



## Background

To obtain a commercial driver's license (CDL), a student driver must follow a two-step process similar to that of someone seeking a traditional driver's license. First, the driver must pass a written knowledge test to obtain his or her Commercial Learner's Permit (CLP). The CLP holder must then wait a minimum of 14 days to take the behind-the-wheel CDL skills test.<sup>1</sup>

After successfully passing the skills exam and obtaining a CDL, the new driver is ready to begin their new career. Upon satisfying all requirements, new CDL drivers have little, if any trouble, getting placed in a well-paying job operating a truck or bus. The truck industry in particular is experiencing a driver shortage that was expected to surpass 50,000 drivers by the end of 2018.<sup>2</sup>

The Federal Motor Carrier Safety Administration (FMCSA) sets minimum CDL testing standards for all states. While all states must meet or exceed these minimum testing standards in terms of content, states are currently free to determine the entity that administers or conducts the CDL skills exam within their borders. States can either use state employees, such as examiners within its Department of Motor Vehicles (or equivalent agency), and/or delegate the testing function, in part or whole, to a state-certified third party, including commercial driving schools, trucking companies, municipalities, or independent test centers. This practice of allowing a non-state entities to conduct skills testing is referred to as "third party testing." Forty states have adopted some form of third-party testing to ensure that there are enough personnel, testing sites and resources to test students expeditiously. Though states are not required to test students within a certain amount of time, delays in offering a skills test within a timely manner can create substantial hardships to students, motor carriers, and schools.

## Current Problem

In 2015, the General Accounting Office (GAO) found that 15 states have CDL skills testing delays and backlogs that left students waiting 14 days or more to test for their CDL.<sup>3</sup> Students in eight of these states wait more than 21 days to take their initial CDL test.<sup>4</sup> Most importantly, because 20-50% of students fail their initial CDL skills test, students in states with testing delays are often forced to forgo income for additional weeks or months while waiting for a retest appointment to become available.<sup>5</sup> These delays are being further exacerbated by the fact that some states are closing down state run testing facilities either for budgetary reasons or due to their failure to meet increased size requirements

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<sup>1</sup> See 49 C.F.R. § 384.301(f) (requiring states to substantially comply with the 2011 and 2013 revisions to CDL regulations by July 8, 2015).

<sup>2</sup> BOB COSTELLO, TRUCK DRIVER SHORTAGE ANALYSIS, AM. TRUCKING ASSOCIATIONS 3 (2017).

<sup>3</sup> See U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-15-607, COMMERCIAL DRIVER'S LICENSES: FEDERAL OVERSIGHT OF STATE PROGRAMS COULD BE IMPROVED (2015), 19-21 (Fig. 3) (noting that states reported using third party testing in order to increase availability or access to skills tests for prospective students, supplement state testing resources, cut costs, and reduce testing wait times) [hereinafter GAO Report].

<sup>4</sup> Id..

<sup>5</sup> GAO Report, supra note 3, 25-26.

for testing facilities. Since the GAO report was published, the FMCSA implemented new testing requirements,<sup>6</sup> which have actually increased delays in many states.

Delays are primarily due to lack of testing sites and insufficient personnel to meet demand. Additionally, states are either unable to expend additional budget resources to solve its delay problem or are unwilling to expand testing capacity—thereby reducing backlogs of CDL applicants awaiting a CDL skills test appointment—via third-party testing. The result is that new drivers in many states are not able to take their CDL skills test or retest in a timely manner. These delays also delay a driver’s entry into the job market and receiving of income.

Pursuant to Section 5506 of the FAST Act, in September 2018 the FMCSA released the *Commercial Driver’s License Skills Test Delays Report -Calendar Year 2016*.<sup>7</sup> This report disclosed skills testing delay times by state. The economic impact caused by skills testing delays are real and quantifiable. An independent analysis<sup>8</sup> (Economic Analysis) conducted for CVTA in 2018 concluded that:

- Commercial driver testing delays resulted in \$1.5 billion in economic losses across the United States.
- \$1.1 billion in direct lost wages can be attributed to testing delays.
- Federal and local governments lost out on over \$342 million in income and sales tax revenue in 2016.
- 258,744 potential workforce entrants impacted by testing delays.
- 6.4 million days of delays for new commercial drivers.

## FEDERAL & STATE ACTION

Industry concerns regarding testing delays prompted Congress to act. Since raising this issue, Congress has:

- requested a GAO Report (2015),
- implemented legislation in the Highway bill to require annual state disclosure of skills testing delays (2015),<sup>9</sup> and
- introduced subsequent legislation<sup>10</sup> requiring all states to provide testing with 7 days of request (2017).

CVTA has made significant progress on the state level to also address this problem. We have:

- worked directly with the Texas governor’s office to implement third-party CDL testing in 2017.
- sponsored legislation (AB 301) in the California State Assembly to reduce wait times to seven days or less.

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<sup>6</sup> See 49 C.F.R. § 384.301(f) (requiring states to substantially comply with the 2011 and 2013 revisions to CDL regulations by July 8, 2015).

<sup>7</sup> Federal Motor Carrier Safety Administration, *Commercial Driver’s License Skills Test Delays Report to Congress- Calendar Year 2016*, (September 2018).

<sup>8</sup> Pham, Nam D. and Donovan, Mary. *Economic Impact of Wait Times for Commercial Driver’s License Skills Tests*. NDP Analytics (December 2018).

<sup>9</sup> Fixing America’s Surface Transportation Act (“FAST Act”), § 5506, Pub. L. 114-94 (December 4, 2015).

<sup>10</sup> H.R. 4719, 115<sup>th</sup> Cong. (2017).

- succeeded in getting legislation passed in the New Jersey legislatures that requires the state's Motor Vehicle Commission (MVC) to implement a pilot program for third-party CDL testing. However, the MVC has failed to implement this legislative mandate.

## **Next Steps**

CVTA's Economic Analysis confirms that skills testing delays are causing real economic harm to future drivers and the U.S. economy. The significant economic impact demonstrates that this problem is national in scope and requires a national solution. Therefore, CVTA believes that Congress and the FMCSA must implement solutions to ensure states are meeting the testing demand in a timely manner.