

1 HB86
2 147064-2
3 By Representative Greer
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 05-FEB-13
6 PFD: 01/24/2013

1
2 ENROLLED, An Act,

3 To amend Section 32-9A-2 of the Code of Alabama
4 1975, relating to commercial motor vehicles; to further
5 require compliance under state law with certain federal
6 regulations of the U.S. Department of Transportation; and in
7 connection therewith would have as its purpose or effect the
8 requirement of a new or increased expenditure of local funds
9 within the meaning of Amendment 621 of the Constitution of
10 Alabama of 1901, now appearing as Section 111.05 of the
11 Official Recompilation of the Constitution of Alabama of 1901,
12 as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 32-9A-2 of the Code of Alabama
15 1975, is amended to read as follows:

16 "§32-9A-2.

17 "(a) (1) Except as otherwise provided in subsection
18 (b), no person may operate a commercial motor vehicle in this
19 state, or fail to maintain required records or reports, in
20 violation of the federal motor carrier safety regulations as
21 prescribed by the U.S. Department of Transportation, 49 C.F.R.
22 Part 107, Parts 171-180, Parts ~~382-384~~ 387, and Parts 390-399
23 and as they may be amended in the future. Except as otherwise
24 provided herein, this chapter shall not be construed to repeal

1 or supersede other laws relating to the operation of motor vehicles.

2 "(2)a. No person may operate a commercial motor
3 vehicle in this state in violation of 49 C.F.R. §393.120, as
4 amended, relating to load securement for certain metal coils.

5 "b. No one owning, leasing, or allowing a commercial
6 vehicle to be operated in this state shall knowingly or
7 negligently be in violation of 49 C.F.R. §393.120, as amended,
8 relating to load securement for metal coils.

9 "(3) No person may knowingly or negligently own or
10 lease or cause to be operated on any public highway, road,
11 street, or other public right-of-way a commercial motor
12 vehicle loaded with a metal coil in a manner that fails to
13 comply with 49 C.F.R. §393.120 and thereby allows a metal coil
14 to drop, fall, spill, shift, or otherwise escape from the
15 commercial vehicle onto any public highway, road, street, or
16 any other public right-of-way.

17 "(4)a. No motor carrier may initiate or terminate in
18 this state the commercial transport of metal coils, as defined
19 in 49 C.F.R. §393.120, unless the commercial vehicle operator
20 is certified in proper load securement as provided in 49
21 C.F.R. §393.120. Certification shall be conducted according to
22 standards published by the Department of Public Safety and
23 certified by the motor carrier and the driver on forms
24 provided by the department.

1 "b. The operator of a commercial motor vehicle
2 involved in the commercial transport of metal coils subject to
3 this subdivision shall be certified in proper load securement
4 as provided in 49 C.F.R. §393.120.

5 "(5) Except as it relates to subdivision (3), no law
6 enforcement officer may make an arrest or issue a citation
7 under this chapter unless he or she has satisfactorily
8 completed, as a part of his or her training, the basic course
9 of instruction developed by the Commercial Vehicle Safety
10 Alliance. Those law enforcement officers authorized to enforce
11 this chapter shall annually receive in service training
12 related to commercial motor vehicle operations, including, but
13 not limited to, training in current federal motor carrier
14 safety regulations, safety inspection procedures, and
15 out-of-service criteria. The annual training requirements
16 shall be designated and specified by the director. An officer
17 qualified under this section to make an arrest or issue a
18 citation pursuant to subdivision (3) may arrest or issue a
19 citation to the driver of a commercial motor vehicle without a
20 warrant and without witnessing the violation personally if,
21 upon personal investigation, the officer has reasonable cause
22 to believe that a violation has occurred.

23 "(b) Notwithstanding subsection (a) or any other
24 provision of law to the contrary:

1 "(1) Amendments to the hours of service regulations
2 promulgated by the U.S. Department of Transportation at 68
3 Federal Register 22456, April 28, 2003 and effective June 27,
4 2003, shall not apply to utility service vehicles as defined
5 at 49 C.F.R. §395.2, not including television cable or
6 community antenna service vehicles, which are owned or
7 operated by utilities regulated by the Public Service
8 Commission or electric cooperatives and which are engaged
9 solely in intrastate commerce in this state until June 27,
10 2006, provided the amendments are valid and remain in effect
11 as of that date. Hours of service regulations that are
12 applicable in this state immediately prior to June 27, 2003,
13 shall remain applicable to utility service vehicles engaged
14 solely in intrastate commerce in this state until June 27,
15 2006. If the U.S. Department of Transportation issues an
16 official finding that this provision may result in the loss of
17 federal Motor Carrier Safety Assistance Program funding, the
18 department may promulgate regulations providing for earlier
19 implementation of the amendments to the federal hours of
20 service regulations. If federal law or regulations are amended
21 at any time to exempt utility service vehicles from the hours
22 of service requirements, any exemption shall be effective in
23 this state immediately for the duration of the federal
24 exemption.

1 "(2) The department may promulgate regulations
2 suspending the effective date for up to three years after
3 adoption of any motor carrier safety regulation by the U.S.
4 Department of Transportation as applied to vehicles engaged
5 solely in intrastate commerce in this state, provided that the
6 suspension does not result in the loss of federal Motor
7 Carrier Safety Assistance Program funding.

8 "(3) The department may enter into agreements with
9 state and local emergency management agencies and private
10 parties establishing procedures for complying with 49 U.S.C.
11 §31502(e) and federal regulations promulgated thereto at 49
12 C.F.R. §390.23 which provide an exemption from the hours of
13 service regulations during certain emergencies.

14 "(4) The department may promulgate regulations
15 granting any waiver, variance, or exemption permitted under 49
16 U.S.C. §31104(h) and federal regulations promulgated thereto
17 at 49 C.F.R. §§350.339-350.345, provided that the waiver,
18 variance, or exemption does not result in the loss of federal
19 Motor Carrier Safety Assistance Program funding and does not
20 take effect unless approved by the U.S. Department of
21 Transportation if that approval is required.

22 "(5) A commercial motor vehicle operated in
23 intrastate commerce which does not equal or exceed 26,001
24 pounds, except a motor vehicle, regardless of weight, which is
25 designed or used to transport 16 or more passengers, including

1 the driver, or which is used in the transportation of
2 hazardous materials and required to be placarded pursuant to
3 49 C.F.R. Part 172, Subpart F, shall be exempt from the
4 federal motor carrier regulations otherwise made applicable in
5 this state pursuant to subsection (a). For purposes of this
6 subdivision, commercial motor vehicle means a commercial motor
7 vehicle as defined in 49 C.F.R. §390.5.

8 "(6) For purposes of those provisions of 49 C.F.R.
9 §395 providing for exemptions from the hours of service
10 requirements of that section respecting the operation of motor
11 vehicles for the transportation of agricultural commodities as
12 contemplated in that section, the planting and harvesting
13 season for this state is defined by the Legislature as the
14 period from April 1 of each calendar year to March 31 of the
15 next succeeding calendar year.

16 "(c) Nothing in this section as amended by Act
17 2008-336 shall be interpreted to exempt any person from the
18 obligations to operate a motor vehicle in a safe and proper
19 manner or to observe the rules of the road, nor shall any
20 provision of this section as amended by Act 2008-336 be
21 interpreted to immunize any person from civil liability for
22 actionable conduct.

23 "(d) The Department of Public Safety shall publish
24 standards for training drivers of commercial motor vehicles in
25 proper load securement for metal coils as provided in 49

1 C.F.R. §393.120 and provide for certification of drivers of
2 commercial motor vehicles carrying metal coils."

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.

