

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.

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

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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