commercial motor vehicle on any public street or highway in the state or in any place open to the general public for purposes of vehicular traffic.

(12) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle on any public street or highway in the state or in any place open to the general public for purposes of vehicular traffic.

(13) "Driver license" means a license issued by a State to an individual which authorizes the individual to drive a motor vehicle.

(14) "Employer" means any person, including the United States, a State, or a political subdivision of a State, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(15) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(16) "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

(17) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer(s) as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The GVWR of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating" or GCWR) is the GVWR of the power unit plus the GVWR of the towed unit or units.

(18) "Hazardous materials" has the meaning as that found in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. app. 1801 et seq.).

(19) "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs.

(20) "Non-resident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

(21) "Out of service order" means a temporary prohibition against driving a commercial motor vehicle.

(22) "Serious traffic violation" means:

(a) Excessive speeding, which means speeding in excess of fifteen (15) miles per hour over the posted limit;

(b) Reckless driving, as defined under the requirements of Ark. Code Ann. 27-50-308;

(c) Failing to immediately stop at the scene of an accident resulting in injury to, or death of, any person as defined under the

requirements of Ark. Code Ann. 27-53-101 or failing the duty to give information and render aid in an accident resulting in injury to, or death of, any person as defined under the requirements of Ark. Code Ann. 27-53-101 and 27-53-103;

(d) Operating or in actual physical control of a motor vehicle while intoxicated as defined under the requirements of Ark. Code Ann. 5-65-103;

(e) A violation of any state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person.

(f) A violation of any state law relating to motor vehicle traffic control, other than a parking violation, which the Commissioner of Motor Vehicles shall determine by regulation is serious in order to remain in compliance with the requirements of federal law or regulations.

(23) "State" means a state of the United States and the District of Columbia.

(24) "United States" means the fifty states and the District of Columbia.

SECTION 4. Limitation on Number of Driver Licenses. No person who drives a commercial motor vehicle may have more than one driver license.

SECTION 5. Notification Required by Driver.

(a) Notification of Convictions.

(1) Any driver of a commercial motor vehicle holding a driver license issued by this state, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control, in any other state, other than parking violations, shall notify the Office of Driver Services, Revenue Division, Arkansas Department of Finance and Administration, in the manner specified by the Office of Driver Services, within thirty (30) days of the date of conviction.

(2) Any driver of a commercial motor vehicle holding a driver license issued by this state, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, must notify his or her employer in writing of the conviction within thirty (30) days of the date of conviction.

(b) Notification of Suspensions, Revocations and Cancellations. Each driver whose driver license is suspended, revoked, or cancelled by any state, who loses the privilege to drive a commercial motor vehicle in any state for any period, or who is disqualified from driving a commercial motor vehicle for any period, must notify his or her employer of the fact before the end of the business day following the day the driver received notice of that fact.

(c) Notification of Previous Employment. Each person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the ten (10) years preceding the date of application.

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(2) The dates between which the applicant drove for each employer;
and

(3) The reason for leaving that employer.

The applicant must certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

(d) Prohibition from Driving for Certain Violations.

(1) Any person who once violates the provisions of this Section shall be prohibited from driving a commercial motor vehicle in this state for a period of ninety (90) days.

(2) Any person who violates the provisions of this Section a second

time shall be prohibited from driving a commercial motor vehicle in this state for a period of one (1) year.

(3) Any person who violates the provisions of this Section a third or subsequent time shall be prohibited from ever driving a commercial motor vehicle in this state.

SECTION 6. Employer Responsibilities.

(a) Each employer must require the applicant to provide the information specified in Section 5 (c).

(b) No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) In which the driver has a driver license suspended, revoked, or cancelled by a state; has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle; or

(2) In which the driver has more than one driver license.

(c) Any employer who once violates the provisions of this Section shall, upon conviction, be fined a sum of five hundred dollars (\$500), and each day's violation and each driver's violation shall constitute a separate offense and shall be punished as such. Any employer who violates the provisions of this section a second or subsequent time shall, upon conviction, be fined a sum of one thousand dollars (\$1,000), and each day's violation and each driver's violation shall constitute a separate offense and shall be punished as such.

SECTION 7. Commercial Driver License Required.

(a) Except when driving under a commercial driver instruction permit and accompanied by the holder of a commercial driver license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds a commercial driver license with the applicable endorsements valid for the vehicle being driven and is in immediate possession of their commercial driver license when driving a commercial motor vehicle.

(b) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or cancelled, while subject to a disqualification, or in violation of an out of service order.

(c) Any person who violates any provisions of this Section shall be cited for such violations and if found guilty shall be deemed to have committed a Class C misdemeanor.

SECTION 8. Commercial Driver License Qualification Standards.

(a) Testing

(1) No person may be issued a commercial driver license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, sub-parts G and H, and has satisfied all other requirements imposed by State or Federal law or regulation. The tests must be prescribed and conducted by the Arkansas State Police.

(2) The Arkansas State Police may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this Section, provided:

(i) The test is the same which would otherwise be administered by the state; and

(ii) The third party has entered into an agreement with the state which complies with requirements of 49 C.F.R. part 383.75.

(b) Waiver of Skills Test. The Arkansas State Police may waive the

skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77.

(c) Limitations on Issuance of License. A commercial driver license or commercial driver instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked or cancelled in any state; nor may a commercial driver license be issued to a person who has a commercial driver license or any other driver license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state(s) for cancellation.

(d) Commercial Driver Instruction Permit.

(1) A commercial driver instruction permit may be issued by the Arkansas State Police to an individual who holds a valid driver license.

(2) The commercial driver instruction permit may not be issued for a period to exceed six (6) months. Only one (1) renewal may be granted within a one (1) year period. The holder of a commercial driver instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

SECTION 9. Non-Resident CDL. The Office of Driver Services may issue a non-resident CDL to a resident of a foreign jurisdiction if the United States Secretary of Transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. part 383 and if the non-resident applicant completes the requirements for the issuance of the applicable class of commercial driver license as required by this act. The word "Non-Resident" must appear on the face of the non-resident CDL. An applicant must surrender any non-resident CDL issued by another state. Prior to issuing a non-resident CDL, the Office of Driver Services must establish the practical capability of revoking, suspending, or cancelling the non-resident CDL and disqualifying that person with the same conditions applicable to the commercial driver license issued to a resident of this state.

SECTION 10. Application for Commercial Driver License.

(a) The application for a commercial driver license or commercial driver instruction permit must include the following:

- (1) The full name and current residential address of the person;
- (2) A physical description of the person including sex, height, weight, eye color, and hair color;
- (3) Date of birth;
- (4) The applicant's Social Security number, unless the application is for a Non-Resident CDL;
- (5) The person's signature;
- (6) A consent to release driving record information;
- (7) Certifications including those required by 49 C.F.R. part 383.71(a);
- (8) Any other information required by the Office of Driver Services.

The application must be accompanied by an application fee of sixty-one dollars (\$61.00).

(b) When a licensee changes his or her name or residential address, an application for a duplicate license must be made to the Office of Driver Services.

(c) No person who has been a resident of this state for thirty (30) days may drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

(d) The license application must be accompanied by an examination fee for each knowledge and skills test, which shall be set by regulation of the Arkansas State Police in an amount not to exceed fifty dollars (\$50.00) for each examination and administration.

(e) The examination fee set in subsection (d) of this Section shall be collected by the Revenue Division of the Department of Finance and Administration at the time of initial application for a commercial motor vehicle license and any subsequent applications for examination. The funds shall then be deposited as special revenues into the State Treasury and distributed to the credit of the Arkansas State Police Fund to defray the cost of administering the examination of the knowledge and skills tests required in Section 8 of this act.

SECTION 11. Commercial Driver License.

(a) Content of License. The commercial driver license must be marked "Commercial Driver License" or "CDL", and must be, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

- (1) The name and residential address of the person;
- (2) The person's color photograph;
- (3) A physical description of the person including sex and height;
- (4) Date of birth;
- (5) Except for non-resident CDL's, the person's Social Security number;
- (6) The person's signature;
- (7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;
- (8) The name of this state; and
- (9) The dates between which the license is valid.

(b) Classifications, Endorsements and Restrictions. Commercial driver licenses may be issued with the following Class A, Class B or Class C classifications, as well as the following endorsements and restrictions; the holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles and vehicles which require an endorsement, unless the proper endorsement appears on the license; all other driver licenses may be issued with the following Class D, Class M, or Class MD classifications;

(1) Commercial Classifications.

Class A. Any combination of vehicles with a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more, provided that the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds. No Class A license shall be issued to any person under the age of eighteen (18) years.

Class B. Any single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds. No Class B license shall be issued to any person under the age of eighteen (18) years.

Class C. Any single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds comprising:

- (i) Vehicles designed to transport sixteen (16) or more passengers, including the driver; and
- (ii) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 C.F.R., part 172, sub-part F. No Class C license shall be issued to any person under the age of eighteen (18) years.

(2) Other Classifications.

Class D. Any vehicle which is not a commercial motor vehicle, as defined by this act. No Class D license shall be issued to persons under the age of fourteen (14) years; provided however, that no such licensee under the age of sixteen (16) years shall operate a vehicle unless accompanied on the front passenger seat of the vehicle by a licensed driver with at least one (1) year of driving experience.

No Class D license shall be valid to carry passengers for hire without a "P" endorsement. No "P" endorsement shall be issued to any person under the age of eighteen (18) years of age.

Notwithstanding the provisions of this or any other section of this act, any person who on the effective date of this act has a valid operator's chauffeur's, or for-hire chauffeur's license shall be entitled to drive the vehicles authorized thereby until the date of expiration of such license, but not thereafter; provided, however that any person driving a commercial motor vehicle as defined by this act on or after April 1, 1992 must first obtain a commercial driver license as required by this Section.

Class M. That license valid for the operation of any motorcycle which displaces more than 250 cubic centimeters. No such license shall be issued to any person under the age of sixteen (16) years.

Class MD. That license valid for the operation of any motor driven cycle which displaces 250 cubic centimeters or less. No such license shall be issued to any person under the age of fourteen (14) years. A Class MD license shall automatically expire upon the licensee's sixteenth (16th) birthday.

(3) Endorsements and Restrictions.

"H" - authorizes the driver to drive a vehicle transporting hazardous materials.

"K" - restricts the driver to vehicles not equipped with airbrakes.

"T" - authorizes driving double and triple trailers.

"P" - authorizes driving vehicles carrying passengers or carrying passengers for hire.

"N" - authorizes driving tank vehicles.

"X" - represents a combination of hazardous materials and tank vehicle endorsements.

"M" - authorizes the driver to drive a motorcycle.

(c) Applicant Record Check. Before issuing a commercial driver license, the Office of Driver Services must obtain driving record information through the Commercial Driver License Information System, the National Driver Register, and from each state in which the person has been licensed.

(d) Notification of License Issuance. Within ten (10) days after issuing a commercial driver license, the Office of Driver Services must notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the person.

(e) Expiration of License. All driver licenses issued upon and after the effective date of this act shall be issued for a period of four (4) years from the date of issuance.

(f) Authority to Adjust All Driver License Expiration Periods. The Office of Driver Services, for whatever period of time is necessary, shall have the authority to promulgate rules and regulations to extend or shorten the term of any driver license period, as necessary, to insure that approximately twenty-five percent (25%) of the total valid licenses are renewable each fiscal year. All driver licenses subject to change for the purpose of this act shall also be subject to adjustment of the license fee to insure the proper license fee is assessed as set forth in this act and such change shall be carried out in a manner determined by the Office of Driver Services.

(g) License Renewal Procedures. When applying for renewal of a commercial driver license, the applicant must complete the application form

required by Section 10 (a), providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

SECTION 12. Disqualification and Cancellation.

(a) Disqualification offenses. Any person shall be disqualified from driving a commercial motor vehicle for a period of not less than one (1) year if convicted of a first violation of:

- (1) Driving a commercial motor vehicle while intoxicated;
- (2) Driving a commercial motor vehicle while the person's blood alcohol concentration is 0.04% or more.
- (3) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;
- (4) Using a commercial motor vehicle in the commission of any felony as defined in this act;
- (5) Refusal to submit to a test to determine the driver's blood alcohol concentration while driving a commercial motor vehicle.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person shall be disqualified from driving a commercial motor vehicle for a period of not less than three (3) years.

(b) A person shall be disqualified from driving a commercial motor vehicle for life if convicted of two (2) or more violations of any of the offenses specified in paragraph (a), or any combination of those offenses, arising from two (2) or more separate incidents. Only offenses committed after the effective date of this act can be considered in connection with such disqualification for life.

(c) The Office of Driver Services shall have the authority to issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (b) hereinabove may be reduced to a period of not less than ten (10) years.

(d) A person shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(e) A person shall be disqualified from driving a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period. Only offenses committed after the effective date of this act can be considered in connection with such disqualification.

(f) After suspending, revoking, or cancelling a commercial driver license, the Office of Driver Services must update its records to reflect that action within ten (10) days. After suspending, revoking or cancelling a non-resident commercial driver's privileges, the Office of Driver Services must notify the licensing authority of the State which issued the commercial driver license within ten (10) days.

SECTION 13. Commercial Drivers Prohibited from Operating with Any Alcohol in System.

(a) Notwithstanding any other provision of this act, a person shall not drive, operate, or be in physical control of a commercial motor vehicle while having alcohol in his or her system.

(b) A person who drives, operates, or is in physical control of a

commercial motor vehicle while having alcohol in his or her system or who refuses to take a test to determine blood alcohol concentration as provided by Section 14 of this act must be placed out-of-service for twenty-four (24) hours.

SECTION 14. Commercial Motor Vehicle Driving Offenses and Penalties.

(a) (1) It is unlawful and punishable as provided in this act for any person who is intoxicated to operate or be in physical control of a commercial motor vehicle. The term "intoxicated" means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant, or any combination thereof, to such a degree that the driver's reactions, motor skills, and judgment are substantially altered, and the driver therefore constitutes a clear and substantial danger of physical injury or death to himself and other motorists or pedestrians.

(2) It is unlawful and punishable as provided in this act for any person to operate or be in actual physical control of a commercial motor vehicle if at the time there was four hundredths of one percent (0.04%) or more by weight of alcohol in the person's blood as determined by a chemical test of the person's blood or breath or other body substances. For the purpose of this act, there is no presumption, as there is found in Ark. Code Ann. 5-65-206, that a person is not under the influence of an intoxicating substance if such person's blood alcohol concentration is 0.05% or less.

(3) It shall be unlawful and punishable as provided in this act for any person operating a commercial motor vehicle to leave the scene of an accident involving the commercial motor vehicle and resulting in any injury to or death of any person, in any damage to another vehicle, whether attended or unattended, or in any damage to any fixture legally upon the highway or adjacent to a highway. The person operating a commercial motor vehicle involved in any such accident shall be under a duty to stop their vehicle at the scene of the accident and render the same aid and give the same information as required by Ark. Code Ann. 27-53-103.

(4) It shall be unlawful and punishable as provided in this act for any person driving a commercial motor vehicle to use a commercial motor vehicle in the commission of a felony.

(5) It shall be unlawful and punishable as provided in this act for any person driving a commercial motor vehicle to refuse to submit to a chemical test to determine the person's blood alcohol concentration while driving a commercial motor vehicle. A person driving a commercial motor vehicle requested to submit to such a chemical test shall be warned by the law enforcement officer that a refusal to submit to the test will result in that person being disqualified from driving a commercial motor vehicle.

(b) Any person convicted of a violation of driving a commercial motor vehicle while intoxicated, driving a commercial motor vehicle while the person's blood alcohol concentration is 0.04% or more, leaving the scene of an accident involving a commercial motor vehicle driven by the person, or using a commercial motor vehicle in the commission of any felony shall be deemed guilty of a Class B misdemeanor and shall be disqualified from driving a commercial motor vehicle as specified in Section 12 of this act.

(c) A law enforcement officer having reasonable cause to believe the person to have been driving a commercial motor vehicle while intoxicated or driving a commercial motor vehicle while the person's blood alcohol concentration was 0.04% or more shall have the authority to administer or have administered a chemical test to determine the person's blood alcohol concentration. The chemical test authorized shall be identical to and under the same standards of the test given to persons under the Omnibus DWI Act of 1983, Ark. Code Ann. 5-65-101 et seq.

(d) (1) Every magistrate or judge of a court shall keep a record of

every violation of this section presented to the court and shall keep a record of every official action taken by the court.

(2) Within thirty (30) days after a person has been found guilty, or pleaded guilty or nolo contendere on a charge of violating any provision of this section, every magistrate of the court or clerk of the court shall prepare and immediately forward to the Office of Driver Services an abstract, which shall be certified as true and correct, of the record of the court covering the case where a person was found guilty, or pleaded guilty or nolo contendere.

(3) The abstract shall be made on a form furnished by the Officer of Driver Services and shall include all items that they shall determine as necessary.

(e) Any violation of the offenses found in subsection (a) of this Section and the penalties and suspensions imposed for those violations shall be cumulative and in addition to the penalties and suspensions for any other offense or violation under a similar Arkansas motor vehicle traffic or criminal law.

SECTION 15. Implied Consent Requirements for Commercial Motor Vehicle Drivers.

(a) A person who drives a commercial motor vehicle within this state shall be deemed to have given consent, subject to the provisions of Arkansas Code Annotated 5-65-203, to take a test or tests of that person's blood, breath, or urine for the purpose of determining that person's blood alcohol concentration or the presence of other drugs.

(b) A test or tests may be administered at the direction of a law enforcement officer who, after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system.

(c) A person requested to submit to a test as provided in subsection (a) of this Section must be warned by the law enforcement officer requesting the test, that a refusal to submit to the test will result in that person being disqualified from operating a commercial motor vehicle under Section 12 of this act.

(d) If the person is under arrest and refuses testing, none shall be given and the person's commercial driver license shall be seized by the law enforcement officer, and the officer shall immediately deliver to the person whose license was seized a temporary commercial driving permit which shall expire on the person's date of arraignment and shall cite the person for their refusal to submit to the test.

(e) The arresting officer shall remit the seized commercial driver license to the court, and upon arraignment, the judge shall issue that person a temporary commercial driving permit to expire on the date of trial.

(f) If the judge determines at trial that the officer had reasonable cause to believe the arrested person has been driving while intoxicated or while there was four hundredths of one percent (0.04%) or more of alcohol in the person's blood and the person refused to submit to the chemical test, the judge shall order the Office of Driver Services to disqualify the person from operating a commercial motor vehicle for a period specified in Section 12 of this act.

SECTION 16. Notification of Traffic Convictions.

Within ten (10) days after receiving a report of the conviction of any non-resident holder of a commercial driver license for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the Office of Driver Services shall notify the driver licensing authority in the licensing state of the

conviction.

SECTION 17. Driving Record Information to be Furnished. Notwithstanding any other provision of law to the contrary, the Office of Driver Services must furnish full information regarding the driving record of any person:

(a) To the driver license administrator of any other state, or province or territory of Canada, requesting that information.

(b) To any employer or prospective employer upon request and payment of a fee of ten dollars (\$10.00).

(c) To others, authorized to receive such information pursuant to Arkansas Code Annotated 25-50-906, upon request and payment of a fee of seven dollars (\$7.00).

SECTION 18. Distribution of Fees.

(a) The fee set out in subsection (a) of Section 10 of this act shall be deposited as special revenues into the State Treasury and distributed as follows:

(1) Forty dollars (\$40.00) shall be deposited to the credit of the Revenue Division of the Department of Finance and Administration in the Commercial Driver License Fund;

(2) One dollar (\$1.00) of the fee shall be distributed in the same manner as set out in subsection (e) of Ark. Code Ann. 27-16-801; and

(3) The remaining twenty dollars (\$20.00) of the fee shall be distributed in the same manner as set out in subsection (d) of Ark. Code Ann. 27-16-801.

(b) The fee set out in subsection (b) of Section 17 of this act shall be deposited as special revenues into the State Treasury and distributed as follows:

(1) Four dollars (\$4.00) of the fee shall be deposited to the credit of the Revenue Division of the Department of Finance and Administration in the Commercial Driver License Fund; and

(2) The remaining six dollars (\$6.00) of the fee shall be distributed in the manner set forth in Ark. Code Ann. 27-50-910.

(c) The fee set out in subsection (c) of Section 17 of this act shall be deposited as special revenues into the State Treasury and distributed as follows:

(1) One dollar (\$1.00) of the fee shall be deposited to the credit of the Revenue Division of the Department of Finance and Administration in the Commercial Driver License Fund; and

(2) The remaining six dollars (\$6.00) of the fee shall be distributed in the manner set forth in Ark. Code Ann. 27-50-910.

(d) All fines, forfeitures, and penalties levied by any court for all offenses committed under this act shall be collected by the clerk of the court and remitted to the Revenue Division of the Department of Finance and Administration. They shall then be deposited as special revenues into the State Treasury to the credit of the Revenue Division of the Department of Finance and Administration in the Commercial Driver License Fund.

SECTION 19. Exemption Regulations. In the event that it shall be determined by federal regulation that certain classes of drivers shall be exempt from the application of the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Title XII of Pub. Law 99-570), the Arkansas Transportation Safety Agency shall have the authority to and shall promulgate rules and regulations to exempt those certain classes of drivers from the application of this act.

SECTION 20. Rulemaking Authority. The Office of Driver Services and the

Arkansas State Police shall have the authority to adopt rules and regulations after consulting with, and with the concurrence of, the Arkansas Transportation Safety Agency and the Arkansas Highway Police, necessary to carry out the provisions of this act.

SECTION 21. Authority to Enter Agreement. The Office of Driver Services and the Arkansas State Police shall have the authority to enter into or make agreements, arrangements, or declarations necessary to carry out the provisions of this act.

SECTION 22. Enforcement. The enforcement personnel of the Arkansas Transportation Safety Agency, the Arkansas State Police, and the Arkansas Highway Police of the Arkansas Highway and Transportation Department, and any certified law enforcement officer shall have the authority to enforce the provisions of this act.

SECTION 23. Reciprocity. Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver license issued by any state or province or territory of Canada in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person is not suspended, revoked, cancelled, disqualified from driving a commercial motor vehicle, or subject to an out-of-service order.

SECTION 24. Commercial Driver License Fund.

(a) There is hereby established on the books of the State Treasurer, State Auditor, and Chief Fiscal Officer of the State, a Fund to be known as the Commercial Driver License Fund of the Department of Finance and Administration, Revenue Division. The Commercial Driver License Fund shall consist of special revenues as set out in Section 18 of this Act, to be used to establish and maintain the Arkansas Commercial Driver License Program, and for other related purposes as required by the Commissioner in carrying out the functions, powers, and duties of the Revenue Division of the Department of Finance and Administration.

(b) On July 1, 1989, a loan to the Commercial Driver License Fund shall be made from the Budget Stabilization Trust Fund, in an amount or amounts to be determined by the Chief Fiscal Officer of the State, for the purpose of establishing the Commercial Driver License Program. Loans to the Commercial Driver License Fund during the fiscal year ending June 30, 1990, shall be repaid to the Budget Stabilization Trust Fund on or before June 30, 1991. Provided, further loans to the Commercial Driver License Fund from the Budget Stabilization Trust Fund may be made after July 1, 1989; however, such loans made after July 1, 1990 must be repaid on or before the fiscal year in which such loans were made.

SECTION 25. Repeal. Subsection (b)(1)(B) of Section 27-16-801 of the Arkansas Code of 1987 Annotated is hereby repealed.

SECTION 26. (a) Effective Date. The effective date of this act shall be January 1, 1990.

(b) The application, testing, and issuance of commercial driver's licenses under Sections 7, 8, 9, 10, and 11 of this act shall begin on January 1, 1990 or as soon as administratively possible thereafter, but no later than July 1, 1990.

SECTION 27. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

Revision Commission shall incorporate the same in the Code.

APPROVED: February 24, 1989
