

AMENDED IN SENATE JUNE 14, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1047**

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**Introduced by Assembly Member Linder**

February 22, 2013

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An act to amend Sections 12505, 12804.9, 15210, and 15250 of, and to add Section 15309.5 to, the Vehicle Code, relating to commercial driver's licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1047, as amended, Linder. Commercial driver's licenses.

Existing law prohibits a person from operating a commercial motor vehicle, as defined, unless the person possesses a valid commercial driver's license of the appropriate class issued by the Department of Motor Vehicles (DMV), except as specified. Existing law imposes certain examination requirements, including a driving test, on driver's license applicants, including commercial driver's license applicants, and specifies the types of vehicles that are in each driver's license class. Existing law also specifies the conditions under which a nonresident who is not licensed in the state may drive in the state, and requires a person to obtain a license from the DMV before being employed as a commercial driver, as specified.

This bill would authorize the DMV to impose a fee on a commercial driver's license applicant, if a driving test is administered to an applicant who is to be licensed in another state pursuant to federal law, that does not exceed the reasonable cost of conducting the tests and reporting the

results to the driver’s state of record. The bill would delete the requirement that a commercial driver obtain a license from the DMV if the person is in possession of a valid commercial learner’s permit or commercial driver’s license issued by any state or foreign jurisdiction that meets federal licensing standards. The bill would, among other things, revise the definitions of commercial motor vehicle and tank vehicle for purposes of commercial motor vehicle safety requirements, and would revise the categories of vehicles that are within each license class.

Existing law prohibits a driver from operating a commercial motor vehicle for a period of 60 days if the department determines, after a hearing, that the person falsified information on his or her application for a driver’s license in violation of federal law.

This bill would make it unlawful for a person to engage in certain acts, including selling or using a crib sheet, as defined, that contains answers to any examination administered by the DMV for a commercial driver’s license or permit. The bill would make a violation of this provision punishable as either an infraction or a ~~misdemeanor~~. ~~Be, misdemeanor~~; and would prohibit the driver from operating a commercial motor vehicle for one year. By creating a new crime, this bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 12505 of the Vehicle Code is amended
- 2 to read:
- 3 12505. (a) (1) For purposes of this division only and
- 4 notwithstanding Section 516, residency shall be determined as a
- 5 person’s state of domicile. “State of domicile” means the state
- 6 where a person has his or her true, fixed, and permanent home and
- 7 principal residence and to which he or she has manifested the
- 8 intention of returning whenever he or she is absent.

1 Prima facie evidence of residency for driver’s licensing purposes  
2 includes, but is not limited to, the following:

- 3 (A) Address where registered to vote.
- 4 (B) Payment of resident tuition at a public institution of higher  
5 education.
- 6 (C) Filing a homeowner’s property tax exemption.
- 7 (D) Other acts, occurrences, or events that indicate presence in  
8 the state is more than temporary or transient.

9 (2) California residency is required of a person in order to be  
10 issued a commercial driver’s license under this code.

11 (b) The presumption of residency in this state may be rebutted  
12 by satisfactory evidence that the licensee’s primary residence is  
13 in another state.

14 (c) Any person entitled to an exemption under Section 12502,  
15 12503, or 12504 may operate a motor vehicle in this state for not  
16 to exceed 10 days from the date he or she establishes residence in  
17 this state, *except that a person shall not operate a motor vehicle*  
18 *for employment in this state after establishing residency without*  
19 *first obtaining a license from the department.*

20 (d) If the State of California is decertified by the federal  
21 government and prohibited from issuing an initial, renewal, or  
22 upgraded commercial driver’s license pursuant to Section 384.405  
23 of Title 49 of the Code of Federal Regulations, the following  
24 applies:

25 (1) An existing commercial driver’s license issued pursuant to  
26 this code prior to the date that the state is notified of its  
27 decertification shall remain valid until its expiration date.

28 (2) A person who is a resident of this state may obtain a  
29 nondomiciled commercial learner’s permit or commercial driver’s  
30 license from any state that elects to issue a nondomiciled  
31 commercial learner’s permit or commercial driver’s license and  
32 that complies with the testing and licensing standards contained  
33 in subparts F, G, and H of Part 383 of Title 49 of the Code of  
34 Federal Regulations.

35 (3) For the purposes of this subdivision, a nondomiciled  
36 commercial learner’s permit or commercial driver’s license is a  
37 commercial learner’s permit or commercial driver’s license issued  
38 by a state to an individual domiciled in a foreign country or in  
39 another state.

1 (e) The department may issue a nondomiciled commercial  
2 learner's permit or nondomiciled commercial driver's license to  
3 a person who is domiciled in a state or jurisdiction that has been  
4 decertified by the federal government or not determined to be in  
5 compliance with the testing and licensing standards contained in  
6 subparts F, G, and H of Part 383 of Title 49 of the Code of Federal  
7 Regulations.

8 (f) Subject to Section 12504, a person over the age of 16 years  
9 who is a resident of a foreign jurisdiction other than a state,  
10 territory, or possession of the United States, the District of  
11 Columbia, the Commonwealth of Puerto Rico, or Canada, having  
12 a valid driver's license issued to him or her by any other foreign  
13 jurisdiction may operate a motor vehicle in this state without  
14 obtaining a license from the department, unless the department  
15 determines that the foreign jurisdiction does not meet the licensing  
16 standards imposed by this code.

17 (g) A person who is 18 years of age or older and in possession  
18 of a valid commercial learner's permit or commercial driver's  
19 license issued by any state, territory, or possession of the United  
20 States, the District of Columbia, the Commonwealth of Puerto  
21 Rico, or a foreign jurisdiction that meets the licensing standards  
22 contained in subparts F, G, and H of Part 383 of Title 49 of the  
23 Code of Federal Regulations shall be granted reciprocity to operate  
24 vehicles of the appropriate class on the highways of this state.

25 (h) Any person from a foreign jurisdiction that does not meet  
26 the licensing standards contained in subparts F, G, and H of Part  
27 383 of Title 49 of the Code of Federal Regulations shall obtain a  
28 commercial learner's permit or commercial driver's license from  
29 the department before operating on the highways a motor vehicle  
30 for which a commercial driver's license is required, as described  
31 in Section 12804.9. The medical examination form required for  
32 issuance of a commercial driver's license shall be completed by a  
33 health care professional, as defined in paragraph (2) of subdivision  
34 (a) of Section 12804.9, who is licensed, certified, or registered to  
35 perform physical examinations in the United States of America.  
36 This subdivision does not apply to (1) drivers of schoolbuses  
37 operated in California on a trip for educational purposes or (2)  
38 drivers of vehicles used to provide the services of a local public  
39 agency.

1 (i) This section does not authorize the employment of a person  
2 in violation of Section 12515.

3 SEC. 2. Section 12804.9 of the Vehicle Code is amended to  
4 read:

5 12804.9. (a) (1) The examination shall include all of the  
6 following:

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

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

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

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

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

38 (2) (A) Before a class A or class B driver's license, or class C  
39 driver's license with a commercial endorsement, may be issued  
40 or renewed, the applicant shall have in his or her driver record a

1 valid report of a medical examination of the applicant given not  
2 more than two years prior to the date of the application by a health  
3 care professional. As used in this paragraph, “health care  
4 professional” means a person who is licensed, certified, or  
5 registered in accordance with applicable state laws and regulations  
6 to practice medicine and perform physical examinations in the  
7 United States. Health care professionals are doctors of medicine,  
8 doctors of osteopathy, physician assistants, and registered advanced  
9 practice nurses, or doctors of chiropractic who are clinically  
10 competent to perform the medical examination presently required  
11 of motor carrier drivers by the United States Department of  
12 Transportation. The report shall be on a form approved by the  
13 department. In establishing the requirements, consideration may  
14 be given to the standards presently required of motor carrier drivers  
15 by the Federal Motor Carrier Safety Administration.

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

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

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

30 (1) Class A includes the following:

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

35 (B) A vehicle towing more than one vehicle.

36 (C) A trailer bus.

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

38 (2) Class B includes the following:

- 1 (A) Except as provided in subparagraph (H) of paragraph (3),  
2 a single vehicle with a gross vehicle weight rating or gross vehicle  
3 weight of more than 26,000 pounds.
- 4 (B) A single vehicle with three or more axles, except any  
5 three-axle vehicle weighing less than 6,000 pounds.
- 6 (C) A bus with a gross vehicle weight rating or gross vehicle  
7 weight of more than 26,000 pounds, except a trailer bus.
- 8 (D) A farm labor vehicle.
- 9 (E) A single vehicle with three or more axles or a gross vehicle  
10 weight rating or gross vehicle weight of more than 26,000 pounds  
11 towing another vehicle with a gross vehicle weight rating or gross  
12 vehicle weight of 10,000 pounds or less.
- 13 (F) A house car over 40 feet in length, excluding safety devices  
14 and safety bumpers.
- 15 (G) The operation of all vehicles covered under class C.
- 16 (3) Class C includes the following:
  - 17 (A) A two-axle vehicle with a gross vehicle weight rating or  
18 gross vehicle weight of 26,000 pounds or less, including when the  
19 vehicle is towing a trailer or semitrailer with a gross vehicle weight  
20 rating or gross vehicle weight of 10,000 pounds or less.
  - 21 (B) Notwithstanding subparagraph (A), a two-axle vehicle  
22 weighing 4,000 pounds or more unladen when towing a trailer  
23 coach not exceeding 9,000 pounds gross.
  - 24 (C) A house car of 40 feet in length or less.
  - 25 (D) A three-axle vehicle weighing 6,000 pounds gross or less.
  - 26 (E) A house car of 40 feet in length or less or a vehicle towing  
27 another vehicle with a gross vehicle weight rating of 10,000 pounds  
28 or less, including when a tow dolly is used. A person driving a  
29 vehicle may not tow another vehicle in violation of Section 21715.
  - 30 (F) (i) A two-axle vehicle weighing 4,000 pounds or more  
31 unladen when towing either a trailer coach or a fifth-wheel travel  
32 trailer not exceeding 10,000 pounds gross vehicle weight rating,  
33 when the towing of the trailer is not for compensation.
  - 34 (ii) A two-axle vehicle weighing 4,000 pounds or more unladen  
35 when towing a fifth-wheel travel trailer exceeding 10,000 pounds,  
36 but not exceeding 15,000 pounds, gross vehicle weight rating,  
37 when the towing of the trailer is not for compensation, and if the  
38 person has passed a specialized written examination provided by  
39 the department relating to the knowledge of this code and other

1 safety aspects governing the towing of recreational vehicles upon  
2 the highway.

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

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

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

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

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

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

21 (I) A motorized scooter.

22 (J) A bus with a gross vehicle weight rating or gross vehicle  
23 weight of 26,000 pounds or less, except a trailer bus.

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

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

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

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

34 (ii) A motorized scooter.

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

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

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

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

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

39 (g) The department may accept a certificate of satisfactory  
40 completion of a novice motorcyclist training program approved

1 by the commissioner pursuant to Section 2932 in lieu of a driving  
2 test on class M1 or M2 applications, if the applicant has met the  
3 other examination requirements for the license for which he or she  
4 is applying. The department shall review and approve the written  
5 and driving test used by a program to determine whether the  
6 program may issue a certificate of completion.

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

13 (i) A person under the age of 21 years shall not be issued a class  
14 M1 or M2 license or endorsement unless he or she provides  
15 evidence satisfactory to the department of completion of a  
16 motorcycle safety training program that is operated pursuant to  
17 Article 2 (commencing with Section 2930) of Chapter 5 of Division  
18 2.

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

26 SEC. 3. Section 15210 of the Vehicle Code is amended to read:  
27 15210. Notwithstanding any other provision of this code, as  
28 used in this chapter, the following terms have the following  
29 meanings:

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

35 (b) (1) "Commercial motor vehicle" means any vehicle or  
36 combination of vehicles that requires a class A or class B license,  
37 or a class C license with an endorsement issued pursuant to  
38 paragraph (2), (3), (4), or (5) of subdivision (a) of Section 15278.

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

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

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

5 (C) Vehicles operated by persons exempted pursuant to Section  
6 25163 of the Health and Safety Code or a vehicle operated in an  
7 emergency situation at the direction of a peace officer pursuant to  
8 Section 2800.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 25 (1) The individual is domiciled in a foreign country.
- 26 (2) The individual is domiciled in another state.

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

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

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

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

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

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

7 (5) Driving a commercial motor vehicle without a commercial  
8 driver's license.

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

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

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

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

22 (q) "State" means a state of the United States or the District of  
23 Columbia.

24 (r) "Tank vehicle" means a commercial motor vehicle that is  
25 designed to transport any liquid or gaseous material within a tank  
26 or tanks having an individual rated capacity of *more than 119*  
27 *gallons and an aggregate rated capacity* of at least 1,000 gallons  
28 that is permanently or temporarily attached to the vehicle or the  
29 chassis, including, but not limited to, cargo tanks and portable  
30 tanks, as defined in Part 171 of Title 49 of the Code of Federal  
31 Regulations. A commercial motor vehicle transporting an empty  
32 storage container tank not designed for transportation, with a rated  
33 capacity of at least 1,000 gallons that is temporarily attached to a  
34 flatbed trailer, is not a tank vehicle.

35 SEC. 4. Section 15250 of the Vehicle Code is amended to read:

36 15250. (a) (1) A person shall not operate a commercial motor  
37 vehicle unless that person has in his or her immediate possession  
38 a valid commercial driver's license of the appropriate class.

39 (2) A person shall not operate a commercial motor vehicle while  
40 transporting hazardous materials unless that person has in his or

1 her possession a valid commercial driver’s license with a hazardous  
2 materials endorsement. An instruction permit does not authorize  
3 the operation of a vehicle transporting hazardous materials.

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

13 (2) (A) A person shall not be issued a commercial driver’s  
14 license until he or she has passed a written and driving test for the  
15 operation of a commercial motor vehicle that complies with the  
16 minimum federal standards established by the federal Commercial  
17 Motor Vehicle Safety Act of 1986 (Public Law 99-570) and Part  
18 383 of Title 49 of the Code of Federal Regulations, and has  
19 satisfied all other requirements of that act as well as any other  
20 requirements imposed by this code.

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

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

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

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

39 (A) Authorization for the United States Secretary of  
40 Transportation, or his or her representative, and the department,

1 or its representative, to conduct random examinations, inspections,  
2 and audits without prior notice.

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

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

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

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

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

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

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

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

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

11 (e) If a driving test is administered to a commercial driver’s  
12 license applicant who is to be licensed in another state pursuant  
13 to Section 383.79 of Subpart E of Part 383 of Title 49 of the Code  
14 of Federal Regulations, the department may impose a fee on the  
15 applicant that does not exceed the reasonable cost of conducting  
16 the tests and reporting the results to the driver’s state of record.

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

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

33 SEC. 5. Section 15309.5 is added to the Vehicle Code, to read:

34 15309.5. (a) It is unlawful for any person to do any of the  
35 following:

36 (1) Sell, offer for sale, distribute, or use a crib sheet or cribbing  
37 device, as defined in Section 273, that contains answers to any  
38 examination administered by the department for a commercial  
39 driver’s license or permit.

1 (2) Impersonate or allow the impersonation of an applicant for  
2 a commercial driver's license or permit for the purpose of  
3 fraudulently qualifying the applicant for a commercial driver's  
4 license or permit.

5 (3) Provide, or use, any unauthorized assistance during any  
6 examination administered by the department for a commercial  
7 driver's license or permit.

8 (b) A first conviction under this section is punishable as either  
9 an infraction or a misdemeanor, and the driver shall not operate a  
10 commercial motor vehicle for a period of one year. A second or  
11 subsequent conviction is punishable as a misdemeanor, and the  
12 driver shall not operate a commercial motor vehicle for a period  
13 of one year.

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