



U. S. DEPARTMENT  
OF TRANSPORTATION

Pennsylvania Division

228 Walnut Street, Room 508  
Harrisburg, PA 17101-1720

Federal Highway  
Administration

OCT 09 2009

In reply refer to:

HDA-PA

Chairman Joseph F. Markosek  
Committee on Transportation  
Pennsylvania House of Representatives  
Room 314 Irvis Office Building  
Harrisburg, PA 17120

Dear Chairman Markosek:

In response to the Committee's request to provide a statement regarding the General Assembly of Pennsylvania House Bill (HB) 1323, Session of 2009, amending section 1553, Occupational Limited Licenses (OLL), of Title 75 (Vehicles), Pennsylvania Consolidated Statutes, I hereby submit this letter on behalf of the Federal Highway Administration (FHWA).

Section 159 of Title 23, United States Code (USC), as implemented in Part 192 of Title 23, Code of Federal Regulations (CFR), describes the requirements that a State must meet for revocation or suspension of drivers' licenses of individuals convicted of drug offenses to avoid the withholding of certain Federal-aid highway funds. A State meets Section 159 requirements if the State has enacted and is enforcing a law that requires, in all circumstances, or requires in the absence of compelling circumstances warranting an exception, the revocation or suspension of the driver's license of any individual who is convicted of any violation of the Controlled Substances Act or is convicted of any drug offense. A State may also meet these requirements by opting out in accordance with 23 CFR 192.5(c), whereby the Governor and the State legislature (in a joint resolution) certify their opposition to the enactment and enforcement of a law that conforms with Section 159. If a State fails to comply with these requirements, the Secretary of Transportation is directed by statute to withhold ten percent of the annual amounts apportioned to a State under the National Highway System, Surface Transportation, and Interstate Maintenance Programs. Based on fiscal year 2009 apportionment



levels for Pennsylvania (currently extended into FY 2010 by Pub. L. 111-68), the amount withheld would be approximately \$69.5 million.

In order for a State to make exceptions for compelling circumstances through the issuance of OLLs, 23 CFR 192.4(d) requires the State to do so in accordance with a State law, regulation, binding policy directive, or Statewide published guidelines establishing the conditions for making such exceptions and in exceptional circumstances specific to the offender.

Title 75 of the Pennsylvania Consolidated Statutes permits the issuance of OLLs, under certain circumstances, for individuals whose licenses have been revoked or suspended for convictions related to driving under the influence of alcohol or controlled substances. The Office of Chief Counsel of the Pennsylvania Department of Transportation (PennDOT), in an informal opinion, stated that Pennsylvania's OLL statute requires a petition setting forth the individual circumstances supporting such requests for an OLL. The Office of Chief Counsel of PennDOT further stated this process satisfies the requirements in 23 CFR 192.4(d). HB 1323 appears to expand the category of persons convicted of a drug offense that are eligible to submit a request for an OLL based on exceptional circumstances. According to the Office of Chief Counsel of PennDOT, if the category of drug offenses for OLLs is expanded, Pennsylvania's existing process would continue to ensure that Federal requirements are met.

Pursuant to 23 CFR 192.5(a), before January 1 of each year, each State must certify to the U.S. Secretary of Transportation its compliance with Section 159 of Title 23, United States Code. If HB 1323 becomes law, pursuant to 23 CFR 192.5(e), the State also must provide a detailed description of the effects of the new law on the existing State drivers' license revocation and suspension requirements for drug offenders, and how the requirements, as revised, comply with Federal law. If this information supports the assertion that the new law falls within the exceptional circumstances provision in 23 CFR 192.4(d), Pennsylvania should not face any withholding of Federal-aid highway funding pursuant to 23 U.S.C. 159 and 23 CFR Part 192.



Thank you for the opportunity to provide this informational statement.

Sincerely yours,

*Renee Sigel*

Renee Sigel  
Division Administrator

