

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

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8 SYNOPSIS: Under existing law, the operator of a
9 commercial motor vehicle is required to operate the
10 vehicle in compliance with certain designated
11 federal motor carrier safety regulations as
12 prescribed by the U.S. Department of
13 Transportation. Failure to comply may be enforced
14 by certain trained law enforcement officers.

15 The existing law does not specifically
16 designate compliance with U.S. Department of
17 Transportation regulations in 49 C.F.R., Parts 385,
18 Safety Fitness Procedures; Part 386, Rules of
19 Practice for Motor Carrier, Broker, Freight
20 Forwarding, and Hazardous Material Proceedings; and
21 Part 387, Minimum Levels of Financial
22 Responsibility for Motor Carriers.

23 This bill would include the requirement in
24 state law that an operator of a commercial motor
25 vehicle be in compliance with the above federal
26 regulations.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

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26 To amend Section 32-9A-2 of the Code of Alabama
27 1975, relating to commercial motor vehicles; to further

1 require compliance under state law with certain federal
2 regulations of the U.S. Department of Transportation; and in
3 connection therewith would have as its purpose or effect the
4 requirement of a new or increased expenditure of local funds
5 within the meaning of Amendment 621 of the Constitution of
6 Alabama of 1901, now appearing as Section 111.05 of the
7 Official Recompilation of the Constitution of Alabama of 1901,
8 as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 32-9A-2 of the Code of Alabama
11 1975, is amended to read as follows:

12 "§32-9A-2.

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

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

26 "b. No one owning, leasing, or allowing a commercial
27 vehicle to be operated in this state shall knowingly or

1 negligently be in violation of 49 C.F.R. §393.120, as amended,
2 relating to load securement for metal coils.

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

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

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

23 "(5) Except as it relates to subdivision (3), no law
24 enforcement officer may make an arrest or issue a citation
25 under this chapter unless he or she has satisfactorily
26 completed, as a part of his or her training, the basic course
27 of instruction developed by the Commercial Vehicle Safety

1 Alliance. Those law enforcement officers authorized to enforce
2 this chapter shall annually receive in service training
3 related to commercial motor vehicle operations, including, but
4 not limited to, training in current federal motor carrier
5 safety regulations, safety inspection procedures, and
6 out-of-service criteria. The annual training requirements
7 shall be designated and specified by the director. An officer
8 qualified under this section to make an arrest or issue a
9 citation pursuant to subdivision (3) may arrest or issue a
10 citation to the driver of a commercial motor vehicle without a
11 warrant and without witnessing the violation personally if,
12 upon personal investigation, the officer has reasonable cause
13 to believe that a violation has occurred.

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

16 "(1) Amendments to the hours of service regulations
17 promulgated by the U.S. Department of Transportation at 68
18 Federal Register 22456, April 28, 2003 and effective June 27,
19 2003, shall not apply to utility service vehicles as defined
20 at 49 C.F.R. §395.2, not including television cable or
21 community antenna service vehicles, which are owned or
22 operated by utilities regulated by the Public Service
23 Commission or electric cooperatives and which are engaged
24 solely in intrastate commerce in this state until June 27,
25 2006, provided the amendments are valid and remain in effect
26 as of that date. Hours of service regulations that are
27 applicable in this state immediately prior to June 27, 2003,

1 shall remain applicable to utility service vehicles engaged
2 solely in intrastate commerce in this state until June 27,
3 2006. If the U.S. Department of Transportation issues an
4 official finding that this provision may result in the loss of
5 federal Motor Carrier Safety Assistance Program funding, the
6 department may promulgate regulations providing for earlier
7 implementation of the amendments to the federal hours of
8 service regulations. If federal law or regulations are amended
9 at any time to exempt utility service vehicles from the hours
10 of service requirements, any exemption shall be effective in
11 this state immediately for the duration of the federal
12 exemption.

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

20 "(3) The department may enter into agreements with
21 state and local emergency management agencies and private
22 parties establishing procedures for complying with 49 U.S.C.
23 §31502(e) and federal regulations promulgated thereto at 49
24 C.F.R. §390.23 which provide an exemption from the hours of
25 service regulations during certain emergencies.

26 "(4) The department may promulgate regulations
27 granting any waiver, variance, or exemption permitted under 49

1 U.S.C. §31104(h) and federal regulations promulgated thereto
2 at 49 C.F.R. §§350.339-350.345, provided that the waiver,
3 variance, or exemption does not result in the loss of federal
4 Motor Carrier Safety Assistance Program funding and does not
5 take effect unless approved by the U.S. Department of
6 Transportation if that approval is required.

7 "(5) A commercial motor vehicle operated in
8 intrastate commerce which does not equal or exceed 26,001
9 pounds, except a motor vehicle, regardless of weight, which is
10 designed or used to transport 16 or more passengers, including
11 the driver, or which is used in the transportation of
12 hazardous materials and required to be placarded pursuant to
13 49 C.F.R. Part 172, Subpart F, shall be exempt from the
14 federal motor carrier regulations otherwise made applicable in
15 this state pursuant to subsection (a). For purposes of this
16 subdivision, commercial motor vehicle means a commercial motor
17 vehicle as defined in 49 C.F.R. §390.5.

18 "(6) For purposes of those provisions of 49 C.F.R.
19 §395 providing for exemptions from the hours of service
20 requirements of that section respecting the operation of motor
21 vehicles for the transportation of agricultural commodities as
22 contemplated in that section, the planting and harvesting
23 season for this state is defined by the Legislature as the
24 period from April 1 of each calendar year to March 31 of the
25 next succeeding calendar year.

26 "(c) Nothing in this section as amended by Act
27 2008-336 shall be interpreted to exempt any person from the

1 obligations to operate a motor vehicle in a safe and proper
2 manner or to observe the rules of the road, nor shall any
3 provision of this section as amended by Act 2008-336 be
4 interpreted to immunize any person from civil liability for
5 actionable conduct.

6 "(d) The Department of Public Safety shall publish
7 standards for training drivers of commercial motor vehicles in
8 proper load securement for metal coils as provided in 49
9 C.F.R. §393.120 and provide for certification of drivers of
10 commercial motor vehicles carrying metal coils."

11 Section 2. Although this bill would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds, the bill is excluded from further
14 requirements and application under Amendment 621, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended, because the
17 bill defines a new crime or amends the definition of an
18 existing crime.

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