

Legislative Analysis



SCHOOL BUS DRIVER MEDICAL QUALIFICATIONS

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House Bill 4861 as reported from committee

Sponsor: Rep. Jack O'Malley

Committee: Transportation

Complete to 8-2-21

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 131 of 2021)

SUMMARY:

House Bill 4861 would amend provisions in the Pupil Transportation Act concerning school bus drivers who have insulin-treated diabetes to account for recent changes to the federal regulations that govern medical qualifications for interstate commercial drivers. The federal regulations now provide certification at the federal level to a driver with insulin-treated diabetes who has an evaluation by his or her doctor and an annual examination by a medical examiner and meets other criteria. The bill would eliminate a current state waiver process for such drivers and instead require that they meet the revised federal regulations.

Under section 53 of the Pupil Transportation Act, a school bus driver must meet the physical qualification requirements found in 49 CFR 391.41 to 391.49 (including appendices). These are rules of the Federal Motor Carrier Safety Administration (FMCSA) that apply to the medical certification of interstate commercial drivers.

Section 53 of the act was last amended by 2010 PA 93,¹ which eliminated a requirement that a school bus driver must meet medical standards of the Michigan Department of Education and added the requirement that the driver must meet the federal rules described above. As the federal rules existed at that time, 49 CFR 391.41(b)(3) provided that a person was physically qualified to drive a commercial motor vehicle as long as he or she did not have an established medical history or clinical diagnosis of diabetes requiring insulin for control. Generally speaking, the rules prohibited a driver with insulin-treated diabetes from driving commercial motor vehicles in interstate commerce unless they obtained an exemption from FMCSA.

In adopting these federal requirements, 2010 PA 93 also provided a process under which drivers subject to 49 CFR 391.41(b)(3) who were otherwise medically qualified could apply for a waiver from the federal provision in meeting the state school bus driver qualifications.² To be eligible for a waiver, a driver must meet certain specified requirements, such as providing an annual statement from his or her doctor that the driver's diabetes is adequately controlled and that the driver knows both how to recognize signs of hypoglycemia and what to do in the event of a hypoglycemic reaction.

2011 PA 156 amended the Motor Carrier Safety Act to allow the Motor Carrier Safety Appeal Board, which hears and decides applications for waivers from federal medical requirements for certain commercial drivers, to also hear and decide applications for a medical waiver for school bus drivers, as described above.

¹ <http://legislature.mi.gov/doc.aspx?2009-HB-5363>

² See https://www.michigan.gov/documents/mde/InsulinDependentSchool_Bus_Driver_371249_7.pdf

In 2018, the FMCSA amended the federal regulations for the certification of individuals with insulin-treated diabetes as interstate commercial drivers.³ With some exceptions, the new rules generally allow drivers with a stable insulin regimen and properly controlled insulin-treated diabetes to be qualified to drive commercial vehicles in interstate commerce if a certified medical examiner determines upon examination that they meet FMCSA physical qualification standards.⁴ This examination must take place at least annually. The driver also must be evaluated by the doctor who is treating his or her diabetes,⁵ and the certified medical examiner takes that evaluation into account in his or her examination and determination. As a result of these federal rule changes, medical waivers are no longer required for drivers with insulin-treated diabetes. The federal diabetes exemption program has been ended, and the Michigan Motor Carrier Safety Appeal Board now advises that medical waivers are no longer required for commercial drivers with insulin-treated diabetes.⁶

The bill would amend the Pupil Transportation Act to eliminate the waiver program for school bus drivers with insulin-treated diabetes and remove references to the federal restriction formerly contained in 49 CFR 391.41(b)(3).

The bill instead would provide that, in addition to the act's other requirements, a driver of a school bus must meet the requirements to ensure that a person is qualified to operate a school bus that are found in 49 CFR 391.41 to 391.49 (including appendices).

MCL 257.1853

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

POSITIONS:

A representative of the Michigan Association for Pupil Transportation testified in support of the bill. (6-8-21)

The following entities indicated support for the bill:

- Department of State (6-8-21)
- Department of Education (6-15-21)

Legislative Analyst: E. Best
Fiscal Analyst: Michael Cnossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

³ https://www.diabetes.org/sites/default/files/2019-08/FMCSA_Final_Rule_FAQ.pdf

⁴ <https://www.govinfo.gov/content/pkg/FR-2018-09-19/pdf/2018-20161.pdf>

⁵ <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/regulations/medical/422521/itdm-assessment-form-final.pdf>

⁶ https://www.michigan.gov/msp/0,4643,7-123-72297_59877_62894---,00.html