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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMV 3-2024

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

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FILING CAPTION: Amending Qualifications and Process of Transferring Canadian and Mexican CDLs for an Oregon CDL

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NEED FOR THE RULE(S):

This temporary rulemaking amends OAR 735-063-0260 and 735-063-0263 to prevent fraud in applications for Oregon Commercial Driver Licenses (CDLs), which has a significant safety impact.

DMV must immediately amend OAR 735-063-0260 to permit applicants who surrender a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States (Mexico) or a valid, unexpired CDL issued by a Canadian Province or Territory to obtain an Oregon CDL without first obtaining a commercial learner permit and passing a CDL skills test if they meet the requirements provided in OAR 735-063-0263.

Currently, OAR 735-063-0263 permits DMV to issue an Oregon CDL to a person who surrenders a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States (Mexico) or a valid, unexpired CDL issued by a Canadian Province or Territory (Canada) without testing (CDL transfer). Oregon is an anomaly among most other states in the region in that it allows this transfer without testing, while also issuing non-domiciled (limited term) CDLs to citizens of Mexico and Canada. Texas, California, Washington, Arizona, New Mexico and Colorado require Mexican Federal CDL holders to pass CDL tests. Oregon and Idaho do not, although Idaho does not issue non-domiciled CDLs to citizens of Mexico and Canada. Because of this disparity, and the license reciprocity Oregon has with all other US states, Oregon has become a prime target for individuals who are fraudulently claiming Oregon residency to be issued Oregon CDLs and avoid the testing or issuance requirements in their home state.

The reasons other states do not allow CDL transfer without testing when an applicant surrenders a Licencia Federal de Conductor include fraudulent "proof" of domicile in that state, and alleged corruption resulting in the issuance of Mexican CDLs to unqualified individuals. Oregon DMV checks the national database, which includes Canadian and Mexican credentials, to verify a CDL's authenticity. However, such a check would return as "valid" in the case of a credential that is unlawfully issued by the government agency itself.

Prior to September 2023, DMV issued approximately eight CDLs each month using the CDL transfer process described

in OAR 735-063-0263. However, starting in September 2023, DMV noticed a significant increase in the number of applicants with a Licencia Federal de Conductor applying for an Oregon CDL. DMV went from averaging eight CDL transfer transactions per month to 125 per month.

DMV field office staff noticed the significant increase in the number of these transactions and potential issues with the documents that were submitted by the applicants to prove residency or domicile in Oregon. Often these applicants were escorted into a field office as a group, with the escort providing verbal address verification for the entire group. Once DMV identified the increased transaction volume and field office employees' concerns regarding the documentation, DMV experts conducted a comprehensive review of a sampling of recent issuances and found significant indications of fraud. In addition to the fraud and resulting safety concerns, a few DMV field offices have seen the bulk of these applications.

DMV must immediately amend OAR 735-063-0263 to prevent non-residents from obtaining Oregon CDLs and avoiding testing requirements in their home states. DMV proposes to amend the rule to limit who is eligible for a CDL transfer to applicants who have an Employment Based Third Preference (EB-3) visa, are sponsored and employed by an Oregon-based trucking company, provide proof of medical qualification and have valid driving privileges. The EB-3 visa program ensures the individual has the appropriate labor certification and a permanent, full-time job offer. This requirement coupled with the requirement to be employed and sponsored by an Oregon-based trucking company will ensure they have the skills to operate a Commercial Motor Vehicle (CMV) safely on our highways and that they are a resident of or domiciled in Oregon.

As a result of DMV amending OAR 735-062-0263, only applicants who meet the updated requirements can use the CDL transfer process. Applicants with a valid CDL from Mexico or Canada who do not meet the updated requirements provided in OAR 735-063-0263 will need to complete all requirements for a noncommercial driver license and a CDL, including obtaining a commercial learner permit and holding it for a minimum of 14 days, passing all knowledge exams, and all skills tests to obtain an Oregon CDL. This change will preserve confidence in Oregon-issued credentials. DMV anticipates that potential applicants will no longer be able to come to Oregon and commit fraud to evade the testing requirement in their home states.

Under the proposed rule change Oregon will provide CDL transfers for Mexican or Canadian issued CDLs in very limited circumstances and will have confidence in the applicant's ability to safely operate a CMV. In line with federal regulations, a person who holds a CDL issued in Mexico or Canada may continue to legally operate a CMV in the US, including Oregon, using a CDL issued in that country.

JUSTIFICATION OF TEMPORARY FILING:

DMV must amend OAR 735-063-0260 and 735-063-0263 to preserve overall safety and the federal highway safety standards in alignment with other jurisdictions. The current misalignment with requirements imposed in other states has provided an incentive for residency/domicile fraud to avoid testing requirements in an applicant's home state. In addition, other states have alleged evidence of corruption in the issuance of Mexican CDLs that raise concerns about the qualifications of these applicants.

DMV's failure to act promptly will result in serious prejudice to the public because Oregon CDLs may be issued to applicants who have not demonstrated that they can safely operate a commercial motor vehicle in Oregon. DMV believes failure to amend OAR 735-063-0260 and 735-063-0263 would result in safety concerns for Oregon and US motorists because of an increased likelihood that the applicant is unable to demonstrate the ability to operate a commercial motor vehicle safely.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

RULES:

735-063-0260, 735-063-0263

AMEND: 735-063-0260

RULE SUMMARY: DMV must immediately amend this rule to permit applicants who surrender a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States (Mexico) or a valid, unexpired CDL issued by a Canadian Province or Territory to obtain an Oregon CDL without first obtaining a commercial learner permit and passing a CDL skills test if they meet the requirements provided in OAR 735-063-0263.

CHANGES TO RULE:

735-063-0260

CDL Testing and Requirements for Issuance of CDL ¶

(1) An applicant for a CDL must first be issued a CLP and pass a CDL skills test unless the applicant qualifies for one of the following exceptions:¶

(a) The applicant currently holds an Oregon CDL and is applying to renew or replace a CDL granting the exact same privileges.¶

(b) The applicant currently holds an Oregon CDL, is qualified for and has passed the knowledge test to add one or more of the following endorsements:¶

(A) Tank;¶

(B) Hazardous Materials;¶

(C) Doubles/Triples.¶

(c) The applicant surrenders a CDL that is valid or expired less than one year and was issued by another state or the District of Columbia and the applicant:¶

(A) Meets the qualifications set forth in OAR 735-062-0080 subsections (1)(a) - (e);¶

(B) Surrenders a CDL that is the same class as the CDL for which the application is made;¶

(C) Passes the vision screening; and¶

(D) Complies with OAR 735-063-0250(8)(a) to (d).¶

(d) The applicant meets the requirements of OAR 735-063-0280 to be issued an Oregon CDL based on the applicant's military training and experience operating CMVs.¶

(e) The applicant surrenders a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States or a valid, unexpired CDL issued by a Canadian Province or Territory in conformity with the Canadian National Safety Code and meets the requirements described in OAR 735-063-0263.¶

(2) For a DMV examiner or CDL Third Party Examiner to administer a CDL skills test to an applicant, the applicant must:¶

(a) Have an unexpired Oregon driver license;¶

(b) Have an unexpired Oregon CLP that was issued not less than 14 days prior to the test;¶

(c) Have driving privileges that are not suspended, revoked, cancelled or otherwise withdrawn;¶

(d) Complete all required ELDT;¶

(e) Be ready to take the test in a class of vehicle or combination of vehicles that corresponds to or is lesser than the CLP, class, endorsements, and restrictions, possessed by the applicant and that corresponds to the CDL for which the person is applying;¶

(f) Have proof of insurance coverage on the vehicle as required by Oregon law;¶

(g) Complete all portions of the CDL skills test on the same calendar day unless the applicant fails or is unable to complete all three parts of the CDL skills test during a previous attempt; and¶

(h) Communicate with the examiner in English. All examiner instructions are given in English and the applicant must respond in English.¶

(3) In addition to the applicants described in section (2) of this rule, a CDL Third Party Examiner may administer a CDL skills test to an applicant who:¶

(a) Has a valid non-commercial driver license issued by another state;¶

(b) Has a valid CLP issued by the same state as the non-commercial driver license described in subsection (a) of this section, that was issued not less than 14 days prior to the test;¶

- (c) Meets the requirements provided in subsections (c) through (h) of section (2) of this rule;¶
 - (d) Is employed by an organization that provides employer-based training in Oregon and is an Oregon DMV approved employer-based testing organization;¶
 - (e) Has completed the employer provided ELDT in Oregon; and¶
 - (f) Is being tested by the same organization that provided ELDT.¶
- (4) DMV adopts the following FMSCA regulations in effect as of January 1, 2020, as the standards that must be followed by an examiner in the administration of a CDL skills test:¶
- (a) 49 CFR 383.71, Driver Applicant and Certification Procedures;¶
 - (b) 49 CFR 383.110 through 383.123, Required Knowledge and Skills; and¶
 - (c) 49 CFR 383.131 through 383.135, Tests.¶
- (5) The CDL skills test must be administered in accordance with the federal regulations adopted by section (4) of this rule and the methods and procedures set forth in the Oregon CDL Examiner's Manual. The CDL skills test consists of three parts:¶
- (a) A pre-trip vehicle inspection test. This part of the CDL skills test must be the first test administered by the examiner. It is designed to evaluate the applicant's ability to identify and operate the equipment on the vehicle in which the applicant is being tested and to detect and identify unsafe vehicle equipment items as described in the Oregon Commercial Driver Manual.¶
 - (b) A basic control skills test. This part of the CDL skills test must be administered after the applicant has successfully completed the pre-trip vehicle inspection test and prior to the on-road drive test. It is designed to evaluate the applicant's ability to control the vehicle and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing and parking maneuvers.¶
 - (c) An on-road drive test. This part of the CDL skills test, which must be administered after successful completion of the basic control skills test, is designed to evaluate the applicant's competency to safely operate a vehicle or combination of vehicles under actual driving conditions. The applicant must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road drive test:¶
- (A) The vehicle or combination of vehicles used for the CDL skills test must be of the class for which the applicant seeks a license or endorsement and must have the proper equipment in safe working order so that the vehicle(s) can be operated safely and legally. DMV will not administer the test if the examiner concludes the vehicle cannot be operated safely and legally; and¶
 - (B) The vehicle or combination of vehicles must not be loaded.¶
- (6) If the applicant fails any part of the CDL skills test, DMV or a CDL Third Party Tester may administer the failed parts of the test on a subsequent day on which DMV or the CDL Third Party Tester does business. CDL Third Party Examiners must conform to the scheduling requirements in OAR 735-060-0105(1)(n).¶
- (7) If an applicant fails any part of the CDL skills test, DMV or an approved Third Party Tester may accept the score for the part of the CDL skills test that the applicant passed. Scores for parts of the CDL skills test that the applicant passed may not be accepted for subsequent CDL skills test after the applicant's CLP expires.¶
- (8) All CDL skills test results must be recorded in CSTIMS.¶
- (9) A passing score for a completed CDL skills test is valid for six months. Once an applicant uses a CDL skills test score to have DMV issue commercial driving privileges, the test score is void and DMV may not use the test score for a subsequent issuance.¶
- (10) If a CDL skills test administered by DMV is not completed because of vehicle equipment failure due to the vehicle not having the necessary safety equipment or not being in proper working order, the required test fee will remain on the DMV customer record to serve as payment for a postponed test. If an applicant must postpone a CDL skills test three times due to equipment failure, it is a test failure and the test fee is forfeited. DMV will require an additional test fee for subsequent tests.¶
- (11) An applicant for a CDL with a hazardous materials endorsement must meet the requirements described in OAR 735-063-0290.¶
- (12) If an applicant is applying for a Real ID CDL, the applicant is not required to comply with the provisions in section (1)(c)(D) of this rule.¶
- (13) An applicant for a Real ID CDL must first be issued a non-Real ID CLP and pass a CDL skills test unless the applicant surrenders a valid CDL issued by another state or the District of Columbia and the applicant:¶
- (a) Meets social security number verification requirements set forth in OAR 735-062-0006;¶
 - (b) Except as provided in section (14) of this rule and OAR 735-063-0268, provides proof of U.S. citizenship as described in OAR 735-062-0022(3) or permanent legal residency in the U.S. as described in OAR 735-062-0022(4);¶
 - (c) Certifies driving type;¶
 - (d) Provides proof of medical qualification as described in OAR 735-063-0220; and¶
 - (e) Satisfies all requirements set forth in ORS 807.285.¶
- (14) A citizen of a nation with a Compact of Free Association (COFA) with the United States must provide the

proof required in OAR 735-062-0022(5). For purposes of this rule, a citizen of a COFA nation is considered to have met lawful permanent resident requirements, under authority of FMCSA guidance, as required under ORS 807.040 for issuance of a CDL. The expiration date of a Real ID issued to a COFA citizen is described in OAR 735-062-0008(14).

Statutory/Other Authority: ORS 184.619, 802.010, 807.085, 807.455, 807.480

Statutes/Other Implemented: ORS 807.018, 807.031, 807.035, 807.045, 807.085, 807.173, 807.285, 807.455, 807.480, 49 CFR 383.71, 49 CFR 383.110 - 383.123, 49 CFR 383.131-383.135

AMEND: 735-063-0263

RULE SUMMARY: DMV must immediately amend this rule to prevent non-residents from obtaining Oregon CDLs and avoiding testing requirements in their home states. The rule limits who is eligible for a CDL transfer to applicants who have an Employment Based Third Preference (EB-3) visa, are sponsored and employed by an Oregon-based trucking company, provide proof of medical qualification and have valid driving privileges.

CHANGES TO RULE:

735-063-0263

CDL Transfer from Canada or Mexico

~~(1) For the purposes of OAR 735-063-0260(1)(c), an applicant may surrender a valid~~ An individual may apply to transfer a valid, unexpired Licencia Federal de Conductor issued by a United Mexican State or a valid, unexpired CDL issued by a Canadian Province or Territory for an equivalent Oregon CDL if the individual and their employer meet all requirements described in this rule.

~~(2) An Oregon-based trucking company, as defined in section (5) of this rule, that sponsors and employs an individual as described in this rule must first contact DMV Driver Programs at~~ DMV_CDLPolicyUnit@odot.oregon.gov to establish eligibility for the transfer of the individual's CDL.

~~(3) To establish the individual's and employer's eligibility for CDL transfer under this rule, the employer must provide the following information:~~

~~(a) The individual applicant's name, date of birth and residence address;~~

~~(b) A copy of the applicant's EB-3 visa;~~

~~(c) Evidence of the applicant's valid, unexpired Licencia Federal de Conductor issued by the United Mexican States or valid, unexpired CDL issued by a Canadian Provinces and Territories or the United Mexican States. DMV may accept for surrender only:~~

~~(a) A or Territory in conformity with the Canadian National Safety Code that DMV is able to verify through the Commercial Driver's License Information System;~~

~~(d) A statement from the company that it withholds Oregon income tax for the applicant; and~~

~~(e) The information required in section (6) of this rule to determine if the company meets the definition of an Oregon-based trucking company, as defined in section (5) of this rule.~~

~~(4) The employer is eligible under this rule if it is an Oregon-based trucking company as defined in section (5) of this rule.~~

~~(5) For purposes of this rule, an "Oregon-based trucking company" means a for-hire motor carrier of property whose principal place of business is located in Oregon.~~

~~(6) DMV shall verify that the trucking company's principal place of business is located in Oregon through the Oregon Secretary of State - Business Registry or other databases, as necessary. To assist DMV in verifying the company's principal place of business, the company must provide DMV with the following information:~~

~~(a) The company's complete business name;~~

~~(b) The address listed as the company's principal place of business; and~~

~~(c) Any additional information requested by DMV to assist DMV in determining the company's principal place of business.~~

~~(7) An applicant is eligible for a CDL transfer under this rule if they meet the following eligibility criteria:~~

~~(a) The applicant possess a valid, unexpired Licencia Federal de Conductor issued by the United Mexican States; or~~

~~(b) A a valid, unexpired CDL issued by a Canadian Province or Territory in conformity with the Canadian National Safety Code;~~

~~(2b) The applicant for transfer must comply withholds an unexpired EB-3 visa;~~

~~(c) The applicant is employed and sponsored by an Oregon-based trucking company; and~~

~~(d) The applicant's driving privileges are not suspended, revoked, cancelled or otherwise withdrawn in any jurisdiction.~~

~~(8) To apply for a CDL transfer, the all other requirements of OAR 735-063-0260, as if the transfer occurred from another U.S. jurisdiction applicant must:~~

~~(a) Complete the application requirements described in ORS 807.045(1);~~

~~(b) Provide proof of medical qualification as described in OAR 735-063-0220; and~~

~~(c) Complete all other eligibility or qualification requirements, excluding an actual demonstration, provided in statute or Oregon administrative rule for the issuance of a commercial driver license.~~

~~(39) For the purposes of section (1) of this rule, an applicant surrendering a valid, unexpired Licencia Federal de Conductor is considered to have met the requirements of OAR 735-062-0080(1)(a).~~

Statutory/Other Authority: ORS 184.619, 802.010, 807.072, CFR 2383.23

Statutes/Other Implemented: ORS 807.07045, 807.072, 825.005