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ARKANSAS STATE HIGHWAY
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AR REGISTER DIV
TRANSPORTATION DEPARTMENT
92 MAY -7 AM 9:00

Maurice Smith
J. "BILL" MCCUEN
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS
Telephone (501) 569-2000



P.O. Box 2261
Little Rock, Arkansas 72203
Telefax (501) 569-2400

May 6, 1992

The Honorable W. J. McCuen
Secretary of State
State Capitol
Little Rock, AR 72201

Re: Attached Arkansas State Highway Commission Minute Order and accompanying "Regulations for Commercial Driver's License Waiver for Farm-Related Businesses"


Dear Mr. Secretary:

In accordance with Arkansas Code Ann. §25-15-204 enclosed for your filing please find a certified copy of a Minute Order adopted by the Arkansas State Highway Commission on April 29, 1992, along with a certified copy of "Regulations for Commercial Driver's License Waiver for Farm-Related Businesses" attached to that Minute Order and also adopted by the Commission on that same date.

As stated in the subject Minute Order, the Regulations are to be effective immediately. The Commission's finding was that imminent peril to the public health, safety and welfare requires such immediate effectiveness. A brief statement of the reasons therefore are also attached to the enclosures.

Your cooperation is appreciated.

Sincerely,


Robert L. Wilson
Chief Counsel

RLW:ea

Enclosures

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REASONS FOR IMMEDIATE EFFECTIVENESS OF ATTACHED REGULATIONS

The Arkansas State Highway Commission on April 29, 1992 adopted a Minute Order and accompanying "Regulations for Commercial Driver's License Waiver for Farm-Related Businesses" attached thereto. The Commission's finding was that imminent peril to the public health, safety and welfare requires the immediate effectiveness of these regulations. The reasons for such finding are as follows:

(1) Many of the custom harvesters, farm retail outlets and suppliers, agri-chemical businesses, and livestock feeders employ drivers on a temporary basis during peak agricultural seasons and, this being a time of such peak agricultural activity, the Commercial Driver's License (CDL) testing requirements may hamper this type of seasonal employment; and

(2) The recently amended portions of 49 CFR 383 are currently resulting in misunderstandings and confusion among those potentially effected seasonal employees with the result that some of such employees are attempting to operate vehicles under the assumption that they are fully exempt from all CDL requirements and, due to such confusion and misunderstandings, imminent peril to the public health, safety and welfare requires the immediate effectiveness of these regulations.

These reasons are set out in substantially the same form in the Minute Order as recited above.

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W.J. "BILL" McQUEEN
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

WHEREAS, the United States Department of Transportation, Federal Highway Administration, recently amended Part 383 of Title 49 of the Code of Federal Regulations to allow limited waivers from 49 CFR Part 383 for certain employees of custom harvesters, farm retail outlets and suppliers, agri-chemical businesses, and livestock feeders while transporting farm-related products of those businesses. That amendment, more specifically, authorizes the states to waive, at their option, these employees from the Commercial Driver's License (CDL) knowledge and skill testing requirements, and to issue these employees restricted CDLs for a seasonal period or periods not to exceed a total of 180 days in any 12-month period, subject to certain conditions contained therein; and

WHEREAS, pursuant to Arkansas Code Ann. §27-23-119, in the event that it shall be determined by federal regulations that certain classes of drivers shall be exempted from the application of the federal Commercial Motor Vehicle Safety Act of 1986, this Commission has the authority to promulgate rules and regulations to exempt those certain classes of drivers from the application of Arkansas Code Ann. §27-23-102, et seq.; and

WHEREAS, many of the above-mentioned businesses employ drivers on a temporary basis during peak agricultural seasons and, this being a time of such peak agricultural activity, the CDL testing requirements may hamper this type of seasonal employment; and

WHEREAS, the above-cited amendments to the Code of Federal Regulations are currently resulting in misunderstandings and confusion among those potentially affected seasonal employees with the result that some of such employees are attempting to operate vehicles under the assumption that they are fully exempt from all CDL requirements and, due to such confusion and misunderstandings, imminent peril to the public health, safety and welfare requires the immediate effectiveness of these regulations.

NOW, THEREFORE, pursuant to Arkansas Code Ann. §27-23-119, the Commission, on behalf of the State of Arkansas, opts to waive certain

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employees of custom harvesters, farm retail outlets and suppliers, agri-chemical businesses, and livestock feeders from the Commercial Driver's License (CDL) knowledge and skill testing requirements, and hereby authorizes the Office of Driver Services of the Department of Finance & Administration, pursuant to and in accordance with Part I of the attached "Regulations for Commercial Driver's License Waiver for Farm-Related Businesses" hereby adopted by the Commission and the guidelines set out in the recently amended portions of 49 CFR 383 and pursuant to the provisions of Arkansas Code Ann. §27-23-119, et seq., including Arkansas Code Ann. §27-23-120, to issue these employees restricted CDLs for a seasonal period or periods not to exceed a total of 180 days in any 12-month period, subject to any and all conditions set out in that recently amended portion of 49 CFR 383. Further, pursuant to Arkansas Code Ann. §27-23-119 and §27-65-107, the Commission hereby adopts regulations for the operation of commercial motor vehicles on the highways of this State by such restricted CDL holders while transporting farm-related products of the above-mentioned businesses, which conditions for such operation are set out in the recently amended portion of 49 CFR 383 and further adopted by this Commission for this State in Part II of the attached "Regulations for Commercial Driver's License Waiver for Farm-Related Businesses." It is the finding of this Commission that imminent peril to the public health, safety and welfare requires the immediate effectiveness of these regulations and the attached "Regulations for Commercial Driver's License Waiver for Farm-Related Businesses."

Approved: *Ron Haines* Chairman
Ed G. Clark Vice-Chairman
Ed G. Clark Member
Ed G. Clark Member
Ed G. Clark Member
Form D-456

Submitted by: *Ron Haines*
Approved: *Maurice Sandoz* Director
Minute No. 92 191
Date Passed APR 29 1992

STATE OF ARKANSAS)
)ss
COUNTY OF PULASKI) C E R T I F I C A T E

I, Lindy Hobson, Secretary and Custodian of the Records of Proceedings of the Arkansas State Highway Commission, do hereby certify, and state under oath, that the foregoing written matter contains a true, complete and perfect transcript of Minute Order No. 92-191 adopted by the Commission on the 29th day of April, 19 92, as set forth therein, and as the same appears in the records of the Arkansas State Highway Commission.

Lindy Hobson
Lindy Hobson, Commission Secretary
Arkansas State Highway Commission

Subscribed and sworn to before me this 6 day of May, 19 92.

My Commission Expires:
June 12, 2000

Laverne Thompson
Notary Public

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REGULATIONS FOR COMMERCIAL DRIVER'S LICENSE WAIVER
FOR FARM-RELATED BUSINESSES
W. J. "BILL" MCCUEN
REGISTERED
E. ROCK, ARKANSAS

I

The Office of Driver Services of the Department of Finance & Administration for this State may issue restricted commercial driver's licenses (CDLs) to seasonal drivers for the following specific farm-related service industries: (a) farm retail outlets and suppliers; (b) agri-chemical businesses; (c) custom harvesters; and (d) livestock feeders. If issued, such restricted CDLs shall be issued only in accordance with those guidelines set out in the recently amended portion of 49 CFR 383, including, but not limited to, the following:

A. Waived drivers shall not be required to take or pass the CDL skills or knowledge tests but shall be required to meet all other requirements of the CDL regulations included in 49 CFR 383.

B. A waived driver shall be issued only one license. That restricted CDL shall also authorize the waived driver to drive any non-commercial vehicle for personal use.

C. A restricted CDL shall not be issued to an individual unless it is determined that such individual has a "good driving record" and at least one year of driving experience in any type of vehicle. The "good driving record" criteria set out in the recently amended portion of 49 CFR 383 shall be utilized in making this determination.

D. A restricted CDL shall allow the driving of automobiles by the holder of such a license as well as the driving of other non-commercial motor vehicles throughout the same renewal cycle as is allowed for regular CDLs by the laws and regulations of this State.

E. Validity of any restricted CDL issued for commercial motor vehicle driving shall be limited to a seasonal period or periods, as defined by rules and regulations to be made and promulgated by the Office of Driver Services, in conformity with the guidelines contained in the recently amended portion of 49 CFR 383, not to exceed a total of 180 days of commercial validity in any 12-month period.

F. The Department of Finance & Administration shall revalidate each restricted CDL for commercial use by means of a confirmation of the holder's good driving record prior to each season, as defined by rules and regulations to be made and promulgated by the Office of Driver Services in conformity with the guidelines contained in the recently amended portion of 49 CFR 383, in which the driver wishes to drive commercial motor vehicles.

G. The Office of Driver Services shall check the driver's record through the Commercial Driver's License Information System (CDLIS) prior to issuing a restricted CDL to that driver and shall enter each restricted CDL holder's record into the CDLIS.

H. No such restricted CDL shall be issued to any drivers, seasonal or otherwise, who intend to transport any products of farm equipment suppliers, utilities, or cotton ginning services.

I. Use of the restricted CDL in activities not related to employment in the designated industries enumerated in the first paragraph of Part I of these regulations shall be grounds for revocation of the restricted CDL and the Office of Driver Services shall include this provision in substantially this same form in any rules and regulations made and promulgated by that Office.

II

Any individual issued a restricted commercial driver's license (CDL) while operating on the highways of this State, whether such restricted CDL was issued by this State or any other state, shall be susceptible to and shall abide by all of the laws and regulations of this State as well as all laws and regulations of the United States and the following regulations.

A. No such restricted CDL holder may operate a commercial motor vehicle beyond 150 miles from the employer of that CDL holder's place of business or the farm currently being served by that employer.

B. Such a restricted CDL holder may only operate "Group B" or "Group C" vehicles. That restricted CDL holder shall not operate "Group A" vehicles.

1. Group A vehicles are defined herein to mean and include combination vehicles with a gross combination weight rating of 26,001 pounds or more [inclusive of a towed vehicle with a gross vehicle weight rating (GVWR) of over 10,000 pounds]. Drivers of such vehicles must continue to satisfy the knowledge and skill testing requirements and obtain CDLs without the farm-related service industries waiver.

2. Group B vehicles are defined herein to mean and include any single vehicle with a GVWR of 26,001 pounds or more (or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR).

3. Group C vehicles are defined herein to mean and include any vehicle that does not meet the thresholds for Groups A or B, but that is either designed to transport 16 or more passengers, including the driver, or is placarded for hazardous materials.

C. Such a restricted CDL holder shall not transport any hazardous material requiring placarding unless such material being transported is:

1. Diesel fuel in quantities of 1,000 gallons or less; or

2. Liquid fertilizers in vehicles with total capacities of 3,000 gallons or less; or

3. Solid fertilizers that are not mixed with any organic substance.

D. All such restricted CDL holders shall be fully subject to all CDL disqualification penalties that may be imposed pursuant to the laws or regulations of this State or of the United States.

E. Use of the restricted CDL in activities not related to employment in the designated industries enumerated in the first paragraph of Part I, above, of these regulations shall be grounds for revocation of that driver's restricted CDL.

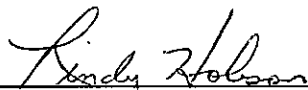
F. Any restricted CDL issued pursuant to the waiver authority set out in the recently amended portion of 49 CFR 383 by this State or by any other state shall be accorded the same reciprocity in this State as a CDL holder meeting all of the requirements of 49 CFR 383.

STATE OF ARKANSAS)

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COUNTY OF PULASKI)

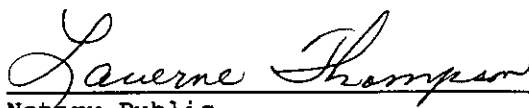
I, Lindy Hobson, Secretary and Custodian of the Records of Proceedings of the Arkansas State Highway Commission, do hereby certify, and state under oath, that the foregoing written matter contains a true, complete and perfect transcript of the Regulations attached to Minute Order No. 92-191 adopted by the Commission on the 29th day of April, 1992, as set forth therein, and as the same appears in the records of the Arkansas State Highway Commission.


Lindy Hobson, Commission Secretary
Arkansas State Highway Commission

Subscribed and sworn to before me this 6 day of May, 1992.

My Commission Expires:

June 12, 2000


Notary Public