

1 SB289  
2 127192-3  
3 By Senator Waggoner  
4 RFD: Commerce, Transportation, and Utilities  
5 First Read: 29-MAR-11

1 SB289

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4 ENROLLED, An Act,

5 To amend Section 32-9A-2, Code of Alabama 1975; to  
6 remove the requirement that the operator of certain commercial  
7 motor vehicles carry in the vehicle and produce on demand his  
8 or her certification in proper load securement.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 32-9A-2, Code of Alabama 1975, is  
11 amended to read as follows:

12 "§32-9A-2.

13 "(a) (1) Except as otherwise provided in subsection  
14 (b), no person may operate a commercial motor vehicle in this  
15 state, or fail to maintain required records or reports, in  
16 violation of the federal motor carrier safety regulations as  
17 prescribed by the U.S. Department of Transportation, 49 C.F.R.  
18 Part 107, Parts 171-180, Parts 382-384, and Parts 390-399 and  
19 as they may be amended in the future. Except as otherwise  
20 provided herein, this chapter shall not be construed to repeal  
21 or supersede other laws relating to the operation of motor  
22 vehicles.

23 "(2) a. No person may operate a commercial motor  
24 vehicle in this state in violation of 49 C.F.R. §393.120, as  
25 amended, relating to load securement for certain metal coils.

1            "b. No one owning, leasing, or allowing a commercial  
2 vehicle to be operated in this state shall knowingly or  
3 negligently be in violation of 49 C.F.R. §393.120, as amended,  
4 relating to load securement for metal coils.

5            "(3) No person may knowingly or negligently own or  
6 lease or cause to be operated on any public highway, road,  
7 street, or other public right-of-way a commercial motor  
8 vehicle loaded with a metal coil in a manner that fails to  
9 comply with 49 C.F.R. §393.120 and thereby allows a metal coil  
10 to drop, fall, spill, shift, or otherwise escape from the  
11 commercial vehicle onto any public highway, road, street, or  
12 any other public right-of-way.

13            "(4)a. No motor carrier may initiate or terminate in  
14 this state the commercial transport of metal coils, as defined  
15 in 49 C.F.R. §393.120, unless the commercial vehicle operator  
16 is certified in proper load securement as provided in 49  
17 C.F.R. §393.120. Certification shall be conducted according to  
18 standards published by the Department of Public Safety and  
19 certified by the motor carrier and the driver on forms  
20 provided by the department.

21            "b. The operator of a commercial motor vehicle  
22 involved in the commercial transport of metal coils subject to  
23 this subdivision shall be certified in proper load securement  
24 as provided in 49 C.F.R. §393.120.

1           "(5) Except as it relates to subdivision (3), no law  
2 enforcement officer may make an arrest or issue a citation  
3 under this chapter unless he or she has satisfactorily  
4 completed, as a part of his or her training, the basic course  
5 of instruction developed by the Commercial Vehicle Safety  
6 Alliance. Those law enforcement officers authorized to enforce  
7 this chapter shall annually receive in service training  
8 related to commercial motor vehicle operations, including, but  
9 not limited to, training in current federal motor carrier  
10 safety regulations, safety inspection procedures, and  
11 out-of-service criteria. The annual training requirements  
12 shall be designated and specified by the director. An officer  
13 qualified under this section to make an arrest or issue a  
14 citation pursuant to subdivision (3) may arrest or issue a  
15 citation to the driver of a commercial motor vehicle without a  
16 warrant and without witnessing the violation personally if,  
17 upon personal investigation, the officer has reasonable cause  
18 to believe that a violation has occurred.

19           "(b) Notwithstanding subsection (a) or any other  
20 provision of law to the contrary:

21           "(1) Amendments to the hours of service regulations  
22 promulgated by the U.S. Department of Transportation at 68  
23 Federal Register 22456, April 28, 2003 and effective June 27,  
24 2003, shall not apply to utility service vehicles as defined  
25 at 49 C.F.R. §395.2, not including television cable or

1 community antenna service vehicles, which are owned or  
2 operated by utilities regulated by the Public Service  
3 Commission or electric cooperatives and which are engaged  
4 solely in intrastate commerce in this state until June 27,  
5 2006, provided the amendments are valid and remain in effect  
6 as of that date. Hours of service regulations that are  
7 applicable in this state immediately prior to June 27, 2003,  
8 shall remain applicable to utility service vehicles engaged  
9 solely in intrastate commerce in this state until June 27,  
10 2006. If the U.S. Department of Transportation issues an  
11 official finding that this provision may result in the loss of  
12 federal Motor Carrier Safety Assistance Program funding, the  
13 department may promulgate regulations providing for earlier  
14 implementation of the amendments to the federal hours of  
15 service regulations. If federal law or regulations are amended  
16 at any time to exempt utility service vehicles from the hours  
17 of service requirements, any exemption shall be effective in  
18 this state immediately for the duration of the federal  
19 exemption.

20 "(2) The department may promulgate regulations  
21 suspending the effective date for up to three years after  
22 adoption of any motor carrier safety regulation by the U.S.  
23 Department of Transportation as applied to vehicles engaged  
24 solely in intrastate commerce in this state, provided that the

1 suspension does not result in the loss of federal Motor  
2 Carrier Safety Assistance Program funding.

3 "(3) The department may enter into agreements with  
4 state and local emergency management agencies and private  
5 parties establishing procedures for complying with 49 U.S.C.  
6 §31502(e) and federal regulations promulgated thereto at 49  
7 C.F.R. §390.23 which provide an exemption from the hours of  
8 service regulations during certain emergencies.

9 "(4) The department may promulgate regulations  
10 granting any waiver, variance, or exemption permitted under 49  
11 U.S.C. §31104(h) and federal regulations promulgated thereto  
12 at 49 C.F.R. §§350.339-350.345, provided that the waiver,  
13 variance, or exemption does not result in the loss of federal  
14 Motor Carrier Safety Assistance Program funding and does not  
15 take effect unless approved by the U.S. Department of  
16 Transportation if that approval is required.

17 "(5) A commercial motor vehicle operated in  
18 intrastate commerce which does not equal or exceed 26,001  
19 pounds, except a motor vehicle, regardless of weight, which is  
20 designed or used to transport 16 or more passengers, including  
21 the driver, or which is used in the transportation of  
22 hazardous materials and required to be placarded pursuant to  
23 49 C.F.R. Part 172, Subpart F, shall be exempt from the  
24 federal motor carrier regulations otherwise made applicable in  
25 this state pursuant to subsection (a). For purposes of this

1 subdivision, commercial motor vehicle means a commercial motor  
2 vehicle as defined in 49 C.F.R. §390.5.

3 "(6) For purposes of those provisions of 49 C.F.R.  
4 §395 providing for exemptions from the hours of service  
5 requirements of that section respecting the operation of motor  
6 vehicles for the transportation of agricultural commodities as  
7 contemplated in that section, the planting and harvesting  
8 season for this state is defined by the Legislature as the  
9 period from April 1 of each calendar year to March 31 of the  
10 next succeeding calendar year.

11 "(c) Nothing in this section as amended by Act  
12 2008-336 shall be interpreted to exempt any person from the  
13 obligations to operate a motor vehicle in a safe and proper  
14 manner or to observe the rules of the road, nor shall any  
15 provision of this section as amended by Act 2008-336 be  
16 interpreted to immunize any person from civil liability for  
17 actionable conduct.

18 "(d) The Department of Public Safety shall publish  
19 standards for training drivers of commercial motor vehicles in  
20 proper load securement for metal coils as provided in 49  
21 C.F.R. §393.120 and provide for certification of drivers of  
22 commercial motor vehicles carrying metal coils."

23 Section 2. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.

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President and Presiding Officer of  
the Senate

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Speaker of the House of Representa-  
tives

SB289  
Senate 05-MAY-11  
I hereby certify that the within Act originated in  
and passed the Senate.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 02-JUN-11

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By: Senator Waggoner