

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-161

JOBS FOR OUR HEROES ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1393



SEPTEMBER 19, 2017.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

69-010

WASHINGTON : 2017

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

JOHN THUNE, South Dakota, *Chairman*

ROGER F. WICKER, Mississippi	BILL NELSON, Florida
ROY BLUNT, Missouri	MARIA CANTWELL, Washington
TED CRUZ, Texas	AMY KLOBUCHAR, Minnesota
DEB FISCHER, Nebraska	RICHARD BLUMENTHAL, Connecticut
JERRY MORAN, Kansas	BRIAN SCHATZ, Hawaii
DAN SULLIVAN, Alaska	EDWARD J. MARKEY, Massachusetts
DEAN HELLER, Nevada	CORY A. BOOKER, New Jersey
JAMES M. INHOFE, Oklahoma	TOM UDALL, New Mexico
MIKE LEE, Utah	GARY C. PETERS, Michigan
RON JOHNSON, Wisconsin	TAMMY BALDWIN, Wisconsin
SHELLEY MOORE CAPITO, West Virginia	TAMMY DUCKWORTH, Illinois
CORY GARDNER, Colorado	MARGARET WOOD HASSAN, New Hampshire
TODD C. YOUNG, Indiana	CATHERINE CORTEZ MASTO, Nevada

NICK ROSSI, *Staff Director*

ADRIAN ARNAKIS, *Deputy Staff Director*

JASON VAN BEEK, *General Counsel*

KIM LIPSKY, *Democratic Staff Director*

CHRISTOPHER DAY, *Democratic Deputy Staff Director*

JOBS FOR OUR HEROES ACT

SEPTEMBER 19, 2017.—Ordered to be printed

Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1393]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1393) to streamline the process by which active duty military, reservists, and veterans receive commercial driver's licenses, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1393, the Jobs for Our Heroes Act, is to streamline the process by which active duty military, reservists, and veterans receive commercial driver's licenses in order to ease their transition into the civilian driving force.

BACKGROUND AND NEEDS

The Fixing America's Surface Transportation Act (FAST Act) (Public Law 114-94; 129 Stat. 1312) created a process by which a qualified Department of Veterans Affairs (VA) physician can perform a medical examination on an eligible veteran operator of a commercial motor vehicle and provide the medical certificate necessary for an individual to operate a commercial motor vehicle. S. 1393 would expand the list to include other VA medical professionals, such as physician assistants, chiropractors, and certain nurses, who could qualify to conduct the necessary medical examinations. These medical professionals are consistent with the medical professionals who are eligible to perform Federal Motor Carrier Safety Administration (FMCSA) medical examinations through the

standard National Registry of Certified Medical Examiners procedures.

Additionally, the FAST Act authorizes the FMCSA to exempt a veteran from taking all or part of a skills test in order to obtain a commercial driver's license if the veteran had qualifying experience while serving in the armed services or reserve components. However, section 5401 of the FAST Act limits the definition of "covered individual" to former members of the armed forces or of the reserve components. This limitation to former members of the reserve components excludes large numbers of current reservist drivers who received the same military commercial motor vehicle training as active duty personnel but perform military service only part-time while holding full-time civilian jobs. S. 1393 would ensure current armed forces members, including reservists, are covered under this provision, making it easier for trained military drivers to obtain commercial driver's licenses and move into civilian driving careers.

SUMMARY OF PROVISIONS

S. 1393 would enable VA medical professionals, including advanced practice nurses, doctors of chiropractic, and physician assistants, who are eligible to receive a medical examiner certification under the traditional FMCSA process, to qualify to be certified under a VA-specific alternative process. The VA process was established under the FAST Act and currently can only be used by doctors of medicine and doctors of osteopathy at the VA to become qualified to perform medical examinations on eligible veterans and issue the medical certificates required for such veterans to operate commercial motor vehicles.

Additionally, S. 1393 would exempt current members of the armed services or reserve components from certain testing requirements to obtain commercial driver's licenses if they had qualifying experience while serving in the armed services or reserve components.

LEGISLATIVE HISTORY

S. 1393 was introduced by Senators Cornyn, Tillis, and Warren on June 21, 2017. Current cosponsors include Senators Nelson, Duckworth, Thune, Hassan, Inhofe, Shaheen, Sullivan, and Blumenthal. The Committee, by voice vote, ordered S. 1393 reported without amendment on June 29, 2017.

This bill is substantially similar to two bills, H.R. 2258 and H.R. 2547, introduced in the House of Representatives on May 1, 2017, and May 18, 2017, respectively. Both of those bills were reported as amended, by voice vote, by the Committee on Transportation and Infrastructure of the House of Representatives on May 24, 2017. Both of those bills passed (409-0) in the House of Representatives on motion to suspend the rules.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1393—Jobs For Our Heroes Act

S. 1393 would exempt active-duty members or reservists of the armed forces from certain tests required to obtain a state commercial driver's license (CDL) if they have qualifying military experience. The bill also would expand the types of medical professionals at the Department of Veterans Affairs (VA) who could certify that veterans meet the physical standards required to operate commercial motor vehicles.

Under current law, veterans are exempt from requirements to take certain tests for CDLs if they have qualifying military experience. Furthermore, until October 27, 2018, all states are permitted to waive testing requirements, if they choose, for qualified veterans, reservists, National Guard, and active-duty personnel. Under regulations proposed by the Federal Motor Carrier Safety Administration (FMCSA), states could continue to waive CDL testing requirements for current and former members of the military who have qualifying military experience. Therefore, CBO expects that implementing provisions related to testing requirements would not have a significant cost.

CBO also expects that expanding the number of staff at VA who could issue the medical certificates would not lead to significant additional costs related to exams. (Currently at VA facilities, only physicians may perform the physical examinations and issue the medical certificates required for CDLs. According to the Department of Transportation, physicians at VA have provided roughly 13,000 medical exams related to CDLs over the past two years.)

Enacting S. 1393 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 1393 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 1393 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

CBO transmitted an estimate for H.R. 2258, the ADVANCE Act on June 14, 2017, and one estimate for H.R. 2547, the Veterans Expanded Trucking Opportunities Act of 2017 on June 21, 2017. Both bills were ordered reported by the House Committee on Transportation and Infrastructure Committee on May 24, 2017. Those bills have provisions similar to S. 1393 and CBO's estimates of the cost to implement them are the same.

The CBO staff contacts for this estimate are Ann E. Futrell and Sarah Puro. The estimate was approved by H Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1393 is intended to improve the process by which active duty military, reservists, and veterans receive commercial driver's licenses by amending the FAST Act. The bill is consistent with es-

established processes within the FMCSA and the VA, therefore the number of persons covered would not change.

ECONOMIC IMPACT

The legislation is not expected to have a negative impact on the Nation's economy. On the contrary, it is expected to lead to job creation for active duty military, reservists, and veterans entering into the commercial vehicle career.

PRIVACY

The reported bill is not expected to impact the personal privacy of individuals.

PAPERWORK

This legislation is not expected to result in additional paperwork. S. 1393 would not create any new programs; rather, it would modify and clarify existing processes within the FMCSA and the VA.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act's short title would be cited as the "Jobs for Our Heroes Act".

Section 2. Medical certificate for veterans operating commercial motor vehicles

This section would expand the list of eligible medical professionals for the process established by the FAST Act to include all VA medical professionals, including certain nurses, doctors of chiropractic, physician assistants, and other medical professionals, provided that they are authorized by the State in which they are licensed, certified, or registered to perform physical examinations and they meet other requirements.

Additionally, this section would make the list of eligible medical professionals within the VA consistent with the list of eligible medical professionals that can become certified under the traditional FMCSA process.

Section 3. Commercial driver's license standards for current and former members of the armed forces

This section would exempt current members of the armed services or reserve components from certain testing requirements for commercial driver's licenses if they had qualifying experience while serving in the armed services or reserve components.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49. TRANSPORTATION

SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

PART B. COMMERCIAL

CHAPTER 313. COMMERCIAL MOTOR VEHICLE OPERATORS

§ 31305. General driver fitness, testing, and training

(a) * * *

(d) STANDARDS FOR TRAINING AND TESTING OF **[VETERAN OPERATORS]** *OPERATORS WHO ARE MEMBERS OF THE ARMED FORCES, RESERVISTS, OR VETERANS.*—

(1) IN GENERAL.—Not later than December 31, 2016, the Secretary shall modify the regulations prescribed under subsections (a) and (c) to—

(A) exempt a covered individual from all or a portion of a driving test if the covered individual had experience in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle;

(B) ensure that a covered individual may apply for an exemption under **[subparagraph (A) during, at least,]** *subparagraph (A)*—

(i) *while serving in the armed forces or reserve components; and*

(ii) *during* the 1-year period beginning on the date on which such individual separates from service in the armed forces or reserve components; and

(C) credit the training and knowledge a covered individual received in the armed forces or reserve components driving vehicles similar to a commercial motor vehicle for purposes of satisfying minimum standards for training and knowledge.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ARMED FORCES.—The term “armed forces” has the meaning given that term in section 101(a) of title 10.

(B) COVERED INDIVIDUAL.—The term “covered individual” means an individual over the age of 21 years who is—

(i) a *current or* former member of the armed forces; or

(ii) a *current or* former member of *one of* the reserve components.

(C) RESERVE COMPONENTS.—The term “reserve components” means—

(i) the Army National Guard of the United States;

(ii) the Army Reserve;

(iii) the Navy Reserve;

- (iv) the Marine Corps Reserve;
- (v) the Air National Guard of the United States;
- (vi) the Air Force Reserve; and
- (vii) the Coast Guard Reserve.

FIXING AMERICAS SURFACE TRANSPORTATION ACT

[Public Law 114–94; 129 Stat. 1312]

SEC. 5403. MEDICAL CERTIFICATION OF VETERANS FOR COMMERCIAL DRIVER'S LICENSES.

(a) IN GENERAL.—In the case of a [physician-approved veteran operator, the qualified physician] *veteran operator approved by a qualified examiner, the qualified examiner* of such operator may, subject to the requirements of subsection (b), perform a medical examination and provide a medical certificate for purposes of compliance with the requirements of section 31149 of title 49, United States Code.

(b) CERTIFICATION.—The certification described under subsection (a) shall include—

(1) assurances that the [physician] *examiner* performing the medical examination meets the requirements of a [qualified physician] *qualified examiner* under this section; and

(2) certification that the physical condition of the operator is adequate to enable such operator to operate a commercial motor vehicle safely.

(c) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop a process for [qualified physicians] *qualified examiners* to perform a medical examination and provide a medical certificate under subsection (a) and include [such physicians] *such examiners* on the national registry of medical examiners established under section 31149(d) of title 49, United States Code.

(d) DEFINITIONS.—In this section, the following definitions apply:

[(2) QUALIFIED PHYSICIAN.—The term “qualified physician” means a physician who—

[(A) is employed in the Department of Veterans Affairs;

[(B) is familiar with the standards for, and physical requirements of, an operator certified pursuant to section 31149 of title 49, United States Code; and

[(C) has never, with respect to such section, been found to have acted fraudulently, including by fraudulently awarding a medical certificate.]

[(2)](1) QUALIFIED EXAMINER.—The term “qualified examiner” means an individual who—

(A) is employed by the Department of Veterans Affairs as an advanced practice nurse, doctor of chiropractic, doctor of medicine, doctor of osteopathy, physician assistant, or other medical professional;

(B) is licensed, certified, or registered in a State to perform physical examinations;

(C) is familiar with the standards for, and physical requirements of, an operator required to be medically certified under section 31149 of title 49, United States Code; and

(D) has never, with respect to such section, been found to have acted fraudulently, including by fraudulently awarding a medical certificate.

[(3)](2) VETERAN.—The term “veteran” has the meaning given the term in section 101 of title 38, United States Code.

[(1)](3) [PHYSICIAN-APPROVED VETERAN OPERATOR] VETERAN OPERATOR APPROVED BY A QUALIFIED EXAMINER.—The term “[physician-approved veteran operator] *veteran operator approved by a qualified examiner*” means an operator of a commercial motor vehicle who—

(A) is a veteran who is enrolled in the health care system established under section 1705(a) of title 38, United States Code; and

(B) is required to have a current valid medical certificate pursuant to section 31149 of title 49, United States Code.

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to change any statutory penalty associated with fraud or abuse.

