

1 SB289
2 127192-2
3 By Senator Waggoner
4 RFD: Commerce, Transportation, and Utilities
5 First Read: 29-MAR-11

SYNOPSIS: Under existing law, the operator of a commercial motor vehicle involved in the transport of metal coils must be certified in proper load securement and must carry the certification in the vehicle and produce it on demand.

This bill would remove the requirement that the operator carry the certification in the vehicle and produce it on demand.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 32-9A-2, Code of Alabama 1975; to remove the requirement that the operator of certain commercial motor vehicles carry in the vehicle and produce on demand his or her certification in proper load securement.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 32-9A-2, Code of Alabama 1975, is amended to read as follows:

1 "§32-9A-2.

2 "(a) (1) Except as otherwise provided in subsection
3 (b), no person may operate a commercial motor vehicle in this
4 state, or fail to maintain required records or reports, in
5 violation of the federal motor carrier safety regulations as
6 prescribed by the U.S. Department of Transportation, 49 C.F.R.
7 Part 107, Parts 171-180, Parts 382-384, and Parts 390-399 and
8 as they may be amended in the future. Except as otherwise
9 provided herein, this chapter shall not be construed to repeal
10 or supersede other laws relating to the operation of motor
11 vehicles.

12 "(2)a. No person may operate a commercial motor
13 vehicle in this state in violation of 49 C.F.R. §393.120, as
14 amended, relating to load securement for certain metal coils.

15 "b. No one owning, leasing, or allowing a commercial
16 vehicle to be operated in this state shall knowingly or
17 negligently be in violation of 49 C.F.R. §393.120, as amended,
18 relating to load securement for metal coils.

19 "(3) No person may knowingly or negligently own or
20 lease or cause to be operated on any public highway, road,
21 street, or other public right-of-way a commercial motor
22 vehicle loaded with a metal coil in a manner that fails to
23 comply with 49 C.F.R. §393.120 and thereby allows a metal coil
24 to drop, fall, spill, shift, or otherwise escape from the
25 commercial vehicle onto any public highway, road, street, or
26 any other public right-of-way.

1 "(4)a. No motor carrier may initiate or terminate in
2 this state the commercial transport of metal coils, as defined
3 in 49 C.F.R. §393.120, unless the commercial vehicle operator
4 is certified in proper load securement as provided in 49
5 C.F.R. §393.120. Certification shall be conducted according to
6 standards published by the Department of Public Safety and
7 certified by the motor carrier and the driver on forms
8 provided by the department.

9 "b. The operator of a commercial motor vehicle
10 involved in the commercial transport of metal coils subject to
11 this subdivision shall be certified in proper load securement
12 as provided in 49 C.F.R. §393.120, ~~carry the certification in~~
13 ~~the vehicle, and produce the certification upon demand.~~

14 "(5) Except as it relates to subdivision (3), no law
15 enforcement officer may make an arrest or issue a citation
16 under this chapter unless he or she has satisfactorily
17 completed, as a part of his or her training, the basic course
18 of instruction developed by the Commercial Vehicle Safety
19 Alliance. Those law enforcement officers authorized to enforce
20 this chapter shall annually receive in service training
21 related to commercial motor vehicle operations, including, but
22 not limited to, training in current federal motor carrier
23 safety regulations, safety inspection procedures, and
24 out-of-service criteria. The annual training requirements
25 shall be designated and specified by the director. An officer
26 qualified under this section to make an arrest or issue a
27 citation pursuant to subdivision (3) may arrest or issue a

1 citation to the driver of a commercial motor vehicle without a
2 warrant and without witnessing the violation personally if,
3 upon personal investigation, the officer has reasonable cause
4 to believe that a violation has occurred.

5 "(b) Notwithstanding subsection (a) or any other
6 provision of law to the contrary:

7 "(1) Amendments to the hours of service regulations
8 promulgated by the U.S. Department of Transportation at 68
9 Federal Register 22456, April 28, 2003 and effective June 27,
10 2003, shall not apply to utility service vehicles as defined
11 at 49 C.F.R. §395.2, not including television cable or
12 community antenna service vehicles, which are owned or
13 operated by utilities regulated by the Public Service
14 Commission or electric cooperatives and which are engaged
15 solely in intrastate commerce in this state until June 27,
16 2006, provided the amendments are valid and remain in effect
17 as of that date. Hours of service regulations that are
18 applicable in this state immediately prior to June 27, 2003,
19 shall remain applicable to utility service vehicles engaged
20 solely in intrastate commerce in this state until June 27,
21 2006. If the U.S. Department of Transportation issues an
22 official finding that this provision may result in the loss of
23 federal Motor Carrier Safety Assistance Program funding, the
24 department may promulgate regulations providing for earlier
25 implementation of the amendments to the federal hours of
26 service regulations. If federal law or regulations are amended
27 at any time to exempt utility service vehicles from the hours

1 of service requirements, any exemption shall be effective in
2 this state immediately for the duration of the federal
3 exemption.

4 "(2) The department may promulgate regulations
5 suspending the effective date for up to three years after
6 adoption of any motor carrier safety regulation by the U.S.
7 Department of Transportation as applied to vehicles engaged
8 solely in intrastate commerce in this state, provided that the
9 suspension does not result in the loss of federal Motor
10 Carrier Safety Assistance Program funding.

11 "(3) The department may enter into agreements with
12 state and local emergency management agencies and private
13 parties establishing procedures for complying with 49 U.S.C.
14 §31502(e) and federal regulations promulgated thereto at 49
15 C.F.R. §390.23 which provide an exemption from the hours of
16 service regulations during certain emergencies.

17 "(4) The department may promulgate regulations
18 granting any waiver, variance, or exemption permitted under 49
19 U.S.C. §31104(h) and federal regulations promulgated thereto
20 at 49 C.F.R. §§350.339-350.345, provided that the waiver,
21 variance, or exemption does not result in the loss of federal
22 Motor Carrier Safety Assistance Program funding and does not
23 take effect unless approved by the U.S. Department of
24 Transportation if that approval is required.

25 "(5) A commercial motor vehicle operated in
26 intrastate commerce which does not equal or exceed 26,001
27 pounds, except a motor vehicle, regardless of weight, which is

1 designed or used to transport 16 or more passengers, including
2 the driver, or which is used in the transportation of
3 hazardous materials and required to be placarded pursuant to
4 49 C.F.R. Part 172, Subpart F, shall be exempt from the
5 federal motor carrier regulations otherwise made applicable in
6 this state pursuant to subsection (a). For purposes of this
7 subdivision, commercial motor vehicle means a commercial motor
8 vehicle as defined in 49 C.F.R. §390.5.

9 "(6) For purposes of those provisions of 49 C.F.R.
10 §395 providing for exemptions from the hours of service
11 requirements of that section respecting the operation of motor
12 vehicles for the transportation of agricultural commodities as
13 contemplated in that section, the planting and harvesting
14 season for this state is defined by the Legislature as the
15 period from April 1 of each calendar year to March 31 of the
16 next succeeding calendar year.

17 "(c) Nothing in this section as amended by Act
18 2008-336 shall be interpreted to exempt any person from the
19 obligations to operate a motor vehicle in a safe and proper
20 manner or to observe the rules of the road, nor shall any
21 provision of this section as amended by Act 2008-336 be
22 interpreted to immunize any person from civil liability for
23 actionable conduct.

24 "(d) The Department of Public Safety shall publish
25 standards for training drivers of commercial motor vehicles in
26 proper load securement for metal coils as provided in 49

1 C.F.R. §393.120 and provide for certification of drivers of
2 commercial motor vehicles carrying metal coils."

3 Section 2. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.