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To: Senate Committee on Transportation

From: Jill Shelley, Principal Research Analyst

Re: Security- and Safety-Related Requirements for Certain Commercial Driver's Licenses

This memorandum provides information on the current security- and safety-related requirements for driver's licenses, commercial driver's licenses (CDLs), and hazardous materials endorsements (HMEs) required for those who operate such tank vehicles. It also briefly summarizes training specific to endorsements for transporting hazardous materials and for tank vehicles. In general, those applying for HMEs are screened more thoroughly than other CDL applicants and are tested on knowledge specific to hazardous materials.

2016 SB 349 would exempt a person employed in any of certain types of businesses from being required to obtain a hazardous materials endorsement for the person's CDL when the vehicle being operated is a service vehicle that is transporting 1,000 gallons or less of diesel and is marked with a "flammable" or "combustible" placard, as appropriate. The bill would apply to a person operating a commercial class A motor vehicle, which is defined as any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, providing the gross vehicle weight rating of the vehicle or vehicles being towed exceeds 10,000 pounds (KSA 2015 Supp. 8-234b).

A hazardous material is defined as one the U.S. Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated according to law (49 CFR 171.8).

Kansas Security-Related Application Requirements for Driver's Licenses

To obtain an initial CDL or other type of Kansas driver's license, an applicant must provide proof of identity, age, and Kansas residency (KSA 2015 Supp. 8-240(b)).

- Applicant must submit proof of age and proof of identity as the Division of Vehicles may require;
 - Acceptable documents are listed at www.ksrevenue.org/dmvproof.html and include certified copy of birth certificate, unexpired passport, certificate of naturalization, documentation of legal presence if not a U.S. citizen using specified types of documents;

- Applicant must provide a photo identity document, except that a non-photo identity document is acceptable if it includes full legal name and date of birth;
- Applicant must provide documentation showing name, address of principal residence, and Social Security number (which cannot be disclosed, with limited exceptions defined in KSA 74-2012); and
- Any driver's license issued to someone legally in the country for only a specified period of time will be valid only while the person's presence is authorized or for one year if there is no definite end to the period of authorized stay.

Every driver's license must include full legal name, date of birth, gender, address of principal residence, brief physical description, photo, and facsimile of the licensee's signature (KSA 2015 Supp. 8-243(a)).

A Kansas driver's license may not be issued to people with certain characteristics (KSA 2015 Supp. 8-237):

- Someone whose license currently is revoked, suspended, or canceled in Kansas or any other state;
- Someone who is an habitual drunkard, habitual user of narcotic drugs, or habitual user of any other drug to a degree that renders the user incapable of safely driving a motor vehicle;
- Someone who has been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to capacity; or
- Someone whose presence in the United States is in violation of federal immigration laws.

Additional Security-Related Application Requirements for a CDL

The Kansas Uniform Commercial Driver's License Act states a commercial driver may hold only one driver's license (KSA 8-2,126; see also 49 CFR 383.21) but does not otherwise add security-related application requirements. A person may drive a commercial motor vehicle if the person has a CDL issued by any state or by a foreign jurisdiction that tests drivers and issues CDLs in accordance with or under standards similar to the minimum standards of the Federal Motor Carrier Safety Administration (KSA 2015 Supp. 8-2,141).

Under state law, a person may be disqualified from driving a commercial vehicle if the person is convicted of a felony while using a motor vehicle to commit such felony (KSA 2015 Supp. 8-2,142(a)(3)). A felony is defined as any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year (KSA 2015 Supp. 8-2,128(o)). No diversions are allowed (KSA 2015 Supp. 8-2,150).

Only a U.S. citizen or lawful permanent resident may obtain a CDL (49 CFR 383.71(b)).

Under federal law, a person may be disqualified from driving a commercial motor vehicle for life under certain circumstances (49 CFR 383.51, Table 1):

- While driving any vehicle, for a second conviction of:
 - Being under the influence of alcohol or a controlled substance;
 - Refusing to take an alcohol test;
 - Leaving the scene of an accident; or
 - Causing a fatality through the negligent operation of a commercial vehicle;
- Any conviction of using the vehicle in commission of a felony involving manufacturing, distributing, or dispensing a controlled substance; or
- A second conviction of using the vehicle to commit any other felony.

A state must complete a check of the applicant's driving record to ensure the person is not subject to any disqualification, had any license disqualified for cause in the three years prior to application, or been convicted of certain serious offenses. The state is required to check for citizenship or legal presence only for initial issuance (49 CFR 383.73(b)).

Additional Federal Requirements to Obtain a Hazardous Materials Endorsement

No state may issue or renew an HME for a CDL unless the state receives a Determination of No Security Threat for that applicant from the Transportation Security Administration (TSA) (49 CFR 1572.13(a)). Since July 1, 2004, anyone applying for an HME for a CDL must comply with requirements of 49 CFR 1572. The application requirements listed below are not all those listed in the federal regulations.

- Identifying information about the applicant (49 CFR 1572.9(a)):
 - Legal name;
 - Current and previous mailing address, current residential address, e-mail address;
 - Date, city, state, and country of birth;
 - Height, weight, hair color, eye color, and gender;
 - Immigration status; U.S. Citizenship and Immigration Services alien registration number, if applicable;
 - Name, telephone number, address of the applicant's current employer, if the work requires the HME; and
 - The date the applicant previously completed a TSA threat assessment or a federal security clearance (49 CFR 383.71(b));

- A statement with signature and date asserting that the applicant (49 CFR 1572.9(b)):
 - Was not convicted or found not guilty by reason of insanity for a disqualifying crime;
 - Was not released from civilian or military incarceration for committing a disqualifying crime within five years before application;
 - Is not wanted or under indictment for a disqualifying crime;
 - Has not been adjudicated as lacking mental capacity or committed to a mental health facility involuntarily;
 - Defined as marked subnormal intelligence, mental illness, incompetence, condition or disease, a danger to self or others, or lacks mental capacity to manage his or her own affairs (49 CFR 1572.109(b)(1));
 - Includes finding of insanity by a court in a criminal case and a finding of incompetence to stand trial, or a finding of not guilty by reason of insanity (49 CFR 1572.109(b)(2));
 - Formally committed to a mental health facility by a court, board, commission or other lawful authority, including involuntary commitment and commitment for lacking mental capacity, mental illness, and drug use; does not include admission for observation or voluntary admission (49 CFR 1572.109(c));
 - Whether the applicant has served in the military and, if so, the branch in which he or she served, and the date and type of discharge; and
 - Understands a knowing and willful false statement or an omission of material fact can be punished by fine or imprisonment or both and may be grounds for denial of the HME;
- Fingerprints must be submitted with the application (49 CFR 1572.11(c); KSA 2015 Supp. 8-2,151)).
 - The security threat assessment includes a fingerprint-based criminal history records check, an intelligence-related background check, and a final disposition (49 CFR 1572.15(a));
 - The intelligence-related check includes searches of domestic and international databases (Interpol, terrorist watchlists, certain foreign or domestic imprisonment [49 CFR 1572.107];
- Certain criminal offenses disqualify an applicant:
 - Permanent disqualifying offenses include (49 CFR 1572.103(a)):
 - Espionage or conspiracy to commit espionage;
 - Sedition, or conspiracy to commit sedition;

- Treason, or conspiracy to commit treason;
 - A federal crime of terrorism or conspiracy to commit such a crime;
 - A crime involving a transportation security incident (results in significant loss of life, environmental damage, transportation system disruption, or economic disruption);
 - Improper transportation of a hazardous material;
 - Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, import, export, storage of any explosive or explosive device;
 - Murder;
 - A bomb threat; and
 - Certain violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act;
- Certain felony offenses disqualify the applicant for a period of time (49 CFR 1572.103(b)), if convicted or found not guilty by reason of insanity – within the previous seven years or released from incarceration for that crime within the previous five years:
 - Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, delivery, import, export, dealing in firearms or other weapons;
 - Extortion;
 - Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering;
 - Bribery;
 - Smuggling;
 - Immigration violations;
 - Distribution of, possession with intent to distribute, or importation of a controlled substance;
 - Arson;
 - Kidnapping;
 - Rape or aggravated sexual abuse;
 - Assault with intent to kill;
 - Robbery; and
 - Violations of the RICO Act not requiring permanent disqualification.

Special Knowledge Requirements for HME and Tank Vehicle Endorsements

HME. Anyone seeking an HME also must pass a knowledge test specific to hazardous materials. In addition to knowing requirements for the shipping process itself, the driver must know information on topics including these (49 CFR 383.121):

- Hazardous materials handling:
 - Forbidden materials and packages;
 - Loading and unloading materials;
 - Cargo segregation;
 - Routes; and
 - Cargo tanks (Note: A cargo tank is defined a bulk packaging holding more than 119 gallons of a hazardous liquid [49 CFR 171.8].);
- Operation of emergency equipment:
 - Use of equipment to protect the public;
 - Special precautions for equipment to be used in fires; and
 - Use of emergency equipment for tank vehicles;
- Emergency response procedures:
 - Special care and precautions for different types of accidents; and
 - Special precautions for driving near a fire and carrying hazardous materials.

Tank vehicle. A tank vehicle is defined as “any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis.” (49 CFR 383.5).

Anyone seeking a tank vehicle endorsement must pass a knowledge test on topics including these (49 CFR 383.119):

- Causes, prevention, and effects of cargo surge on motor vehicle handling;
- Proper braking procedures for when the vehicle is empty, full, and partially full;
- Effects of road grade and curvature on motor vehicle handling with filled, half-filled, and empty tanks; and
- Proper use of emergency systems.

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