

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Transportation**
(DLS Control No. 16-118)

Overview and Legal and Fiscal Impact

The regulations implement Chapter 158 of 2016, which authorizes the Motor Vehicle Administration to automatically downgrade a commercial driver's license (CDL) to a noncommercial driver's license under specified circumstances.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Transportation:

Motor Vehicle Administration – Administrative Procedures:

Commercial Driver's License Disqualification:

COMAR 11.11.12.02 and .09

Legal Analysis

Background

Federal law requires the administration to cancel a CDL when the holder fails to submit a medical certification in accordance with regulations of the Federal Motor Carrier Safety Administration (49 CFR §§ 391.43 and 391.45). In Maryland, this results in the cancellation of the CDL holder's *noncommercial* driving privilege as well as the holder's *commercial* driving privilege. Moreover, if the cancellation remains in effect for more than one year, an individual may be required to take all driving tests—including the noncommercial knowledge test, the noncommercial driving skills test, and all commercial driver's license test—in order to regain driving privileges.

Chapter 158 of 2016 simplifies the procedure for reinstating an individual's driving privileges when his or her CDL is canceled solely as a result of the individual's failure to comply with medical certification requirements. The law authorizes the administration to automatically downgrade a CDL to a noncommercial driver's license under specified circumstances, preserving the individual's ability to drive noncommercial vehicles. The administration may not issue a new noncommercial license unless the CDL holder first surrenders the commercial license. Chapter 158 takes effect October 1, 2016.

Summary of Regulations

The regulations implement Chapter 158 of 2016. The regulations clarify that if a CDL holder fails to submit a medical certification as required under 49 CFR §§ 391.43 and 391.45, the administration must cancel the CDL privilege of the individual. However, the administration may immediately reinstate the individual's noncommercial Class C privilege in accordance with § 16-812(o) of the Transportation Article.

The regulations also add a definition of the term "cancel." "Cancel" has the meaning stated in § 11-107 of the Transportation Article, which provides:

"Cancel", as used in reference to a driver's license issued under Title 16 of this article, means to annul or terminate, by formal action of the Administration, an individual's driver's license because of some error or defect in the license or because the individual no longer is entitled to the license, but without prejudice to the right of the individual to apply for a new driver's license at any time.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The administration cites §§ 12-104(b), 16-208.1, 16-808, 16-812, and 16-820 of the Transportation Article as statutory authority for the regulations. Of these, § 16-812 is most relevant to the regulations. As amended by Chapter 158 of 2016, § 16-812(k)(3) requires the administration to cancel the CDL of any individual who fails to submit a current certificate of physical examination, as required under federal regulations. Subsection (o)(2) of this section authorizes to administration to immediately reinstate noncommercial driving privileges to an individual whose CDL is cancelled solely as a result of his or her failure to submit medical certification, if (1) the cancellation of the CDL results solely from the failure to submit a certificate of physical examination; (2) the individual's driving privilege is not expired; and (3) the individual's driving privilege is not otherwise refused, suspended, revoked, or cancelled in Maryland or any other state.

The other statutes cited by the administration provide more general authority for the regulations. Section 12-104(b) grants the administration broad powers to adopt rules and regulations to carry out provisions of the Maryland Vehicle Law and any other law administered and enforced by the administration. Similarly, § 16-820 authorizes the administration to adopt and enforce regulations not inconsistent with the Maryland Vehicle Law, the federal Commercial Motor Vehicle Safety Act, and the Code of Federal Regulations in order to carry out the provisions of Title 16, Subtitle 8 of the Transportation Article (the Maryland Commercial Driver's License Act). Section 16-208.1 and 16-808 deal generally with the circumstances under which an individual must be disqualified from operating a commercial motor vehicle.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement Chapter 158 of 2016 (Senate Bill 80), which permits the Motor Vehicle Administration (MVA) to automatically downgrade a CDL to a noncommercial driver's license when the CDL privilege is canceled for failure to submit medical certification. MVA advises that Transportation Trust Fund expenditures increase by \$35,000 in fiscal 2017 only for MVA to contract with an outside vendor for computer reprogramming. The Department of Legislative Services disagrees as these reprogramming costs have already been assumed under the fiscal and policy note for that legislation.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

MVA advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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