

By: Senator(s) McDaniel

To: Veterans and Military
Affairs; Judiciary, Division
B

SENATE BILL NO. 2463

1 AN ACT TO AMEND SECTIONS 73-50-1 AND 63-1-208, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THAT THE PROVISIONS OF THE MILITARY
3 FAMILY FREEDOM ACT SPECIFICALLY APPLY TO PERSONS POSSESSING
4 CERTAIN FEDERALLY APPROVED MILITARY DOCUMENTATION OF COMMERCIAL
5 DRIVING EXPERIENCE ALLOWING THE PERSON TO APPLY FOR A COMMERCIAL
6 DRIVER'S LICENSE LEARNING PERMIT; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 73-50-1, Mississippi Code of 1972, is
9 amended as follows:

10 73-50-1. (1) This section shall be known as the "Military
11 Family Freedom Act."

12 (2) As used in this section, the term:

13 (a) "License" means any license (other than a privilege
14 license), certificate, registration or other evidence of
15 qualification that an individual is required to obtain before he
16 or she may engage in or represent himself or herself to be a
17 member of a particular profession or occupation.

18 (b) "Occupational licensing board" means any state
19 board, commission, department or other agency in Mississippi that
20 is established for the primary purpose of regulating the entry of



21 persons into, and/or the conduct of persons within, a particular
22 profession or occupation, and which is authorized to issue
23 licenses. For the purposes of this section, the State Department
24 of Education shall be considered an occupational licensing board
25 when issuing teacher licenses under Section 37-3-2.

26 (c) "Military" means the Armed Forces or Reserves of
27 the United States, including the Army, Navy, Marine Corps, Coast
28 Guard, Air Force, and the reserve components thereof, the National
29 Guard of any state, the military reserves of any state, or the
30 naval militia of any state.

31 (3) Notwithstanding any other provision of law, an
32 occupational licensing board shall issue a license to an applicant
33 who is a member of the military, or an applicant who is married to
34 or is a dependent of a member of the military, if, upon
35 application to an occupational licensing board, the applicant
36 satisfies the following conditions:

37 (a) The applicant has been awarded a military
38 occupational specialty, completed a military program of training,
39 completed testing or equivalent training and experience, and
40 performed in the occupational specialty; or

41 (b) The applicant holds a current and valid license in
42 another state in an occupation with a similar scope of practice,
43 as determined by the occupational licensing board in Mississippi
44 and has held this license from the occupational licensing board in
45 the other state for at least one (1) year; and



46 (c) The applicant has not committed any act in the
47 other state that would have constituted grounds for refusal,
48 suspension or revocation of a license to practice that occupation
49 in Mississippi at the time the act was committed, the occupational
50 licensing board in the other state holds the applicant in good
51 standing, and the applicant does not have a disqualifying criminal
52 record as determined by the occupational licensing board in
53 Mississippi under Mississippi law; and

54 (d) The applicant did not surrender a license because
55 of negligence or intentional misconduct related to the applicant's
56 work in the occupation in another state; and

57 (e) The applicant does not have a complaint, allegation
58 or investigation pending before an occupational licensing board or
59 other board in another state that relates to unprofessional
60 conduct or an alleged crime. If the applicant has a complaint,
61 allegation or investigation pending, the occupational licensing
62 board in Mississippi shall not issue or deny a license to the
63 applicant until the complaint, allegation or investigation is
64 resolved, or the applicant otherwise satisfies the criteria for
65 licensure in Mississippi to the satisfaction of the occupational
66 licensing board in Mississippi; and

67 (f) The applicant pays all applicable fees in
68 Mississippi.

69 (4) Notwithstanding any other law, the occupational
70 licensing board shall issue a license to an applicant who is a



71 member of the military, or an applicant who is married to or is a
72 dependent of a member of the military, upon application based on
73 work experience in another state, if all the following apply:

74 (a) The applicant worked in a state that does not use a
75 license to regulate a lawful occupation, but Mississippi uses a
76 license to regulate a lawful occupation with a similar scope of
77 practice, as determined by the occupational licensing board;

78 (b) The applicant worked for at least three (3) years
79 in the lawful occupation; and

80 (c) The applicant satisfies the provisions of
81 paragraphs (c) through (f) of subsection (3) of this section.

82 (5) An occupational licensing board may require an applicant
83 to pass a jurisprudential examination specific to relevant state
84 laws in Mississippi that regulate the occupation if the issuance
85 of a license in Mississippi requires an applicant to pass a
86 jurisprudential examination specific to relevant state statutes
87 and administrative rules in Mississippi that regulate the
88 occupation.

89 (6) The occupational licensing board shall issue or deny the
90 license to the applicant within one hundred twenty days (120) days
91 after receiving an application.

92 If the application requires longer than two (2) weeks to
93 process, the occupational licensing board shall issue a temporary
94 practice permit within thirty (30) days after receiving the
95 application if the applicant submits an affidavit, under penalties



96 of perjury, affirming that he or she satisfies the provisions of
97 subsection (3) (a) or subsection (3) (b) of this section and
98 subsection (3) (c) through (e) and pays all applicable fees as
99 required by subsection (3) (f), or satisfies the provisions of
100 subsection (4) (a) through (c) and pays all applicable fees as
101 required by subsection (3) (f).

102 The applicant may practice under the temporary permit until a
103 license is granted, or until a notice to deny the license is
104 issued, in accordance with rules adopted by the occupational
105 licensing board. A temporary license will expire in three hundred
106 sixty-five (365) days after its issuance if the applicant fails to
107 satisfy the requirement for licensure in subsection (5), if
108 applicable.

109 (7) (a) The applicant may appeal any of the following
110 decisions of an occupational licensing board to a court of general
111 jurisdiction:

- 112 (i) Denial of a license;
- 113 (ii) Determination of the occupation;
- 114 (iii) Determination of the similarity of the scope
115 of practice of the license issued; or
- 116 (iv) Other determinations under this section.

117 (b) The court shall determine all questions of law,
118 including the interpretation of a constitutional or statutory
119 provision or a rule adopted by an occupational licensing board,
120 without regard to any previous determination that may have been



121 made on the question in any action before the occupational
122 licensing board.

123 (8) An occupational licensing board shall prominently print
124 the following on all license applications, any communication
125 denying a license, and on the board's website: "Pursuant to the
126 provisions of the Military Family Freedom Act, Mississippi shall
127 recognize occupational licenses obtained from other states for
128 military members and their families." An occupational licensing
129 board shall prepare and place on the board's website an annual
130 report detailing the number of applications submitted to the
131 licensing board under this section during a calendar year and the
132 actions taken by the board on the applications.

133 (9) An occupational licensing board shall adopt rules
134 necessary to implement this section by January 1, 2021. In
135 addition, an occupational licensing board shall make all
136 reasonable efforts to issue a license to an applicant for a
137 license under this section.

138 (10) Nothing in this section shall be construed to prohibit
139 a military applicant, spouse or dependent from proceeding under
140 the existing licensure requirements established by an occupational
141 licensing board in Mississippi.

142 (11) Nothing in this chapter shall be construed to prevent
143 Mississippi from entering into a licensing compact or reciprocity
144 agreement with another state, foreign province or foreign country.
145 A license issued under this section is valid only in Mississippi.



146 It does not make the person eligible to work in another state
147 under an interstate compact or reciprocity agreement unless
148 otherwise provided in Mississippi law.

149 (12) Nothing in this section shall be construed to apply to
150 the practice of law as regulated under Section 73-3-1 et seq.

151 (13) This section preempts any ordinances of any
152 municipality, county and other political subdivisions of the State
153 of Mississippi that regulate licenses.

154 (14) This section specifically applies to the provisions of
155 Section 63-1-208, Mississippi Code of 1972, which authorizes
156 persons possessing certain federally approved military
157 documentation of commercial driving experience to apply for a
158 commercial driver's license (CDL) learning permit.

159 **SECTION 2.** Section 63-1-208, Mississippi Code of 1972, is
160 amended as follows:

161 63-1-208. (1) Except as otherwise provided, the
162 commissioner shall not issue a commercial driver's license and
163 commercial learner's permit to any person under the age of
164 twenty-one (21) years.

165 (2) No person may be issued a commercial driver's license
166 unless that person is domiciled in this state and has passed a
167 knowledge and skills test for driving a commercial motor vehicle
168 which complies with minimum federal standards established by
169 federal regulation enumerated in 49 CFR, Part 383, subparts F, G
170 and H and has satisfied all other requirements of Title XII of



171 Public Law 99-570 in addition to other requirements imposed by
172 state law or federal regulation. The tests shall be prescribed
173 and conducted by the commissioner. If the applicant wishes to
174 have a hazardous materials endorsement, the written test for a
175 hazardous materials endorsement must be taken and passed. In
176 addition, the applicant must successfully complete the security
177 threat assessment required by 49 CFR, Part 1572.

178 (3) (a) Any person who has been certified to provide
179 commercial driver's license testing by the International Driver
180 Examiner Certification (IDEC) program administered by the American
181 Association of Motor Vehicle Administrators (AAMVA) shall, for
182 purposes of this section, be defined as a certified third party
183 examiner (CTPE). In addition, the commissioner shall authorize
184 any person, including an agency of this or another state, an
185 employer, a private driver training facility, or other private
186 institution, or a department, agency or instrumentality of local
187 government, to administer the knowledge and skills test specified
188 by this section, provided:

189 (i) The test is the same as would otherwise be
190 administered by the state; and

191 (ii) Either: 1. The third party has entered into
192 an agreement with this state which complies with requirements of
193 49 CFR, Part 383.75; or



194 2. The third party is a CTPE as defined in
195 this subsection. The CTPE shall not be a direct employee of a
196 trucking company.

197 (b) A CTPE performing testing under this section shall
198 not be liable for any claim sounding in tort arising out of such
199 testing.

200 (4) A skills test may be waived as follows:

201 (a) The commissioner, by rules adopted pursuant to the
202 Mississippi Administrative Procedures Law, shall provide for a
203 waiver of the skills test specified in this section for a
204 commercial driver's license applicant who meets the requirements
205 of 49 CFR, Part 383.77;

206 (b) The rules may establish deadlines by which
207 applicants must claim entitlement and qualification to skills test
208 waivers and may provide for the scheduling of group knowledge
209 testing;

210 (c) The commissioner shall adopt rules and regulations
211 to carry out the provisions of this subsection (4) as soon as
212 practicable after July 1, 2017, but in any case no later than July
213 1, 2018.

214 (5) A commercial learner's permit shall be issued as
215 follows:

216 (a) A commercial learner's permit may be issued to an
217 individual who holds a valid Mississippi driver's license or who
218 holds United States military driving credentials that satisfy the



219 requirements of 49 CFR, Part 383, if the person has passed the
220 vision and written tests required for the class of license
221 authorizing the operation of the type of vehicle for which the
222 permit application is being made;

223 (b) The commercial learner's permit shall be issued for
224 a period of six (6) months for the fee prescribed in Section
225 63-1-43. Only one (1) renewal or reissuance may be granted within
226 a two-year period. The holder of a commercial learner's permit
227 may, unless otherwise disqualified, drive a commercial motor
228 vehicle on a highway only when accompanied by the holder of a
229 commercial driver's license valid for the type of vehicle driven
230 who occupies a seat beside the individual for the purpose of
231 giving instruction in driving the commercial motor vehicle.

232 (6) A commercial driver's license or commercial learner's
233 permit may not be issued to a person while the person is subject
234 to a disqualification from driving a commercial motor vehicle, or
235 while the person's driver's license is suspended, revoked or
236 cancelled in any state. A driver's license may not be issued to a
237 person who has a commercial driver's license issued by any state
238 unless the person first surrenders all driver's licenses issued by
239 any state, which licenses shall be returned to the issuing states
240 for cancellation.

241 (7) A person shall be entitled to take the test for a
242 commercial driver's license unless the person's driver's license



243 is, at the time of the requested test, suspended, revoked,
244 cancelled or disqualified in any other state.

245 (8) Notwithstanding any requirement imposed by state law or
246 state or federal regulations restricting the issuance of a
247 commercial driver's license to a person suffering from diabetes, a
248 person suffering from diabetes may be issued a commercial driver's
249 license if the person otherwise meets all qualifications for
250 issuance provided:

251 (a) The driver is physically examined every year,
252 including an examination by a board-certified/eligible
253 endocrinologist attesting to the fact that the driver is:

254 (i) Free of insulin reactions (an individual is
255 free of insulin reactions if that individual does not have severe
256 hypoglycemia or hypoglycemia unawareness, and has less than one
257 (1) documented, symptomatic hypoglycemic reaction per month);

258 (ii) Able to and has demonstrated willingness to
259 properly monitor and manage the person's diabetes; and

260 (iii) Not likely to suffer any diminution in
261 driving ability due to the person's diabetic condition.

262 (b) The driver agrees to and complies with the
263 following conditions:

264 (i) A source of rapidly absorbable glucose shall
265 be carried at all times while driving;

266 (ii) Blood glucose levels shall be self-monitored
267 one (1) hour prior to driving and at least once every four (4)



268 hours while driving or on duty prior to driving using a portable
269 glucose monitoring device equipped with a computerized memory;

270 (iii) Submit blood glucose logs to the
271 endocrinologist or medical examiner at the annual examination or
272 when otherwise directed by the Department of Public Safety;

273 (iv) Provide a copy of the endocrinologist's
274 report to the medical examiner at the time of the annual medical
275 examination; and

276 (v) Provide a copy of the annual medical
277 certification to the person's employer for retention in the
278 driver's qualification file and retain a copy of the certification
279 on his person while driving for presentation to a duly authorized
280 federal, state or local enforcement official.

281 (c) The commercial license issued under this subsection
282 (8) will bear an endorsement restricting commercial driving on the
283 license to driving only within the boundaries of Mississippi.

284 (9) The fees for all licenses, permits, renewals and
285 endorsements shall be as prescribed in Section 63-1-43.

286 **SECTION 3.** This act shall take effect and be in force from
287 and after July 1, 2022.

