



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0130]

Commercial Driver's License: Application for Exemption; Missouri Department of Revenue (DOR)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant a limited exemption to the Missouri Department of Revenue (DOR), Driver's License Bureau, and, at their option, all other State driver licensing agencies (SDLAs), from the commercial driver's license (CDL) regulations. These regulations require a driver to pass the general knowledge test before being issued a Commercial Learner's Permit (CLP). The Missouri DOR requested an exemption from the knowledge test requirement for qualified current or former military personnel who participated in training in military heavy-vehicle driving programs. The Missouri DOR contends that qualified personnel who participated in such training have already received numerous hours of classroom training, practical skills training, and one-on-one road training that are essential for safe driving.

DATES: The exemption is effective from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through [INSERT DATE TWO YEARS FOLLOWING PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and

5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614-942-6477. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2016-0130” in the “Keyword” box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which the exemption is granted. The notice must also specify the effective period of the exemption, and explain its terms and conditions. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The Missouri DOR requested an exemption from 49 CFR 383.71(a)(2)(ii), which requires any person applying for a Commercial Learner's Permit (CLP) on or after July 8, 2015, to have taken and passed a general knowledge test that meets the Federal standards contained in subparts F, G and H of 49 CFR part 383 for the commercial vehicle group that person operates or expects to operate. The Missouri DOR requested

an exemption from the knowledge test requirements for trained military truck drivers, in effect giving designated drivers credit for military training and experience.

The Missouri DOR provided a number of reasons for its application. It contends that qualified veterans who completed military heavy-vehicle driver training programs have already received numerous hours of classroom training, practical skills training, and one-on-one road training that are essential for safe driving. Other reasons for their request included:

- The hours of training in these military programs exceeds hours required by FMCSA's proposed entry-level driver training rule. The skill level required by military courses is comparable to that needed to pass the American Association of Motor Vehicle Administrators (AAMVA) 2005 CDL Test Model (amended 2010);
- Military personnel who complete specialized driver training are assigned duties where their driving skills are applied and used on a frequent basis, an obvious asset in civilian life; and
- The trucking industry predicts a growing shortage of new drivers. Providing this incentive will helpfully assist trained military truck drivers' transition into civilian jobs.

IV. Public Comments

On April 20, 2016, FMCSA published notice of this application and requested public comments (81 FR 23349). The Minnesota Department of Motor Vehicle Safety, the North Dakota Department of Transportation, and the Advocates for Highway and Auto Safety (Advocates) filed comments opposing the exemption. The North Dakota

Department of Transportation stated that the exemption should not be granted until there are assurances that military training in lieu of the State knowledge test meets the requirements in 49 CFR 383.111, Required knowledge. The Minnesota Department of Motor Vehicle Safety suggested that, in lieu of granting this exemption request, the military's training and licensing programs could be accepted as SDLA programs; i.e., military licenses could be treated as equivalent to a CDL.

The Advocates pointed out that the current skills test exemption in § 383.77 requires applicants to provide evidence that they were regularly employed within the last 90 days in a military position requiring the operation of a CMV. Advocates expressed concern that the Missouri DOR application did not include a similar experience requirement for ex-military personnel seeking a knowledge test exemption. Such a requirement should be included if the Agency grants the application to ensure that the knowledge obtained in the military has not diminished over an extended period of time. However, Advocates argues that making this exemption available to all 50 States and the District of Columbia is a permanent and material revision of Federal regulations that must be done through formal rulemaking allowing for review and comment by the public, including SDLAs.

V. FMCSA Response

FMCSA disagrees with the North Dakota Department of Transportation comments that this exemption should not be granted until there are assurances that military training in lieu of the State knowledge tests meets the requirements in 49 CFR 383.111. The training provided by these specialized military programs includes many hours of classroom training (typically based on FMCSA's own regulations, including all

of the elements of § 383.111), practical skills training, and on-the-road training, followed by actual driving in support of the military mission. There is no reason to believe that military training is deficient compared to the requirements of § 383.111. FMCSA further disagrees with the Minnesota Department of Motor Vehicle Safety's suggestion that in lieu of granting this exemption request, the military's licensing and training program should be accepted as an SDLA program. Such an action would first require extensive legal analysis and would be very complex in any case.

The limited exemption approved today allows the States to waive the CDL knowledge test but does not require them to do so. The Agency expects few SDLAs to participate due to a lack of demand in their geographical areas and the administrative burden involved. However, because FMCSA cannot predict which State SDLAs may want to use this exemption, the Agency has made it available to all States. SDLAs that choose to participate will be able to establish their own administrative procedures to implement the exemption, e.g., policies for acceptable documentation showing that the applicant has received the required military heavy-vehicle operation training, and has been employed in the past year in a position requiring such duties.

Although Missouri used the term "veterans" in its application, to add clarity and be consistent with similar programs, we have expanded the eligibility to include "current or former members of the military services (including Reserve and National Guard units), who have been regularly employed within the last year in a military position that requires operation of large trucks, and have received formal military training for that duty." This is consistent with comments filed by Advocates.

VI. FMCSA Decision

FMCSA has evaluated Missouri DOR's application and the public comments and decided to grant the exemption. FMCSA agrees with the reasons for the request made by the Missouri DOR. The two primary reasons were that the training provided by these specialized military programs includes many hours of classroom training, practical skills training, and on-the-road training that are essential for safe driving. In addition, the hours of training in these programs is in excess of the training proposed in FMCSA's own entry-level driver training rule (81 FR 11944, March 7, 2016), and is comparable to the skills needed to pass the AAMVA CDL test model. FMCSA has concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

VII. Terms and Conditions

The following are the Terms and Conditions of this exemption:

- (1) SDLAs may, at their discretion, issue CLP/CDLs to qualifying applicants as described below, without these applicants being required to complete the knowledge test required by 49 CFR 383.71(a)(2)(ii).
- (2) "Qualifying applicants" must:
 - (a) Be current or former members of the military services (including Reserve and National Guard units),
 - (b) Have been regularly employed within the year prior to application in a military position that requires operation of large trucks, and
 - (c) Have received formal military training for that duty.
- (3) Participating SDLAs may establish their own requirements and administrative procedures for verifying the eligibility of applicants.

Issued on: October 20, 2016

T.F. Scott Darling, III
Administrator

[FR Doc. 2016-25965 Filed: 10/26/2016 8:45 am; Publication Date: 10/27/2016]