

Thursday, October 19, 2023. During the temporary exemption period, Castignoli will be allowed to utilize a sleeper berth installed in the bed of a pickup truck that, when operated in combination with certain trailers, is a CMV. The sleeper berth must comply fully with the requirements of § 393.76(a)(1), § 393.76(a)(2), § 393.76(e), § 393.76(f), and § 393.76(g). The sleeper berth shall be used only by the owner/operator of Castignoli, and no other person is permitted to be in the sleeper berth while the vehicle is in motion.

The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Castignoli fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that Castignoli's use of a sleeper berth installed in the bed of pickup truck when operating as a CMV is not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to Castignoli Enterprises operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: October 10, 2018.

Raymond P. Martinez,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0480]

Commercial Driver's License Standards: Application for Exemption; CRST Expedited

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to renew CRST Expedited (CRST) exemption from the regulation that requires a commercial learner's permit (CLP) holder to be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements, seated in the front seat of the vehicle while the CLP holder performs behind-the-wheel training on public roads or highways. Under the terms and conditions of this exemption, a CLP holder who has documentation of passing the CDL skills test may drive a commercial motor vehicle (CMV) for CRST without being accompanied by a CDL holder in the front seat of the vehicle. The exemption enables CLP holders to drive as part of a team with the same regulatory flexibility as CRST team drivers with CDLs. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: This exemption is effective September 23, 2018 and expires September 24, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-4225. Email: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, FMCSA-2015-0480, in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to

review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

CRST's initial exemption application from the provisions of 49 CFR 383.25(a)(1) was submitted in 2015; a copy is in the docket identified at the beginning of this notice. The 2015 application described fully the nature of the CRST's operations and CMV drivers. The exemption was originally granted on September 23, 2016 (81 FR 65696) for a two-year period. CRST now requests a renewal of the exemption.

The current exemption excuses CRST from the requirement that a driver accompanying a CLP holder must be physically present at all times in the front seat of a CMV, on the condition that the CLP holder has successfully passed an approved CDL skills test. CRST's 2015 application argued that the existing requirement is inefficient and unproductive, as the company must incur added expense to send the driver

to his or her home State to collect a CDL document. Under the rule, the driver is not only unable to utilize newly acquired driving skills, but must also forego compensation before obtaining a CDL. CRST believes that FMCSA should renew the exemption for an additional 5-year period because it results in safer drivers. It allows CRST to foster a more productive and efficient training environment by allowing CLP holders to hone their recently acquired driving skills through on-the-job training and to begin earning an income right away, producing immediate benefits for the driver, the carrier, and the economy as a whole.

Method To Ensure an Equivalent or Greater Level of Safety

CRST states that the exemption does not negatively affect safety outcomes. Instead, the exemption allows drivers trained out-of-State to obtain on-the-job experience in CRST's comprehensive training program while avoiding significant delays and skill degradation. The exemption creates immediate economic and safety benefits for both the CLP holders and CRST—drivers earn an income as part of a team operation while improving their driver skills and gaining valuable experience.

CRST indicated in its renewal application that data show that drivers utilizing the exemption demonstrated better safety outcomes than non-exempt drivers. Through the end of 2017, CRST reported zero accidents to FMCSA involving drivers utilizing the exemption.

In the June 12, 2017, **Federal Register**, FMCSA granted the renewal of a similar exemption from 49 CFR 383.25(a)(1) to C.R. England, Inc. (C.R. England) for a five-year period. Under the terms and conditions of that exemption, a CLP holder who has documentation of passing the CDL skills test may drive a CMV for C.R. England without being accompanied by a CDL holder in the front seat. The Agency believed that C.R. England's request for exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (82 FR 26975).

Public Comments

On August 9, 2018, FMCSA published notice of this application and requested public comment (83 FR 39495). The Agency received eight comments. Seven individuals posted comments in opposition to renewal of the exemption. For example, Mr. Jarrod Hough wrote, "Why would FMCSA even consider this? The roads and traffic is bad enough already. Permit holders don't have the

experience to operate a commercial vehicle by themselves without the trainer sitting upfront and in the passenger seat. That is what a trainer is for, to teach and give guidance to the student. Not to be in the sleeper berth while the student is left alone." Mr. Joe Ammons supported the exemption if CRST was required to meet certain conditions, such as showing the exemption was not continued beyond a reasonable period of time before dispatching a permitted driver to his/her home State to complete the licensing process.

FMCSA Response and Decision

FMCSA has evaluated CRST's application for exemption and the public comments. The Agency believes that CRST's overall safety performance, as reflected in its "satisfactory" safety rating, will enable it to achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (49 CFR 381.305(a)). The exemption is restricted to CRST's CLP holders who have documentation that they have passed the CDL skills test. The exemption will enable these drivers to operate a CMV as a team driver without requiring the accompanying CDL holder be on duty and in the front seat while the vehicle is moving. Because these drivers have already met all the requirements for a CDL, but have yet to pick up the CDL document from their State of domicile, their safety performance is expected to be the same as any other newly-credentialed CDL holder.

Terms and Conditions of the Exemption

Period of the Exemption

This exemption from the requirements of 49 CFR 383.25(a)(1) is effective during the period of September 23, 2018 through September 24, 2023.

Extent of the Exemption

The exemption is contingent upon CRST maintaining USDOT registration, minimum levels of public liability insurance, and not being subject to any "imminent hazard" or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must maintain a valid driver's license and CLP with the required endorsements, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

This exemption from 49 CFR 383.25(a)(1) will allow CRST drivers who hold a CLP and have successfully passed a CDL skills test, to drive a CMV

without a CDL holder being present in the front seat of the vehicle. The CDL holder must remain in the vehicle at all times while the CLP holder is driving—just not in the front seat.

Preemption

During the period this exemption is in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

FMCSA Accident Notification

CRST must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while utilizing this exemption. The notification must be by email to MCPSD@DOT.GOV, and include the following information:

- a. Exemption Identifier: "CRST"
- b. Date of the accident,
- c. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
- d. Driver's name and driver's license number,
- e. Vehicle number and State license number,
- f. Number of individuals suffering physical injury,
- g. Number of fatalities,
- h. The police-reported cause of the accident,
- i. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and
- j. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

Termination

The FMCSA does not believe the CLP-holders covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Issued on: October 12, 2018.

Raymond P. Martinez,

Administrator.

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