



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0346]

Commercial Driver's Licenses; Pilot Program to Allow Drivers Under 21 to Operate Commercial Motor Vehicles in Interstate Commerce

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: Drivers 18, 19 and 20 years old may currently operate commercial motor vehicles (CMVs) in intrastate commerce. On July 6, 2018, FMCSA published a Federal Register notice announcing the details of the Commercial Driver Pilot Program, that allows certain 18- to 20-year-olds with military training to operate CMVs in interstate commerce. This document requests comments on a possible second pilot program to allow non-military drivers aged 18, 19, and 20 to operate CMVs in interstate commerce. FMCSA requests comments on the training, qualifications, driving limitations, and vehicle safety systems that FMCSA should consider in developing options or approaches for a second pilot program for younger drivers.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2018-0346 using any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200

New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mr. Selden Fritschner, Commercial Drivers License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, by email at selden.fritschner@dot.gov, or by telephone at 202-366-0677. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials. In this notice, FMCSA requests certain information, but comments are not limited to responses to those requests.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2018-0346), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online, by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov, put the docket number, "FMCSA-2018-0346" in the "Keyword" box, and click "Search." When the new screen appears, click on the "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this notice as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2018-0346” in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., ET., Monday through Friday, except Federal holidays.

II. Legal Basis

Applicable Regulations

Subject to limited exceptions for farm vehicle drivers of articulated CMVs (49 CFR 391.67) and private (non-business) motor carriers of passengers (49 CFR 391.68), drivers of CMVs engaged in interstate commerce must be at least 21 years of age, whether or not operation of the CMV requires a commercial driver’s license (CDL) (49 CFR 391.11(b)(1)).

Under 49 U.S.C. §§ 31315 and 31136(e), the Secretary of Transportation (the Secretary) has authority to grant waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs) and to conduct pilot programs in which one or more exemptions are granted to allow for the testing of innovative alternatives to certain FMCSRs. FMCSA must publish in the Federal Register a detailed description of each pilot program, including the exemptions being considered, and provide notice and an opportunity for public comment before the effective date of the program. The Agency is required to ensure that the safety measures in the pilot programs are designed to achieve a

level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the safety regulations. The maximum duration of a pilot program is 3 years.

Therefore, a pilot program requires that participating drivers be provided relief from the effect of the intrastate only (or “K”) restriction that would appear on a CDL under 49 CFR 383.153(a)(10)(vii) and an exemption from the requirement that a CMV driver operating in interstate commerce be at least 21 years of age under 49 CFR 391.11(b)(1).

At the conclusion of each pilot program, FMCSA must report to Congress its findings, conclusions, and recommendations, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety, and improve compliance with the FMCSRs.

Additionally, Section 5404 of the Fixing America’s Surface Transportation (FAST) Act (Pub. L. 114-94, 129 Stat. 1312, 1549, Dec. 4, 2015) directed FMCSA to establish a pilot program to allow certain drivers with military training and experience, ages 18, 19 or 20, to operate CMVs in interstate commerce.

III. Background

Recent Considerations to Change the CDL Driving Age

On October 2, 2000, the Truckload Carriers Association (TCA) petitioned FMCSA to conduct a younger driver pilot program. Motor carriers, truck driver training schools, a trade association, and an insurance company joined in the petition asking FMCSA to authorize a pilot program to determine if CMV drivers under age 21 could operate CMVs safely in interstate commerce. Petitioners stated that this pilot would

address the shortage of CMV drivers in the trucking industry. Petitioners also asserted that recruiting young persons as truck drivers would be easier if they could be approached immediately after graduation from high school.

The pilot program proposed by TCA would have involved a minimum of 48 weeks of intensive classroom and driving instruction and supervision that was designed to lead to full-time employment as an interstate CMV driver. Each younger driver (18 to 21 years of age) would attend a truck driver training school approved by the Professional Truck Driver Institute for a minimum of 22 weeks and receive 8 weeks of training in a motor carrier's "driver finishing" program. This would be followed by 18 weeks of team driving with an older, more experienced driver. Younger drivers would be required to pass the performance standards of the entire 48-week program and reach the age of 19 to begin solo driving.

On February 20, 2001, FMCSA published a notice asking six questions about the proposed pilot program and requesting public comment on the TCA petition (66 FR 10935). FMCSA received more than 1,600 comments. Very few commenters presented data either for or against the program. More than 90 percent of the commenters were opposed, most on the basis that individuals under the age of 21 lacked the maturity and judgment to operate a CMV. None explained how interstate drivers under 21 would diminish safety when most States have concluded that intrastate drivers under 21 do not do so. Very few truck drivers and motor carriers commented, but most of them also opposed the pilot program.

On June 9, 2003, FMCSA denied the TCA petition stating that "the Agency does not have sufficient information at this time to make a determination that the safety

measures in the pilot program are designed to achieve a level of safety equivalent to, or greater than, the level of safety provided by complying with the minimum 21-year age requirement to operate a CMV.” (68 FR 34467, 34468)

Military Under 21 Pilot Program

On August 22, 2016, FMCSA published a notice of proposed pilot program titled “Commercial Driver’s Licenses; Proposed Pilot Program to Allow Persons Between the Ages of 18 and 21 with Military Driving Experience to Operate Commercial Motor Vehicles in Interstate Commerce” (81 FR 56745). The notice proposed allowing members of the military, veterans, Reservists and National Guard members who are 18, 19 or 20 years old and certified in one of seven Military Occupational Specialties (MOS) to operate CMVs in interstate commerce. The 2016 notice provided details of current military training. At a minimum, the seven MOS require at least 22 hours of classroom training and 62 hours of behind-the-wheel training in a heavy duty military vehicle. In some instances, additional instruction is required for specialized training, depending on the vehicle or trailer type.

The Agency received 67 comments to the docket; 40 favored the pilot program and 9 opposed it. The remaining 18 comments were a form letter asking the Agency to expand the current pilot program or initiate a new one for drivers aged 18, 19, or 20 years old and who are engaged in agricultural operations.

On July 6, 2018, the FMCSA published a notice detailing the requirements of the pilot program and responded to comments. The notice is titled “Proposed Pilot Program To Allow Persons Between the Ages of 18 and 21 With Military Driving Experience to Operate Commercial Motor Vehicles in Interstate Commerce” (83 FR 31633). The notice

discussed comments and responses received from the August 2016 notice, and detailed the pilot program requirements and procedures.

In addition, on July 6, 2018, the FMCSA published a 60-day notice for the information collection request (ICR) associated with the Under 21 Military CDL Pilot Program (83 FR 31631). The ICR included the application and consent forms for motor carriers, covered drivers, control group drivers, and intrastate drivers providing information for the pilot program. It also explained the Agency's hypotheses for the Under 21 Military CDL Pilot Program, the monthly reporting requirements, and the ICR burdens. The Agency anticipates that some of the forms and processes developed for this information collection may also be applicable if the Agency decides to conduct a pilot program involving younger drivers without military training and experience.

Entry Level Driver Training

On December 8, 2016, the FMCSA published a final rule titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (81 FR 88732). The rule on entry-level driver training (ELDT) established minimum training standards for certain individuals applying for their CDL. Specifically, according to FMCSA's current rulemaking implementation schedule, beginning on February 6, 2020, CDL applicants subject to the rule must complete a prescribed program of instruction presented by an entity listed on FMCSA's Training Provider Registry, prior to taking the State-administered CDL skills test, or for the Hazardous Materials endorsement, prior to taking the knowledge test. The final rule outlined the topics that must be covered during classroom and behind the wheel training curriculums; however, it did not require a minimum number of hours for either classroom or behind the wheel.

Recent Legislative Proposals

On February 27, 2019, companion bills were introduced in the U.S. House of representatives and the U.S. Senate called the “Developing Responsible Individuals for a Vibrant Economy Act” (DRIVE-Safe Act) (H.R. 5358). The DRIVE-Safe Act proposes to lower the age requirement for interstate drivers to 18 as long as drivers under the age of 21 are participating in an apprenticeship program that includes separate 120-hour and 280-hour probationary periods, during which younger drivers would operate CMVs under the supervision of an experienced driver and must achieve specific performance benchmarks before advancing. Younger drivers would also drive vehicles equipped with active braking collision mitigation systems, forward-facing video event capture, and speed limiters set to 65 miles per hour.

IV. Request for Public Comments

FMCSA requests responses to the following questions to help the Agency determine whether it should propose a younger driver pilot program and the parameters of such a program. Instructions for filing comments to the public docket are included earlier in this notice.

The public is encouraged to respond to the questions listed below; however, additional comments are also welcome.

General

1. What data are currently available on the safety performance (e.g. crash involvement, etc.) of 18-20-year-old drivers operating CMVs in intrastate commerce?

2. Are there concerns about obtaining insurance coverage for drivers under 21 who operate CMVs in intrastate commerce, and would these challenges be greater for interstate operations?

Training and Experience

As noted above, according to the current rulemaking implementation schedule, starting in 2020, FMCSA will require completion of an ELDT course before a driver may take the CDL skills test. In addition, the 2000 TCA proposal included extensive training requirements. The DRIVE-Safe Act contemplates an extensive apprenticeship program under the supervision of an experienced co-driver.

1. What is the minimum driving experience that should be required for a driver to be admitted to a pilot?
 - a. Should there be a requirement for experience driving non-commercial vehicles (e.g., to hold a regular driver's license for some minimum period of time)?
 - b. Should there be a requirement for experience driving a CMV in intrastate commerce for some minimum period of time? If so, what should that period be and how should it be measured (e.g., time with a CDL, hours driven, vehicle miles traveled) and why?
 - c. Is there a minimum amount of time a younger driver should be required to hold a CLP or CDL? If so, how long and why? Are there driver training topics that should be required for younger drivers beyond those covered in the ELDT final rule? If so, what are they and why?

2. What kind of supervision, and how much, should be required for drivers under 21 in a pilot?
3. Should there be any specific training / qualification requirements for mentors, supervisors or co-drivers? If so, what type of training or qualifications?
4. Should FMCSA require that participating motor carriers establish a formal apprenticeship program according to Department of Labor Standards? If so, why?

Operational Requirements

The TCA proposal and the DRIVE-Safe Act both proposed operational limitations for 18-20-year-old drivers beyond what is currently required under Federal regulations. In addition, graduated driver license programs that begin with operational restrictions (e.g., may not drive between midnight and 5:00 a.m.) have been shown to be effective for new drivers. With this in mind:

1. Should there be time or distance restrictions on younger drivers? If so, what should these be and why?
2. Should younger drivers have more limited hours of service, such as a maximum of 8 hours of driving each day? If so, what limits should be applied and why?
3. Should younger drivers be prohibited from transporting hazardous materials, passengers, and/or operating tank vehicles or oversize/overweight vehicles? Should there be other restrictions?

Requirements for Participation?

In the Under 21 Military Pilot Program, FMCSA laid out specific requirements that participating motor carriers and drivers must continue to satisfy.

1. What safety standards should participating motor carriers have to meet? Are the requirements from the Under 21 Military Pilot Program appropriate?
2. What safety standards should participating drivers have to meet? Are the requirements from the Under 21 Military Pilot program appropriate?
3. What action(s) should the Agency consider taking if drivers in this pilot program are convicted of violations while operating in interstate commerce?
4. At what point should FMCSA remove a driver or motor carrier from a pilot program?

Technology Requirements

The DRIVE-Safe Act would require younger drivers to operate vehicles that are equipped with collision avoidance systems, front-facing video recorders, and speed limiters set to 65 mph.

1. Should FMCSA include requirements for safety equipment or on-board recording systems in a pilot program for younger CMV drivers? If so, what equipment and why?
2. Are the technologies proposed in the DRIVE-Safe Act appropriate?
3. Should FMCSA include other technologies? If so, what technologies are appropriate?

Insurance

1. Will insurance companies be willing to cover younger drivers operating CMVs in interstate commerce?
2. What is the surcharge for insuring a younger driver?

3. Will motor carriers be able to afford the insurance coverage for these younger drivers?

Research and Data

1. What type of data could be provided to the Agency to evaluate the safety performance of drivers under 21 who operate in intrastate commerce, e.g., State-managed safety performance data?
2. Are traffic violations, crashes, and inspection violations adequate to allow a comparison of safety records? If not, what other safety performance measures should be used?
3. What research should the Agency consider to assess the safety impacts of younger interstate CMV drivers?

Issued on: May 9, 2019.

Raymond P. Martinez,
Administrator.

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