



BILL HASLAM
GOVERNOR
STATE OF TENNESSEE

September 2, 2016

Honorable Member of the 109th General Assembly:

Today I signed a Proclamation calling an extraordinary session of the General Assembly at 2:00 p.m., Central Daylight Time, on September 12, 2016. The Attorney General, the Tennessee Department of Transportation, our federal congressional delegation, and I did everything that we could to avoid calling an extraordinary session, but the United States Department of Transportation has advised me that, if the Tennessee Code remains unchanged in the respects discussed in the Proclamation as of October 1, 2016, we will forfeit approximately \$60 million in federal-aid highway funding.

Though we disagree with the United States Department of Transportation's determination in this respect, I am asking that we address this issue with an extraordinary session because it is in the best interest of our state to ensure that we receive our full share of federal-aid highway funding in federal fiscal year 2017.

Thank you for your cooperation, and I look forward to working with you during the extraordinary session.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Haslam".

Bill Haslam



STATE OF TENNESSEE

PROCLAMATION

BY THE GOVERNOR

WHEREAS, the State of Tennessee values public safety and is committed to establishing and enforcing zero-tolerance laws prohibiting driving under the influence; and

WHEREAS, 23 U.S.C. § 161 requires that states enact and enforce “a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol”; and

WHEREAS, 23 C.F.R. § 1210.4(c) establishes five requirements that a state’s law must include to achieve compliance with 23 U.S.C. § 161; and

WHEREAS, Tennessee has consistently been in compliance with the requirements of 23 U.S.C. § 161 and the regulations promulgated thereunder; and

WHEREAS, Public Chapter No. 1030 was passed by the Tennessee General Assembly in April 2016; and

WHEREAS, Public Chapter No. 1030 amended Tennessee Code Annotated § 55-10-415, relating to driving under the influence; and

WHEREAS, previously, Tennessee Code Annotated § 55-10-415 established the offense of underage driving while impaired for a “person age sixteen (16) or over but under age twenty-one (21)” when that person drives or is in physical control of an automobile or other motor-driven vehicle with a blood alcohol concentration of more than 0.02 percent (0.02%); and

WHEREAS, Public Chapter No. 1030 strengthened the penalties for driving under the influence imposed upon persons eighteen (18) years of age or older, which had the effect of revising Tennessee Code Annotated § 55-10-415 to apply only to persons sixteen (16) years of age or older but less than eighteen (18) years of age such that persons eighteen (18) years of age or older but less than twenty-one (21) years of age are instead subject to Tennessee Code Annotated § 55-10-401, which establishes the offense of driving under the influence applicable to any person with a blood alcohol concentration of 0.08 percent (0.08%) or greater; and

WHEREAS, Public Chapter No. 1030 became effective July 1, 2016; and

WHEREAS, on September 2, 2016, the Governor was advised by the Secretary of the United States Department of Transportation that Tennessee Code Annotated § 55-10-415 no longer meets the requirements of 23 U.S.C. § 161 as a result of Public Chapter No. 1030; and

WHEREAS, the United States Department of Transportation and National Highway Traffic Safety Administration require compliance with 23 U.S.C. § 161 as of October 1, 2016, for purposes of determining the amount of federal-aid highway funding apportioned to each state for federal fiscal year 2017, and if the Department deems Tennessee noncompliant with 23 U.S.C. § 161 as of that date, the Department will withhold eight percent (8%) of Tennessee’s federal-aid highway apportionment, which totals approximately \$60 million dollars for federal fiscal year 2017; and

WHEREAS, if eight percent (8%) of Tennessee’s federal-aid highway apportionment is withheld for federal fiscal year 2017 for failure to comply with 23 U.S.C. § 161 as of October 1, 2016, Tennessee forfeits that apportionment and may not recoup the forfeited amount; and

WHEREAS, because of the October 1, 2016 deadline enforced by the United States Department of Transportation, Tennessee would not be deemed compliant with 23 U.S.C. § 161



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for federal fiscal year 2017 if the Tennessee General Assembly passes legislation in the next regular session convening in January 2017; and

WHEREAS, Tennessee does not agree with the determination of the United States Department of Transportation, and Tennessee's Department of Transportation, Governor, Attorney General, federal congressional delegation, and other state officials attempted to resolve the matter with the United States Department of Transportation and sought to find alternative solutions to maintain compliance with 23 U.S.C. § 161 short of calling the extraordinary session to which this proclamation pertains; and

WHEREAS, the Governor believes it is in the best interest of Tennessee to ensure that United States Department of Transportation concludes that the state's laws comply with 23 U.S.C. § 161 and the regulations promulgated thereunder.

NOW THEREFORE, I, Bill Haslam, Governor of the State of Tennessee, by virtue of the power and authority vested in me by Article III, Section 9 of the Tennessee Constitution, do hereby call the One Hundred Ninth General Assembly of the State of Tennessee to meet and convene in extraordinary session at the Capitol in Nashville at 2:00 p.m., Central Daylight Time, on Monday, September 12, 2016, for the following purposes:

- (1) Considering and acting upon legislation necessary to ensure that Tennessee law prohibiting an individual under the age of 21 from operating a motor vehicle while intoxicated or under the influence of alcohol maintains compliance with 23 U.S.C. § 161 and the regulations promulgated thereunder;
- (2) Considering and acting upon legislation to address any other instances of noncompliance or asserted noncompliance with federal statutes and regulations relating to federal-aid highway funding to be apportioned to Tennessee for federal fiscal year 2017;
- (3) Considering and acting upon legislation to make appropriations sufficient to provide the first year's funding for any act which receives final passage during the extraordinary session; and
- (4) Considering and acting upon legislation to make appropriations sufficient to pay the expenses of the extraordinary session of the General Assembly, including the expenses of carrying out any actions taken pursuant to this call.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Tennessee to be affixed at Nashville on this 2nd day of September, 2016.

A handwritten signature in blue ink, appearing to read "Bill Haslam", written over a horizontal line.

Bill Haslam

ATTEST:

A handwritten signature in blue ink, appearing to read "Liz Berg", written over a horizontal line.

Secretary of State