



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2019-0044]**

**Commercial Driver's License: Ohio Department of Public Safety; Application for Exemption**

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

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that it has received an application from the Ohio Department of Public Safety (DPS) for a limited exemption from the Agency's commercial driver's license (CDL) regulations. The Ohio DPS requests an exemption to modify the mandatory skills test requirements for qualified veterans who served in the military. The Ohio DPS states that its goal is to promote the opportunities for experienced commercial motor vehicle (CMV) operators who have served in the military by reducing the regulatory burden for obtaining a CDL. FMCSA requests public comment on the Ohio DPS's application for exemption. In addition, because the issue concerning the Ohio DPS request could be applicable in each of the States, FMCSA requests public comment on whether the exemption should cover all State driver licensing agencies (SDLAs), if granted.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2019-0044 by any of the following methods:

- Federal Rulemaking Portal: [www.regulations.gov](http://www.regulations.gov). See the Public Participation and Request for Comments section below for further information.

- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to [www.regulations.gov](http://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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-2722. E-mail: [MCPD@dot.gov](mailto:MCPD@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 and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2019-0044), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number, "FMCSA-2019-0044" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and

would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

## **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). 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 public comments submitted, 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 reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

## **III. Request for Exemption**

The Ohio Department of Public Safety (DPS) requests an exemption from the requirement that an applicant in the skills test waiver certify that he/she (1) is regularly employed or was so employed within the last year in a military position requiring operation of a CMV, and (2) operated a vehicle representative of the CMV that operates or expects to operate for at least 2-years immediately preceding discharge from the military 49 CFR 383.77(b)(1) and (3). In lieu of 49 CFR 383.77(b)(1) and (3), DPS is proposing that the applicant be required to have held a military position that required operation of a CMV for at least 2 years during the applicant's military career. Eliminating the requirement of holding said position within a year from being discharged and the requirement of operating a vehicle representative of the CMV operating or expecting to operate at least the 2-years immediately preceding discharge from military.

The State of Ohio currently grants a CDL applicant a waiver of the skills test otherwise required by 49 CFR 383.113. The State of Ohio skills test waiver process consists of a qualifying applicant submitting the following documentation to the Bureau of Motor Vehicles: 1) a violation-free driving record for the last two years; 2) proof of military service within the last year in a position requiring CMV operation; and 3) proof of experience operating a representative vehicle which was exempt from the 49 CFR 383.3(c) requirements for at least two years immediately preceding the application date or at least two years preceding the discharge date if separated from the military within the last year. In addition to the above listed documentation, applicants must submit the applicable State waiver form. According to the Ohio DPS, the State's skills test waiver form is similar to FMCSA's Application for Military Skills Test Waiver form, currently found on FMCSA's website.

The Ohio DPS contends that the goal of its request is to promote the opportunities for experienced CMV operators who have served in the military by reducing the regulatory burden of obtaining a CDL. By doing so, it is the hope that an increase in the population of available CDL holders will benefit the Ohio transportation industry, and create better civilian employment opportunities for Ohio veterans and service members.

In addition, because the issue concerning the Ohio DPS request could be applicable in each of the States, FMCSA requests public comment on whether the exemption should cover all SDLAs, if granted.

A copy of the Ohio DPS's application for exemption is available for review in the docket for this notice.

Issued on: April 11, 2019.

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Larry W. Minor,  
Associate Administrator for Policy.

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