

CRST Expedited Exemption Request for CLP Holders

October 30, 2015

Mr. T.F. Scott Darling, III
Acting Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, D.C. 20590-0001

Re: Exemption Request under 49 CFR 381.300, *et seq.*

Acting Administrator Darling:

The purpose of this letter is to request an exemption from the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA) 49 C.F.R. §383.25(a)(1). Specifically, CRST Expedited seeks an exemption from the requirement that licensed commercial vehicle operators (CDL holders) must be physically present in the passenger seat of a Class 8 truck when a Commercial Learner's Permit (CLP holder) is driving a commercial motor vehicle after the CLP holder has successfully passed an approved CDL skills test but has not yet made it to their home state to get their CDL issued.

This exemption would promote greater productivity and help people who have passed the CDL skills test return to actively earning a living faster while achieving a level of safety that is equivalent to or greater than the level of safety provided under the rule.

This exemption request is submitted under 49 CFR 381.300, *et seq.*

The trucking industry is facing a severe shortage of qualified and well-trained drivers to meet the ever-growing demand for shipping needs. Subpart 383.25(a)(1) limits the ability of CRST Expedited to effectively recruit, train, and employ new entrants to the industry. The exemption is requested due to the significant burden that this rule will create on the driver supply for CRST Expedited.

Prior to the implementation of 383.25(a)(1) on July 8, 2015, states like Iowa routinely issued temporary CDLs to drivers who had successfully passed a CDL skills test in their state. The temporary CDL allowed CRST Expedited time to route the new driver to their state of domicile to obtain their CDL. This permitted CRST Expedited to place the new driver into an on-the-job training position with a driver-trainer that was also a productive team truck. Then, when the truck could efficiently be routed through the temporary CDL holder's home state, the Iowa temporary CDL holder could exchange his/her temporary CDL for one issued by their home state. (Both the FMCSA and state of Iowa cooperated in this process prior to the change in regulation that took place on July 8, 2015.)

In this scenario, a more experienced driver could mentor and observe the new driver, but was not required to be on-duty and in the front seat at all times while the new driver was driving. The new driver could become productive immediately, allowing more freight movement for CRST Expedited and an immediate return to active earning for the new driver. This is certainly designed to be safer than a newly licensed CDL holder getting a job for any number of smaller carriers and being immediately assigned to driving a truck in traffic without a mentor or any kind of observed driving.

383.25(a)(1), however, requires that a CLP holder must be accompanied at all times by a CDL holder who, in turn, must be physically present in the front seat of the vehicle next to the CLP holder and in "on-duty" status during this time. This requirement, as written, applies even *after the CLP holder successfully passes the CDL skills test.*

This rule places CRST Expedited in a very difficult position regarding how CRST Expedited returns the CLP holder who has passed their skills testing back to their home state to get their CDL issued. The two possible courses of action are simple yet very costly.

1. CRST Expedited sends the CLP holder to their home state by public transportation to obtain their CDL and hopes the driver returns to CRST Expedited.
2. CRST Expedited sends the CLP holder back to their home state on one of its trucks.

The negative consequences of these courses action include, but are not limited to, the following:

1. The new drivers would suffer financially because it could be several days or even weeks before they get their home state CDL and are available to return to work. Some states are indicating it could be weeks before drivers who have passed their skills tests can get licensed due to implementing the changes of this regulation.
2. Safety would also be degraded in these situations because there will be a break in driving for the CLP holder who has passed his/her skill test until they can receive their CDL and return to CRST Expedited to start work. New driving skills are very perishable and must be reinforced for several weeks in order for new drivers to develop safe driving habits.
3. Increased costs to CRST Expedited for public transportation to return a CLP holder who has passed the skills test in another state to their home state for issuance of their CDL.
4. Further financial loss as CRST Expedited would undoubtedly lose control of some CLP holders once they returned home and obtained their CDL. These drivers would find local employment either in trucking or another industry. Financial losses in these cases would include the investment in time, training resources and recruiting costs made by CRST Expedited.
5. If CRST Expedited elected to send CLP holders who have passed their skills tests home on a CRST Expedited truck, CRST Expedited must operate at double the cost for half of the productivity. By sending the CLP holder back to their home state on one of our trucks, our experienced driver would be required to ride in the passenger seat not able

to drive themselves. This renders our team truck a solo truck for the entire time this condition exists, and CRST Expedited would have to pay two drivers to accomplish the work of one driver.

As a point of clarification, it should be recognized that the CLP holders that this exemption is designed to cover are those who have successfully passed the skills tests required to obtain their CDL in a state other than their domicile state, as allowed in 49 C.F.R. §383.79

§ 383.79: Skills testing of out-of-State students.

(a) A State may administer its skills test, in accordance with subparts F, G, and H of this part, to a person who has taken training in that State and is to be licensed in another United States jurisdiction (i.e., his/her State of domicile). Such test results must be transmitted electronically directly from the testing State to the licensing State in an efficient and secure manner.

(b) The State of domicile of a CDL applicant must accept the results of a skills test administered to the applicant by any other State, in accordance with subparts F, G, and H of this part, in fulfillment of the applicant's testing requirements under § 383.71, and the State's test administration requirements under § 383.73.

The *only* concession CRST Expedited is seeking through this exemption is that CLP holders who have passed their CDL skills testing be allowed to drive a truck and start earning income - with an experienced driver in the truck with them but not necessarily in the passenger seat - without having gotten back to their home state to get their actual CDL issued.

For these reasons, CRST Expedited seeks an exemption from subpart 383.25(a)(1) for CLP holders who have successfully passed a CDL skills test that is compliant under Part 383. Specifically, CRST Expedited seeks an exemption that would allow a CLP holder, who has successfully passed a compliant CDL skills test, to be able to drive without having a CDL holder seated beside him in the truck. However, the CDL holder will remain in the truck at all times while the CLP holder is driving

We further request that the exemption includes that the CLP holder could drive for the remainder of the time available on the driver's CLP before expiration, provided the driver can supply evidence passing the CDL examination to law enforcement personnel. This exemption would allow such a driver to operate more freely and in a way that benefits the driver, the carrier, and the economy as a whole. Furthermore, such an exemption will achieve a level of safety that is equivalent to, or greater than the level of safety obtained by compliance with subpart 383.25(a)(1), which is described more fully below.

This exemption is consistent with the FMCSA response to comments on the proposed rule for 383.25(a) that states "FMCSA does not believe that it is safe to permit inexperienced drivers

who have not yet passed the CDL skills test to drive unaccompanied." See Federal Register, Volume 76, Number 89, page 26861, May 9, 2011.

Conclusion

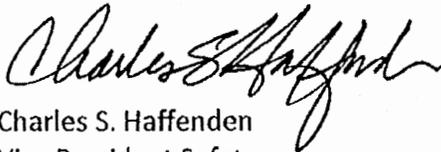
Granting this exemption will result in a level of safety that is equal to or greater than the level of safety of the rule without the exemption. The practical result of the exemption is that a CLP holder who has passed a CDL skills test would be able to drive without the requirements of subpart 385.25(a)(1) and begin immediate and productive on-the-job training. This allows these drivers to continue to use and sharpen their recently acquired driving skills and put them to work (in addition to immediately earning an income) under the mentoring and observation of a more experienced driver until they can return to their home state to be issued a CDL.

CRST Expedited respectfully requests that the FMCSA grant the exemption described herein from 49 C.F.R. §383.25(a)(1) to CRST Expedited, Inc. CRST Expedited requests that the exemption be granted for the maximum available period of 24 months. This exemption would apply only to those who hold a CLP *and* have passed the CDL skills test.

Please direct your response to CRST Expedited, Inc., 3930 16TH AVE SW, CEDAR RAPIDS, IA 52406, attention: Charles S. Haffenden, Vice President Safety.

Thank you for your prompt consideration of this request. If you require additional information, please contact Charles S. Haffenden at (319) 731-3935 or chaffenden@crst.com.

Sincerely,



Charles S. Haffenden
Vice President Safety
CRST International, Inc.