

HOUSE BILL 868

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R4

1998 Regular Session
8r1948
CF 8r1724

By: **Delegate Love**

Introduced and read first time: February 12, 1998

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Commercial Driver's License - Third Party Testing**

3 FOR the purpose of requiring the Motor Vehicle Administration to establish and
4 operate a third party commercial driver's license testing program by a certain
5 date; requiring the Administration to establish a certain certification process
6 within certain guidelines; establishing minimum criteria for certification as a
7 third party tester; defining certain terms; requiring certain records to be
8 maintained in a certain manner; authorizing certain authorities to inspect
9 certain records; requiring certain applicants to submit to criminal history
10 records checks and drug tests; requiring the Administration to take certain
11 action against a certified third party tester under certain circumstances; and
12 generally relating to third party testing of commercial driver's licensees.

13 BY adding to
14 Article - Transportation
15 Section 16-807.1
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1997 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Transportation
20 Section 16-807(a) and (b)
21 Annotated Code of Maryland
22 (1992 Replacement Volume and 1997 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Transportation**

26 16-807.

27 (a) Except when driving under a commercial driver's instructional permit and
28 accompanied by the holder of a driver's license valid for the class of vehicle being

1 driven, an individual may not drive a commercial motor vehicle unless the individual
2 has been issued and is in immediate possession of a driver's license valid for the class
3 of vehicle being driven.

4 (b) (1) An individual may not be issued a commercial driver's license until
5 the individual has passed the knowledge and skill tests for driving a commercial
6 motor vehicle which complies with the minimum federal standards established by the
7 federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570),
8 and has satisfied all other requirements of that act as well as any other requirements
9 of this title.

10 (2) The tests shall be prescribed and conducted at the direction of the
11 Administration.

12 (3) The Administration shall adopt regulations to waive the skill test
13 required under paragraph (1) of this subsection in a manner consistent with 49 CFR
14 § 383.77.

15 16-807.1.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (2) "EMPLOYEE" INCLUDES:

19 (I) AN APPLICANT WHOSE EMPLOYMENT IS CONTINGENT UPON
20 OBTAINING A COMMERCIAL DRIVER'S LICENSE; AND

21 (II) AN INDEPENDENT CONTRACTOR.

22 (3) "THIRD PARTY EXAMINER" MEANS A PERSON WHO IS A PAYROLL
23 EMPLOYEE OF A THIRD PARTY TESTER AND IS CERTIFIED BY THE ADMINISTRATION
24 TO CONDUCT THE SKILLS TEST REQUIRED FOR A COMMERCIAL DRIVER'S LICENSE.

25 (4) "THIRD PARTY TESTER" MEANS A PERSON CERTIFIED BY THE
26 ADMINISTRATION TO ADMINISTER A SKILLS TEST PROGRAM FOR TESTING
27 COMMERCIAL DRIVER'S LICENSE APPLICANTS IN ACCORDANCE WITH
28 REQUIREMENTS ESTABLISHED BY THE ADMINISTRATION.

29 (B) THE ADMINISTRATION SHALL ESTABLISH AND OPERATE A THIRD PARTY
30 COMMERCIAL DRIVER'S LICENSE TESTING PROGRAM NO LATER THAN OCTOBER 1,
31 1998.

32 (C) THE ADMINISTRATION SHALL ESTABLISH A CERTIFICATION PROCESS IN
33 ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION FOR THIRD PARTY TESTERS
34 AND THIRD PARTY EXAMINERS.

35 (D) IN ORDER TO QUALIFY FOR CERTIFICATION, A THIRD PARTY TESTER, AT A
36 MINIMUM, SHALL:

1 (1) OWN OR LEASE AT LEAST 35 COMMERCIAL VEHICLES AND EMPLOY
2 AT LEAST 35 FULL-TIME ACTIVELY LICENSED COMMERCIAL DRIVERS;

3 (2) HAVE BEEN IN BUSINESS IN THE STATE FOR THE PRECEDING 3
4 YEARS BEFORE CERTIFICATION;

5 (3) OPERATE FROM, AND MAINTAIN ALL REQUIRED RECORDS IN
6 CONFORMANCE WITH FEDERAL AND STATE REGULATIONS IN A PERMANENT
7 STRUCTURE AT A FIXED LOCATION IN THE STATE;

8 (4) PROVIDE THE APPROPRIATE CLASS OF VEHICLES FOR THE
9 PURPOSES OF DRIVER TESTING AND TRAINING;

10 (5) HAVE A PERMANENT SKILLS TEST SITE AND ON-ROAD TEST ROUTE
11 APPROVED BY THE ADMINISTRATION;

12 (6) HAVE AN ESTABLISHED IN-HOUSE COMMERCIAL DRIVER TRAINING
13 PROGRAM FOR EMPLOYEES;

14 (7) MAINTAIN AND PROVIDE PROOF OF AN INSURANCE POLICY WRITTEN
15 BY AN INSURER AUTHORIZED TO CONDUCT BUSINESS IN THE STATE, THAT
16 PROVIDES COVERAGE OF AT LEAST \$1,500,000 FOR BODILY INJURY, DEATH, OR
17 PROPERTY DAMAGE ARISING FROM AN ACCIDENT; AND

18 (8) EMPLOY AT LEAST ONE THIRD PARTY EXAMINER APPROVED BY THE
19 ADMINISTRATION.

20 (E) AN INDIVIDUAL APPLYING TO BECOME A THIRD PARTY EXAMINER SHALL
21 SUBMIT TO CRIMINAL HISTORY RECORDS CHECKS AND DRUG TESTING TO BE
22 PROVIDED AT THE EMPLOYER'S EXPENSE.

23 (F) (1) RECORDS REQUIRED BY THE ADMINISTRATION UNDER THIS
24 SECTION SHALL BE MAINTAINED FOR AT LEAST 3 YEARS AT THE FIXED LOCATION
25 SPECIFIED ON THE APPLICATION AND ARE SUBJECT TO RANDOM INSPECTION BY
26 THE ADMINISTRATION, LAW ENFORCEMENT OFFICERS, OR THE FEDERAL HIGHWAY
27 ADMINISTRATION, OR THEIR REPRESENTATIVES.

28 (2) A THIRD PARTY TESTER AND ITS EMPLOYEES SHALL SUBMIT TO
29 RANDOM EXAMINATIONS, INSPECTIONS, AND AUDITS OF THE RECORDS REQUIRED
30 UNDER THIS SECTION WITHOUT PRIOR NOTICE DURING NORMAL BUSINESS HOURS.

31 (3) THE ADMINISTRATION SHALL TAKE PROMPT APPROPRIATE
32 REMEDIAL ACTION, UP TO AND INCLUDING LOSS OF CERTIFICATION, AGAINST A
33 THIRD PARTY TESTER IF THE THIRD PARTY TESTER FAILS TO COMPLY WITH STATE
34 OR FEDERAL STANDARDS FOR THE COMMERCIAL DRIVER'S LICENSE TESTING
35 PROGRAM.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 July 1, 1998.