

Assembly Bill No. 2188

CHAPTER 670

An act to amend Sections 2800, 12517.2, 12804.9, 13353.7, 15210, and 15250 of, to amend, repeal, and add Sections 12502 and 14606 of, and to add Section 15326 to, the Vehicle Code, relating to commercial motor vehicles.

[Approved by Governor September 27, 2012. Filed with
Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2188, Bonnie Lowenthal. Commercial motor vehicles: commercial driver's license program: federal compliance.

(1) Existing law declares the intent of the Legislature to adopt those standards required of drivers by the Federal Highway Administration of the United States Department of Transportation, as set forth in the Commercial Motor Vehicle Safety Act of 1986 and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by permitting drivers to hold only one license, disqualifying drivers for certain criminal offenses and serious traffic violations, and strengthening licensing and testing standards.

Existing law disqualifies a driver from operating a commercial motor vehicle for one year if the driver is convicted of a serious traffic violation involving a commercial or noncommercial motor vehicle occurring within 3 years of conviction of a separate serious traffic violation. Operating a vehicle while disqualified is a crime.

This bill would make changes to the requirements applicable to the holding of commercial driver's licenses regarding, among other things, medical certifications, military exemptions, out-of-service order violations, and violations occurring in other jurisdictions, to conform to federal law.

This bill would make other changes to ensure compliance with federal regulations, including, among other things, adding second and subsequent convictions for texting while driving as a serious traffic violation, which disqualifies a driver from operating a commercial motor vehicle for a specified time period. By expanding the scope of an existing crime, the bill would create a state-mandated local program. The bill would also make technical and conforming changes and delete obsolete references in these provisions.

(2) This bill would also incorporate additional changes to Section 12804.9 of the Vehicle Code proposed by SB 1310, to become operative only if SB 1310 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

(3) This bill would incorporate additional changes to Section 15250 of the Vehicle Code proposed by AB 2659, to become operative only if AB

2659 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 2800 of the Vehicle Code is amended to read:

2800. (a) It is unlawful to willfully fail or refuse to comply with a lawful order, signal, or direction of a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, when that peace officer is in uniform and is performing duties pursuant to any of the provisions of this code, or to refuse to submit to a lawful inspection pursuant to this code.

(b) (1) Except as authorized pursuant to Section 24004, it is unlawful to fail or refuse to comply with a lawful out-of-service order issued by an authorized employee of the Department of the California Highway Patrol or by an authorized enforcement officer as described in subdivision (d).

(2) It is unlawful for a driver transporting hazardous materials in a commercial motor vehicle that is required to display a placard pursuant to Section 27903 to violate paragraph (1).

(3) It is unlawful for a driver of a vehicle designed to transport 16 or more passengers, including the driver, to violate paragraph (1).

(c) It is unlawful to fail or refuse to comply with a lawful out-of-service order issued by the United States Secretary of the Department of Transportation.

(d) "Out-of-Service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to Section 386.72, 392.5, 392.9a, 395.13, or 396.9 of Title 49 of the Code of Federal Regulations, state law, or the North American Standard Out-of-Service Criteria.

SEC. 2. Section 12502 of the Vehicle Code is amended to read:

12502. (a) The following persons may operate a motor vehicle in this state without obtaining a driver's license under this code:

(1) A nonresident over the age of 18 years having in his or her immediate possession a valid driver's license issued by a foreign jurisdiction of which he or she is a resident, except as provided in Section 12505.

(2) A nonresident, 21 years of age or older, if transporting hazardous material, as defined in Section 353, in a commercial vehicle, having in his or her immediate possession, a valid license with the appropriate endorsement issued by another state or other jurisdiction that is recognized by the department, or a Canadian driver's license and a copy of his or her

current training certificate to transport hazardous material that complies with all federal laws and regulations with respect to hazardous materials, both of which shall be in his or her immediate possession.

(3) A nonresident having in his or her immediate possession a valid driver's license, issued by the Diplomatic Motor Vehicle Office of the Office of Foreign Missions of the United States Department of State, for the type of motor vehicle or combination of vehicles that the person is operating.

(b) Any person entitled to the exemption contained in subdivision (a), while operating, within this state, a commercial motor vehicle, as defined in subdivision (b) of Section 15210, shall have in his or her possession a current medical certificate of a type described in subdivision (c) of Section 12804.9, that has been issued within two years of the date of operation of the vehicle.

(c) A nonresident possessing a medical certificate in accordance with subdivision (b) shall comply with any restriction of the medical certificate issued to that nonresident.

(d) This section shall remain in effect only until January 30, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 30, 2014, deletes or extends that date.

SEC. 2.5. Section 12502 is added to the Vehicle Code, to read:

12502. (a) The following persons may operate a motor vehicle in this state without obtaining a driver's license under this code:

(1) A nonresident over the age of 18 years having in his or her immediate possession a valid driver's license issued by a foreign jurisdiction of which he or she is a resident, except as provided in Section 12505.

(2) A nonresident, 21 years of age or older, if transporting hazardous material, as defined in Section 353, in a commercial vehicle, having in his or her immediate possession, a valid license with the appropriate endorsement issued by another state or other jurisdiction that is recognized by the department, or a Canadian driver's license and a copy of his or her current training certificate to transport hazardous material that complies with all federal laws and regulations with respect to hazardous materials, both of which shall be in his or her immediate possession.

(3) A nonresident having in his or her immediate possession a valid driver's license, issued by the Diplomatic Motor Vehicle Office of the Office of Foreign Missions of the United States Department of State, for the type of motor vehicle or combination of vehicles that the person is operating.

(b) (1) A driver required to have a commercial driver's license under Part 383 of Title 49 of the Code of Federal Regulations who submits a current medical examiner's certificate to the licensing state in accordance with Section 383.71(h) of Subpart E of Part 383 of Title 49 of the Code of Federal Regulations, documenting that he or she meets the physical qualification requirements of Section 391.41 of Subpart E of Part 391 of Title 49 of the Code of Federal Regulations, is not required to carry on his or her person the medical examiner's certificate or a copy of that certificate.

(2) A driver may use the date-stamped receipt, given to the driver by the licensing state agency, for up to 15 days after the date stamped on the receipt, as proof of medical certification.

(c) A nonresident possessing a medical certificate in accordance with subdivision (b) shall comply with any restriction of the medical certificate issued to that nonresident.

(d) This section shall become operative on January 31, 2014.

SEC. 3. Section 12517.2 of the Vehicle Code is amended to read:

12517.2. (a) Applicants for an original or renewal certificate to drive a schoolbus, school pupil activity bus, youth bus, general public paratransit vehicle, or farm labor vehicle shall submit a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine, a licensed advanced practice registered nurse qualified to perform a medical examination, or a licensed physician assistant. The report shall be on a form approved by the department.

(b) Schoolbus drivers, within the same month of reaching 65 years of age and each 12th month thereafter, shall undergo a medical examination, pursuant to Section 12804.9, and shall submit a report of that medical examination on a form as specified in subdivision (a).

SEC. 4. Section 12804.9 of the Vehicle Code is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination for any applicant who submits a license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico if the department verifies through any acknowledged national driver record data source that there are no stops, holds, or other impediments to its issuance. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(E) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any grounds exist for refusal of a license under this code.

(2) (A) Before a class A or class B driver's license, or class C driver's license with a commercial endorsement, may be issued or renewed, the applicant shall have in his or her driver record a valid report of a medical examination of the applicant given not more than two years prior to the date of the application by a health care professional. As used in this paragraph, "health care professional" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to practice medicine and perform physical examinations in the United States. Health care professionals are doctors of medicine, doctors of osteopathy, physician assistants, and registered advanced practice nurses, or doctors of chiropractic who are clinically competent to perform the medical examination presently required of motor carrier drivers by the United States Department of Transportation. The report shall be on a form approved by the department. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Motor Carrier Safety Administration.

(B) The department may accept a federal waiver of one or more physical qualification standards if the waiver is accompanied by a report of a nonqualifying medical examination for a class A or class B driver's license, or class C driver's license with a commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of Subpart E of Part 391 of Title 49 of the Code of Federal Regulations.

(3) A physical defect of the applicant that, in the opinion of the department, is compensated for to ensure safe driving ability, shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, an applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a combination of vehicles, if a vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) A vehicle towing more than one vehicle.

(C) A trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) A single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) A bus except a trailer bus.

(D) A farm labor vehicle.

(E) A single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) A house car over 40 feet in length, excluding safety devices and safety bumpers.

(G) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) A two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), a two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) A house car of 40 feet in length or less.

(D) A three-axle vehicle weighing 6,000 pounds gross or less.

(E) A house car of 40 feet in length or less or a vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. A person driving a vehicle may not tow another vehicle in violation of Section 21715.

(F) (i) A two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) A two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway.

The authority to operate combinations of vehicles under this subparagraph may be granted by endorsement on a class C license upon completion of that written examination.

(G) A vehicle or combination of vehicles with a gross combination weight rating or a gross vehicle weight rating, as those terms are defined in subdivisions (j) and (k), respectively, of Section 15210, of 26,000 pounds or less, if all of the following conditions are met:

(i) Is operated by a farmer, an employee of a farmer, or an instructor credentialed in agriculture as part of an instructional program in agriculture at the high school, community college, or university level.

(ii) Is used exclusively in the conduct of agricultural operations.

(iii) Is not used in the capacity of a for-hire carrier or for compensation.

(H) Firefighting equipment, provided that the equipment is operated by a person who holds a firefighter endorsement pursuant to Section 12804.11.

(I) A motorized scooter.

(J) Class C does not include a two-wheel motorcycle or a two-wheel motor-driven cycle.

(4) Class M1. A two-wheel motorcycle or a motor-driven cycle. Authority to operate a vehicle included in a class M1 license may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) (A) Class M2 includes the following:

(i) A motorized bicycle or moped, or a bicycle with an attached motor, except a motorized bicycle described in subdivision (b) of Section 406.

(ii) A motorized scooter.

(B) Authority to operate vehicles included in class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination, except that no endorsement is required for a motorized scooter. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) A driver's license or driver certificate is not valid for operating a commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold any driver certificate or any driver's license endorsement under Section 15275, unless a medical certificate approved by the department that has been issued within two years of the date of the operation of that vehicle and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise, the license is valid only for operating class C vehicles that are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, that are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) is valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled. Upon application for renewal or replacement of a driver's license, endorsement, or certificate required to operate a commercial motor vehicle, a valid medical certificate on a form approved by the department shall be submitted to the department.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) The department may accept a certificate of satisfactory completion of a novice motorcyclist training program approved by the commissioner pursuant to Section 2932 in lieu of a driving test on class M1 or M2 applications, if the applicant has met the other examination requirements for the license for which he or she is applying. The department shall review and approve the written and driving test used by a program to determine whether the program may issue a certificate of completion.

(h) Notwithstanding subdivision (b), a person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this subdivision, "short-term" means 48 hours or less.

(i) A person under the age of 21 years shall not be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(j) A driver of a vanpool vehicle may operate with a class C license but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit-and-run offense in the last five years.

SEC. 4.5. Section 12804.9 of the Vehicle Code is amended to read:

12804.9. (a) (1) The examination shall include all of the following:

(A) A test of the applicant's knowledge and understanding of this code governing the operation of vehicles upon the highways.

(B) A test of the applicant's ability to read and understand simple English used in highway traffic and directional signs.

(C) A test of the applicant's understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation.

(D) A test of the applicant's understanding of the distractions and dangers of handheld cellular phone use and text messaging while operating a motor vehicle.

(E) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in operating a motor vehicle by driving it under the supervision of an examining officer. The applicant shall submit to an examination appropriate to the type of motor vehicle or combination of vehicles he or she desires a license to drive, except that the department may waive the driving test part of the examination for an applicant who submits a license issued by another state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico if the department verifies through an acknowledged national driver record data source that there are no stops, holds, or other impediments to its issuance. The examining officer may request to see evidence of financial responsibility for the vehicle prior to supervising the demonstration of the applicant's

ability to operate the vehicle. The examining officer may refuse to examine an applicant who is unable to provide proof of financial responsibility for the vehicle, unless proof of financial responsibility is not required by this code.

(F) A test of the hearing and eyesight of the applicant, and of other matters that may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways, and whether any grounds exist for refusal of a license under this code.

(2) (A) Before a class A or class B driver's license, or class C driver's license with a commercial endorsement, may be issued or renewed, the applicant shall have in his or her driver record a valid report of a medical examination of the applicant given not more than two years prior to the date of the application by a health care professional. As used in this paragraph, "health care professional" means a person who is licensed, certified, or registered in accordance with applicable state laws and regulations to practice medicine and perform physical examinations in the United States. Health care professionals are doctors of medicine, doctors of osteopathy, physician assistants, and advanced practice registered nurses, or doctors of chiropractic who are clinically competent to perform the medical examination presently required of motor carrier drivers by the United States Department of Transportation. The report shall be on a form approved by the department. In establishing the requirements, consideration may be given to the standards presently required of motor carrier drivers by the Federal Motor Carrier Safety Administration.

(B) The department may accept a federal waiver of one or more physical qualification standards if the waiver is accompanied by a report of a nonqualifying medical examination for a class A or class B driver's license, or class C driver's license with a commercial endorsement, pursuant to Section 391.41(a)(3)(ii) of Subpart E of Part 391 of Title 49 of the Code of Federal Regulations.

(3) A physical defect of the applicant that, in the opinion of the department, is compensated for to ensure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications, an applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles the applicant desires a license to drive:

(1) Class A includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a combination of vehicles, if a vehicle being towed has a gross vehicle weight rating of more than 10,000 pounds.

(B) A vehicle towing more than one vehicle.

(C) A trailer bus.

(D) The operation of all vehicles under class B and class C.

(2) Class B includes the following:

(A) Except as provided in subparagraph (H) of paragraph (3), a single vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) A single vehicle with three or more axles, except any three-axle vehicle weighing less than 6,000 pounds.

(C) A bus except a trailer bus.

(D) A farm labor vehicle.

(E) A single vehicle with three or more axles or a gross vehicle weight rating of more than 26,000 pounds towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(F) A house car over 40 feet in length, excluding safety devices and safety bumpers.

(G) The operation of all vehicles covered under class C.

(3) Class C includes the following:

(A) A two-axle vehicle with a gross vehicle weight rating of 26,000 pounds or less, including when the vehicle is towing a trailer or semitrailer with a gross vehicle weight rating of 10,000 pounds or less.

(B) Notwithstanding subparagraph (A), a two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross.

(C) A house car of 40 feet in length or less.

(D) A three-axle vehicle weighing 6,000 pounds gross or less.

(E) A house car of 40 feet in length or less or a vehicle towing another vehicle with a gross vehicle weight rating of 10,000 pounds or less, including when a tow dolly is used. A person driving a vehicle shall not tow another vehicle in violation of Section 21715.

(F) (i) A two-axle vehicle weighing 4,000 pounds or more unladen when towing either a trailer coach or a fifth-wheel travel trailer not exceeding 10,000 pounds gross vehicle weight rating, when the towing of the trailer is not for compensation.

(ii) A two-axle vehicle weighing 4,000 pounds or more unladen when towing a fifth-wheel travel trailer exceeding 10,000 pounds, but not exceeding 15,000 pounds, gross vehicle weight rating, when the towing of the trailer is not for compensation, and if the person has passed a specialized written examination provided by the department relating to the knowledge of this code and other safety aspects governing the towing of recreational vehicles upon the highway.

(iii) The authority to operate combinations of vehicles under this subparagraph may be granted by endorsement on a class C license upon completion of that written examination.

(G) A vehicle or combination of vehicles with a gross combination weight rating or a gross vehicle weight rating, as those terms are defined in subdivisions (j) and (k), respectively, of Section 15210, of 26,000 pounds or less, if all of the following conditions are met:

(i) Is operated by a farmer, an employee of a farmer, or an instructor credentialed in agriculture as part of an instructional program in agriculture at the high school, community college, or university level.

(ii) Is used exclusively in the conduct of agricultural operations.

(iii) Is not used in the capacity of a for-hire carrier or for compensation.

(H) Firefighting equipment, provided that the equipment is operated by a person who holds a firefighter endorsement pursuant to Section 12804.11.

(I) A motorized scooter.

(J) Class C does not include a two-wheel motorcycle or a two-wheel motor-driven cycle.

(4) Class M1 includes a two-wheel motorcycle or a motor-driven cycle. Authority to operate a vehicle included in a class M1 license may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination.

(5) (A) Class M2 includes the following:

(i) A motorized bicycle or moped, or a bicycle with an attached motor, except a motorized bicycle described in subdivision (b) of Section 406.

(ii) A motorized scooter.

(B) Authority to operate vehicles included in class M2 may be granted by endorsement on a class A, B, or C license upon completion of an appropriate examination, except that no endorsement is required for a motorized scooter. Persons holding a class M1 license or endorsement may operate vehicles included in class M2 without further examination.

(c) A driver's license or driver certificate is not valid for operating a commercial motor vehicle, as defined in subdivision (b) of Section 15210, any other motor vehicle defined in paragraph (1) or (2) of subdivision (b), or any other vehicle requiring a driver to hold a driver certificate or a driver's license endorsement under Section 15275, unless a medical certificate approved by the department that has been issued within two years of the date of the operation of that vehicle and a copy of the medical examination report from which the certificate was issued is on file with the department. Otherwise, the license is valid only for operating class C vehicles that are not commercial vehicles, as defined in subdivision (b) of Section 15210, and for operating class M1 or M2 vehicles, if so endorsed, that are not commercial vehicles, as defined in subdivision (b) of Section 15210.

(d) A license or driver certificate issued prior to the enactment of Chapter 7 (commencing with Section 15200) is valid to operate the class or type of vehicles specified under the law in existence prior to that enactment until the license or certificate expires or is otherwise suspended, revoked, or canceled. Upon application for renewal or replacement of a driver's license, endorsement, or certificate required to operate a commercial motor vehicle, a valid medical certificate on a form approved by the department shall be submitted to the department.

(e) The department may accept a certificate of driving skill that is issued by an employer, authorized by the department to issue a certificate under Section 15250, of the applicant, in lieu of a driving test, on class A or B applications, if the applicant has first qualified for a class C license and has met the other examination requirements for the license for which he or she is applying. The certificate may be submitted as evidence of the applicant's skill in the operation of the types of equipment covered by the license for which he or she is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class M1 or M2 applications, when the certificate is issued by a law enforcement agency for its officers who operate class M1 or M2 vehicles in their duties, if the applicant has met the other examination requirements for the license for which he or she is applying.

(g) The department may accept a certificate of satisfactory completion of a novice motorcyclist training program approved by the commissioner pursuant to Section 2932 in lieu of a driving test on class M1 or M2 applications, if the applicant has met the other examination requirements for the license for which he or she is applying. The department shall review and approve the written and driving test used by a program to determine whether the program may issue a certificate of completion.

(h) Notwithstanding subdivision (b), a person holding a valid California driver's license of any class may operate a short-term rental motorized bicycle without taking a special examination for the operation of a motorized bicycle, and without having a class M2 endorsement on that license. As used in this subdivision, "short-term" means 48 hours or less.

(i) A person under 21 years of age shall not be issued a class M1 or M2 license or endorsement unless he or she provides evidence satisfactory to the department of completion of a motorcycle safety training program that is operated pursuant to Article 2 (commencing with Section 2930) of Chapter 5 of Division 2.

(j) A driver of a vanpool vehicle may operate with a class C license but shall possess evidence of a medical examination required for a class B license when operating vanpool vehicles. In order to be eligible to drive the vanpool vehicle, the driver shall keep in the vanpool vehicle a statement, signed under penalty of perjury, that he or she has not been convicted of reckless driving, drunk driving, or a hit-and-run offense in the last five years.

SEC. 5. Section 13353.7 of the Vehicle Code is amended to read:

13353.7. (a) Subject to subdivision (c), if the person whose driving privilege has been suspended under Section 13353.2 has not been convicted of, or found to have committed, a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153 of this code, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense that occurred on a separate occasion within 10 years of the occasion in question and, if the person subsequently enrolls in a driving-under-the-influence program licensed under Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23538, that person, if 21 years of age or older at the time the offense occurred, may apply to the department for a restricted driver's license limited to travel to and from the activities required by the program and to and from and in the course of the person's employment. After receiving proof of enrollment in the program, and if the person has not been arrested subsequent to the offense for which the person's driving privilege has been suspended under Section 13353.2 for a violation of Section 23103, as specified in Section 23103.5,

or Section 23140, 23152, or 23153 of this code, or Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code, and if the person's privilege to operate a motor vehicle has not been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense that occurred on a separate occasion, notwithstanding Section 13551, the department shall, after review pursuant to Section 13557, suspend the person's privilege to operate a motor vehicle for 30 days and then issue the person a restricted driver's license under the following conditions:

(1) The program shall report any failure to participate in the program to the department and shall certify successful completion of the program to the department.

(2) The person was 21 years of age or older at the time the offense occurred and gives proof of financial responsibility as defined in Section 16430.

(3) The restriction shall be imposed for a period of five months.

(4) If a person who has been issued a restricted license under this section fails at any time to participate in the program, the department shall suspend the restricted license immediately. The department shall give notice of the suspension under this paragraph in the same manner as prescribed in subdivision (b) of Section 13353.2 for the period specified in Section 13353.3, that is effective upon receipt by the person.

(b) Notwithstanding subdivision (a), and upon a conviction of Section 23152 or 23153, the department shall suspend or revoke the person's privilege to operate a motor vehicle under Section 13352.

(c) If the driver was operating a commercial vehicle, as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving privilege under Section 13353.2, the department shall, pursuant to this section, if the person is otherwise eligible, issue the person a class C or class M driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (a), except that the license may not allow travel to and from or in the course of the person's employment.

(d) If the holder of a commercial driver's license was operating a motor vehicle, other than a commercial vehicle as defined in Section 15210, at the time of the violation that resulted in the suspension of that person's driving privilege pursuant to Section 13353.2, the department shall, pursuant to this section, if the person is otherwise eligible, issue the person a class C or class M driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (a).

(e) This section does not apply to a person whose driving privilege has been suspended or revoked pursuant to Section 13353 or 13353.2 for an offense that occurred on a separate occasion, or as a result of a conviction of a separate violation of Section 23103, as specified in Section 23103.5, or Section 23140, 23152, or 23153, when that violation occurred within 10 years of the offense in question. This subdivision shall be operative only so long as a one-year suspension of the driving privilege for a second or subsequent occurrence or offense, with no restricted or hardship licenses

permitted, is required by Section 408 or 410 of Title 23 of the United States Code.

SEC. 6. Section 14606 of the Vehicle Code is amended to read:

14606. (a) A person shall not employ or hire any person to drive a motor vehicle or knowingly permit or authorize the driving of a motor vehicle, owned by him or her or under his or her control, upon the highways by any person unless that person is licensed for the appropriate class of vehicle to be driven.

(b) (1) Whenever a person fails to qualify, on reexamination, to operate a commercial motor vehicle, an employer shall report that failure to the department within 10 days.

(2) Until January 30, 2014, if a driver has no medical certification status information in the Commercial Driver License Information System motor vehicle record obtained from the driver's state licensing agency, the employing motor carrier may accept as proof of medical certification a medical examiner's certificate issued to that driver prior to January 30, 2012, and shall retain a copy as part of a driver qualification file.

(c) This section shall remain in effect only until January 30, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 30, 2014, deletes or extends that date.

SEC. 7. Section 14606 is added to the Vehicle Code, to read:

14606. (a) A person shall not employ, hire, knowingly permit, or authorize any person to drive a motor vehicle owned by him or her or under his or her control upon the highways unless that person is licensed for the appropriate class of vehicle to be driven.

(b) Whenever a person fails to qualify, on reexamination, to operate a commercial motor vehicle, an employer shall report that failure to the department within 10 days.

(c) An employer shall obtain from a driver required to have a commercial driver's license or commercial endorsement a copy of the driver's medical certification before allowing the driver to operate a commercial motor vehicle. The employer shall retain the certification as part of a driver qualification file.

(d) This section shall become operative on January 1, 2014.

SEC. 8. Section 15210 of the Vehicle Code is amended to read:

15210. Notwithstanding any other provision of this code, as used in this chapter, the following terms have the following meanings:

(a) "Commercial driver's license" means a driver's license issued by a state or other jurisdiction, in accordance with the standards contained in Part 383 of Title 49 of the Code of Federal Regulations, which authorizes the licenseholder to operate a class or type of commercial motor vehicle.

(b) (1) "Commercial motor vehicle" means any vehicle or combination of vehicles that requires a class A or class B license, or a class C license with an endorsement issued pursuant to paragraph (5) of subdivision (a) of Section 15278.

(2) "Commercial motor vehicle" does not include any of the following:

(A) A recreational vehicle, as defined in Section 18010 of the Health and Safety Code.

(B) An implement of husbandry operated by a person who is not required to obtain a driver's license under this code.

(C) Vehicles operated by persons exempted pursuant to Section 25163 of the Health and Safety Code or a vehicle operated in an emergency situation at the direction of a peace officer pursuant to Section 2800.

(c) "Controlled substance" has the same meaning as defined by the federal Controlled Substances Act (21 U.S.C. Sec. 802).

(d) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(e) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(f) "Driving a commercial vehicle under the influence" means committing any one or more of the following unlawful acts in a commercial motor vehicle:

(1) Driving a commercial motor vehicle while the operator's blood-alcohol concentration level is 0.04 percent or more, by weight in violation of subdivision (d) of Section 23152.

(2) Driving under the influence of alcohol, as prescribed in subdivision (a) or (b) of Section 23152.

(3) Refusal to undergo testing as required under this code in the enforcement of Subpart D of Part 383 or Subpart A of Part 392 of Title 49 of the Code of Federal Regulations.

(g) "Employer" means any person, including the United States, a state, or political subdivision of a state, who owns or leases a commercial motor vehicle or assigns drivers to operate that vehicle. A person who employs himself or herself as a commercial vehicle driver is considered to be both an employer and a driver for purposes of this chapter.

(h) "Fatality" means the death of a person as a result of a motor vehicle accident.

(i) "Felony" means an offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(j) "Gross combination weight rating" means the value specified by the manufacturer as the maximum loaded weight of a combination or articulated vehicle. In the absence of a value specified by the manufacturer, gross vehicle weight rating will be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed units and any load thereon.

(k) “Gross vehicle weight rating” means the value specified by the manufacturer as the maximum loaded weight of a single vehicle, as defined in Section 390.

(l) “Imminent hazard” means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur before the reasonable foreseeable completion date of a formal proceeding begun to lessen the risk of death, illness, injury, or endangerment.

(m) “Noncommercial motor vehicle” means a motor vehicle or combination of motor vehicles that is not included within the definition in subdivision (b).

(n) “Nonresident commercial driver’s license” means a commercial driver’s license issued to an individual by a state under one of the following provisions:

(1) The individual is domiciled in a foreign country.

(2) The individual is domiciled in another state.

(o) “Schoolbus” is a commercial motor vehicle, as defined in Section 545.

(p) “Serious traffic violation” includes any of the following:

(1) Excessive speeding, as defined pursuant to the federal Commercial Motor Vehicle Safety Act (P.L. 99-570) involving any single offense for any speed of 15 miles an hour or more above the posted speed limit.

(2) Reckless driving, as defined pursuant to the federal Commercial Motor Vehicle Safety Act (P.L. 99-570), and driving in the manner described under Section 2800.1, 2800.2, or 2800.3, including, but not limited to, the offense of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property.

(3) A violation of a state or local law involving the safe operation of a motor vehicle, arising in connection with a fatal traffic accident.

(4) A similar violation of a state or local law involving the safe operation of a motor vehicle, as defined pursuant to the Commercial Motor Vehicle Safety Act (Title XII of P.L. 99-570).

(5) Driving a commercial motor vehicle without a commercial driver’s license.

(6) Driving a commercial motor vehicle without the driver having in his or her possession a commercial driver’s license, unless the driver provides proof at the subsequent court appearance that he or she held a valid commercial driver’s license on the date of the violation.

(7) Driving a commercial motor vehicle when the driver has not met the minimum testing standards for that vehicle as to the class or type of cargo the vehicle is carrying.

(8) Driving a commercial motor vehicle while using an electronic wireless communication device to write, send, or read a text-based communication, as defined in Section 23123.5.

In the absence of a federal definition, existing definitions under this code shall apply.

(q) “State” means a state of the United States or the District of Columbia.

(r) “Tank vehicle” means a commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is permanently or temporarily attached to the vehicle or the chassis, including, but not limited to, cargo tanks and portable tanks, as defined in Part 171 of Title 49 of the Code of Federal Regulations. This definition does not include portable tanks having a rated capacity under 1,000 gallons.

SEC. 9. Section 15250 of the Vehicle Code is amended to read:

15250. (a) (1) A person shall not operate a commercial motor vehicle unless that person has in his or her immediate possession a valid commercial driver’s license of the appropriate class.

(2) A person shall not operate a commercial motor vehicle while transporting hazardous materials unless that person has in his or her possession a valid commercial driver’s license with a hazardous materials endorsement. An instruction permit does not authorize the operation of a vehicle transporting hazardous materials.

(b) (1) Before an application for an original or renewal of a commercial driver’s license with a hazardous materials endorsement is submitted to the United States Transportation Security Administration for the processing of a security threat assessment, as required under Part 1572 of Title 49 of the Code of Federal Regulations, the department shall complete a check of the applicant’s driving record to ensure that the person is not subject to a disqualification under Part 383.51 of Title 49 of the Code of Federal Regulations.

(2) A person shall not be issued a commercial driver’s license until he or she has passed a written and driving test for the operation of a commercial motor vehicle that complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570) and Part 383 of Title 49 of the Code of Federal Regulations, and has satisfied all other requirements of that act as well as any other requirements imposed by this code.

(c) The tests shall be prescribed and conducted by or under the direction of the department. The department may allow a third-party tester to administer the driving test part of the examination required under this section and Section 15275 if all of the following conditions are met:

(1) The tests given by the third party are the same as those that would otherwise be given by the department.

(2) The third party has an agreement with the department that includes, but is not limited to, the following provisions:

(A) Authorization for the United States Secretary of Transportation, or his or her representative, and the department, or its representative, to conduct random examinations, inspections, and audits without prior notice.

(B) Permission for the department, or its representative, to conduct onsite inspections at least annually.

(C) A requirement that all third-party testers meet the same qualification and training standards as the department’s examiners, to the extent necessary to conduct the driving skill tests in compliance with the requirements of Part 383 of Title 49 of the Code of Federal Regulations.

(D) The department may cancel, suspend, or revoke the agreement with a third-party tester if the third-party tester fails to comply with the standards for the commercial driver's license testing program, or with any other term of the third-party agreement, upon 15 days' prior written notice of the action to cancel, suspend, or revoke the agreement by the department to the third party. Any action to appeal or review any order of the department canceling, suspending, or revoking a third-party testing agreement shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.

(E) Any third-party tester whose agreement has been canceled pursuant to subparagraph (D) may immediately apply for a third-party testing agreement.

(F) A suspension of a third-party testing agreement pursuant to subparagraph (D) shall be for a term of less than 12 months as determined by the department. After the period of suspension, the agreement shall be reinstated upon request of the third-party tester.

(G) A revocation of a third-party testing agreement pursuant to subparagraph (D) shall be for a term of not less than one year. A third-party tester may apply for a new third-party testing agreement after the period of revocation and upon submission of proof of correction of the circumstances causing the revocation.

(H) Authorization for the department to charge the third-party tester a fee, as determined by the department, which is sufficient to defray the actual costs incurred by the department for administering and evaluating the third-party testing program, and for carrying out any other activities deemed necessary by the department to ensure sufficient training for the drivers participating in the program.

(3) Except as provided in Section 15250.3, the tests given by the third party shall not be accepted in lieu of tests prescribed and conducted by the department for applicants for a passenger vehicle endorsement specified in paragraph (2) of subdivision (a) of Section 15278, if the applicant operates or will operate a tour bus.

(d) Commercial driver's license applicants who take and pass driving tests administered by a third party shall provide the department with certificates of driving skill satisfactory to the department that the applicant has successfully passed the driving tests administered by the third party.

(e) Implementation dates for the issuance of a commercial driver's license pursuant to this chapter may be established by the department as it determines is necessary to accomplish an orderly commercial driver's license program.

(f) Active duty members of the United States Armed Forces, members of the military reserves, members of the National Guard who are on active duty, including personnel on full-time National Guard duty, personnel on part-time National Guard training, and National Guard military technicians (civilians who are required to wear military uniforms), and active duty personnel of the United States Coast Guard are exempt from all commercial

driver's license requirements and sanctions, as provided in Section 383.3(c) of Subpart A of Part 383 of Title 49 of the Code of Federal Regulations when operating motor vehicles for military purposes. This exception shall not apply to United States Armed Forces reserve technicians.

SEC. 9.5. Section 15250 of the Vehicle Code is amended to read:

15250. (a) (1) A person shall not operate a commercial motor vehicle unless that person has in his or her immediate possession a valid commercial driver's license of the appropriate class.

(2) A person shall not operate a commercial motor vehicle while transporting hazardous materials unless that person has in his or her possession a valid commercial driver's license with a hazardous materials endorsement. An instruction permit does not authorize the operation of a vehicle transporting hazardous materials.

(b) (1) Before an application for an original or renewal of a commercial driver's license with a hazardous materials endorsement is submitted to the United States Transportation Security Administration for the processing of a security threat assessment, as required under Part 1572 of Title 49 of the Code of Federal Regulations, the department shall complete a check of the applicant's driving record to ensure that the person is not subject to a disqualification under Part 383.51 of Title 49 of the Code of Federal Regulations.

(2) (A) A person shall not be issued a commercial driver's license until he or she has passed a written and driving test for the operation of a commercial motor vehicle that complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570) and Part 383 of Title 49 of the Code of Federal Regulations, and has satisfied all other requirements of that act as well as any other requirements imposed by this code.

(B) The driving skills test as specified in Section 383.113 of Title 49 of the Code of Federal Regulations may be waived for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed with the United States Armed Forces at the time of his or her application for a commercial driver's license, and whose driving record in combination with his or her driving experience meets, at a minimum, the conditions required by Section 383.77(a) and (b) of Title 49 of the Code of Federal Regulations.

(c) The tests shall be prescribed and conducted by or under the direction of the department. The department may allow a third-party tester to administer the driving test part of the examination required under this section and Section 15275 if all of the following conditions are met:

(1) The tests given by the third party are the same as those that would otherwise be given by the department.

(2) The third party has an agreement with the department that includes, but is not limited to, the following provisions:

(A) Authorization for the United States Secretary of Transportation, or his or her representative, and the department, or its representative, to conduct random examinations, inspections, and audits without prior notice.

(B) Permission for the department, or its representative, to conduct onsite inspections at least annually.

(C) A requirement that all third-party testers meet the same qualification and training standards as the department's examiners, to the extent necessary to conduct the driving skill tests in compliance with the requirements of Part 383 of Title 49 of the Code of Federal Regulations.

(D) The department may cancel, suspend, or revoke the agreement with a third-party tester if the third-party tester fails to comply with the standards for the commercial driver's license testing program, or with any other term of the third-party agreement, upon 15 days' prior written notice of the action to cancel, suspend, or revoke the agreement by the department to the third party. Any action to appeal or review any order of the department canceling, suspending, or revoking a third-party testing agreement shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.

(E) Any third-party tester whose agreement has been canceled pursuant to subparagraph (D) may immediately apply for a third-party testing agreement.

(F) A suspension of a third-party testing agreement pursuant to subparagraph (D) shall be for a term of less than 12 months as determined by the department. After the period of suspension, the agreement shall be reinstated upon request of the third-party tester.

(G) A revocation of a third-party testing agreement pursuant to subparagraph (D) shall be for a term of not less than one year. A third-party tester may apply for a new third-party testing agreement after the period of revocation and upon submission of proof of correction of the circumstances causing the revocation.

(H) Authorization for the department to charge the third-party tester a fee, as determined by the department, that is sufficient to defray the actual costs incurred by the department for administering and evaluating the third-party testing program, and for carrying out any other activities deemed necessary by the department to ensure sufficient training for the drivers participating in the program.

(3) Except as provided in Section 15250.3, the tests given by the third party shall not be accepted in lieu of tests prescribed and conducted by the department for applicants for a passenger vehicle endorsement specified in paragraph (2) of subdivision (a) of Section 15278, if the applicant operates or will operate a tour bus.

(d) Commercial driver's license applicants who take and pass driving tests administered by a third party shall provide the department with certificates of driving skill satisfactory to the department that the applicant has successfully passed the driving tests administered by the third party.

(e) Implementation dates for the issuance of a commercial driver's license pursuant to this chapter may be established by the department as it determines is necessary to accomplish an orderly commercial driver's license program.

(f) Active duty members of the United States Armed Forces, members of the military reserves, members of the National Guard who are on active duty, including personnel on full-time National Guard duty, personnel on part-time National Guard training, and National Guard military technicians (civilians who are required to wear military uniforms), and active duty personnel of the United States Coast Guard are exempt from all commercial driver's license requirements and sanctions, as provided in Section 383.3(c) of Subpart A of Part 383 of Title 49 of the Code of Federal Regulations when operating motor vehicles for military purposes. This exception shall not apply to United States Armed Forces reserve technicians.

SEC. 10. Section 15326 is added to the Vehicle Code, to read:

15326. Upon receiving notification of an administrative action or conviction of a commercial licenseholder in a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada, the department shall impose a suspension, revocation, or disqualification action on that person's commercial driving privilege based upon violations that would result in an administrative action or a conviction pursuant to Section 383.51 of Subpart D of Part 383 and Sections 384.206(b)(3), 384.213, and 384.231 of Subpart B of Part 384 of Title 49 of the Federal Code of Regulations. Those violations include, but are not limited to, all of the following:

- (a) Violations of Sections 15300, 15302, and 15304.
- (b) Serious traffic violations, as defined in subdivision (p) of Section 15210 and subject to the penalties under Section 15306 or 15308.
- (c) Providing false information under Section 15309.
- (d) Out-of-service order violations under Section 15311.
- (e) Railroad-highway crossing violations under Section 15312.

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 12804.9 of the Vehicle Code proposed by both this bill and Senate Bill 1310. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 12804.9 of the Vehicle Code, and (3) this bill is enacted after Senate Bill 1310, in which case Section 4 of this bill shall not become operative.

SEC. 12. Section 9.5 of this bill incorporates amendments to Section 15250 of the Vehicle Code proposed by both this bill and Assembly Bill 2659. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 15250 of the Vehicle Code, and (3) this bill is enacted after Assembly Bill 2659, in which case Section 9 of this bill shall not become operative.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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