



April 2, 2024

Ms. Sue Lawless  
Acting Deputy Administrator  
Federal Motor Carrier Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

**Re: Docket No. FMCSA-2023-0115, Commercial Driver's License Requirements, Increased Flexibility for Testing and for Drivers After Passing the Skills Test**

Dear Acting Deputy Administrator Lawless,

The American Bus Association (ABA) appreciates the opportunity to comment on the Federal Motor Carrier Safety Administration's (FMCSA's) notice of proposed rulemaking proposing changes to the Commercial Driver's License (CDL) regulations (NPRM) to increase flexibility for State Driver Licensing Agencies (SDLAs) and commercial driver's license (CDL) applicants. We support several of the proposed changes as they can lead to an improved credentialing process and an easing of the commercial driver shortage.

ABA is the leading trade association representing private and over-the-road passenger-carrying commercial motor carriers (CMVs) who transport the public, as well as manufacturers and suppliers. ABA has been in operation for nearly 100 years and has over 700 bus operating company members, comprised of large and small operations. Our members provide all manner of passenger transportation services, including intercity scheduled service, charter and tour operations, daily commuter, airport, and employee shuttle services. In addition, ABA membership includes hotels, convention and visitors bureaus, attractions, restaurants, motorcoach manufacturers and other vendor companies that provide services to the motorcoach industry.

The ABA actively participated in FMCSA's negotiated rulemaking process related to its Entry-Level Driver Training (ELDT) initiative (FMCSA-2007-27748), which provides a sound platform for the changes outlined in the NPRM. Driver testing delays have posed an obstacle to many prospective drivers seeking to secure a CDL. The ELDT rule coupled with these proposed changes have the potential to alleviate aspects of this obstacle by providing additional flexibility and necessary streamlining in the credentialing process. Generally, ABA supports the NPRM; however, we do have a few concerns and discussed below.

*CDL Skills Testing for Out-of-State Applicants (49 CFR 383.79(a)(1))*

The FMCSA proposes to expand CDL applicants' ability take the skills test in a state other than their state of domicile by removing the requirement that the applicant must have obtained training in the testing State in order to take the CDL skills test in that State. ABA supports this proposal and concurs with FMCSA's view that the ELDT requirements provide a level of standardization for the training of CDL applicants and supports providing SDLAs with the discretion to administer CDL skills testing to students who are not domiciled in the state of the test. ABA believes this will increase the availability and utilization of testing facilities, which will ultimately facilitate CDL testing and potentially increase the driver pool. There are many instances where a potential driver has a testing facility located a short distance away although across a state border, but the applicant is then required to travel hundreds of miles to reach a testing facility within their state of domicile, which may then also have a testing backlog. This is inefficient. ABA previously supported a similar proposal for out-of-state testing and testing reciprocity to ease the transition to the commercial motor vehicle (CMV) driving profession for military veterans (FMCSA-2016-0051).

*Third Party Knowledge Testers and Examiners (49 CFR 383.79)*

The FMCSA proposes to allow states authorizing third-party knowledge examiners to require those examiners be subject to the training, certification, and record check requirements currently applicable to state employed knowledge examiners. Certified third-party skills examiners, who also administer the knowledge tests would be excepted from duplicative training and record check requirements. Additionally, states would be required to include third-party knowledge examiners within the scope of their auditing and monitoring purview. The NPRM proposal also includes adding a requirement for third-party knowledge testers or examiners to administer the knowledge test only by electronic means. ABA supports these proposed changes to expand the pool of certified third-party testers because they will increase the testing resources available to SDLAs. We would further request FMCSA to list on its website the states currently electing to authorize third-party CDL knowledge and skills testing.

*CLP Holders Who Have Passed the CDL Skills Test (49 CFR 383.25(a))*

The FMCSA proposes to allow CLP holders who have passed the CDL skills test to operate CMVs on public roads, without a qualified CDL holder in the passenger seat. ABA notes there may be significant operational differences between truck and bus operations in this regard. Specific to motorcoach operations, we believe having a qualified CDL holder in a position to monitor the CLP driver is important, for both training and safety of operation. From this perspective, ABA supports changes to this aspect of the proposal to ensure the qualified CDL holder remains in a position to observe driving operations, and properly monitor and assist a CLP holder, with appropriate flexibility.

*CLP Holders Eligible to Take the CDL Skills Test (49 CFR 383.25(e))*

A CLP holder is not currently eligible to take the CDL skills test for 14 days following initial issuance of the CLP. The ABA supports FMCSA's proposals to eliminate this restriction. The 14-day requirement is intended to ensure CLP holders obtain appropriate Behind the Wheel (BTW) training prior to taking the skills test to improve their chances of passing the test on the first attempt and improve their driving skills. ABA supports FMCSA's proposal to eliminate the waiting period requirement. The mandatory wait time is one of the largest hurdles to recruiting CMV drivers. Many

prospective drivers move on to other industries because they cannot be employed in the driving profession during this required wait period, forcing them to go without a paycheck. Further, many companies are reluctant to hire prospective full-time drivers who have not yet completed their CDL testing. Some CLP holders successfully navigate BTW at a more rapid rate and do not need a full two-week period to successfully pass a CDL skills test, rendering the wait period unnecessary. Also, a decrease of arbitrary wait times can provide increased flexibility for driver trainers to evaluate when their students are ready for testing. Finally, the establishment of the ELDT should address any concerns about sufficient preparation for testing, and not lead to an increase in test failures. In support of this, FMCSA and SDLAs should monitor the driver testing success rate and use it in their evaluation of training providers listed on the ELDT Training Provider Registry as well as study the frequency of driver pass-fail as part of the ongoing evaluation of the standardized entry-level driver training curriculum.

*Transport of Empty Passenger CMVs by CDL Holders Without a P or S Endorsement (49 CFR 383.93(b))*

The FMCSA also proposes to exempt CDL holders operating CMVs designed to carry passengers, including school buses, from having a P or S endorsement when the CMV is empty of passengers and the driver is transporting the CMV from the manufacturer, the distributor or in a driveaway-towaway operation. ABA supports this change because it would provide increased flexibility to motorcoach and school bus operators who are removing mechanically challenged vehicles from the roadway. At a time of driver shortages, the increased flexibility will also allow operators to use qualified mechanical personnel to troubleshoot and evaluate operating problems through road-testing, as well as utilize mechanics to shift vehicles between operational staging areas and maintenance facilities using the highways. This maximization of available resources will lead to increased operational efficiencies. This change will also make the delivery of vehicles by manufacturers and distributors to customers far less complicated. Many diesel mechanics and transport drivers come from the trucking industry and have a Class-A CDL. There is limited efficiency in requiring them to secure an additional endorsement, plus delay aspects of their employment when they are not operating these vehicles in revenue service or in interstate commerce. The added time and expense for an additional endorsement is not necessary and we concur with the proposed removal of this requirement.

In closing, ABA appreciates FMCSA efforts to assist with testing delays and current driver shortages by updating the CDL requirements. As noted, these changes are a logical progression from establishment of the ELDT program and its benefits, and they result in streamlining the CDL credentialing process while maintaining high safety standards. One final request ABA has, though, is for FMCSA to encourage SDLA's to avail themselves of these flexibilities once finalized. As such changes are not mandatory, the benefits of this proposal will only be achieved if they are widely adopted by SDLAs. We appreciate your consideration of our comments and commitment to highway safety.

Sincerely,



Brandon Buchanan  
Director of Regulatory Affairs