

No. 22O162

In the Supreme Court of the United States

STATE OF FLORIDA,

Petitioner,

v.

STATE OF CALIFORNIA AND STATE OF WASHINGTON,

Respondents.

ON MOTION FOR LEAVE TO FILE COMPLAINT

**WASHINGTON'S BRIEF IN OPPOSITION TO
MOTION FOR LEAVE TO FILE COMPLAINT**

NICHOLAS W. BROWN
Attorney General

NOAH G. PURCELL
*Solicitor General
Counsel of Record*

MARSHA CHIEN
PETER B. GONICK
Deputy Solicitors General

SPENCER COATES
ZANE MULLER
LAURYN FRASS
DIONNE PADILLA-HUDDLESTON
Assistant Attorneys General

1125 Washington Street SE
Olympia, WA 98504-0100
360-753-6200
noah.purcell@atg.wa.gov

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INTRODUCTION

Florida’s proposed complaint is an abuse of this Court’s original jurisdiction that this Court should reject. Procedure and substance demonstrate just how unserious Florida’s claims are.

Procedurally, Florida’s actions make clear that this lawsuit is a political stunt, not a real claim. Florida’s Attorney General announced the lawsuit on the Sean Hannity show,¹ issuing a press release modeled on a boxing fight card proclaiming: “Attorney General James Uthmeier is taking California Governor Gavin Newsom to the U.S. Supreme Court,” and “Florida Leads With Support for the Trump Administration.”² Although the lawsuit had clearly been in the works for some time and involves a dispute between sovereign states, Florida neglected to notify the State of Washington of the case or serve any of the pleadings—Washington did not receive the complaint from Florida until weeks after the case was filed, when Washington notified Florida that it had never been served.³

¹ Office of Attorney General James Uthmeier, *ICYMI: Attorney General James Uthmeier Takes California to the U.S. Supreme Court over Sanctuary Policies*, <https://perma.cc/S9JZ-BNYJ> (last visited Jan. 21, 2026).

² @AGJamesUthmeier, X (Oct. 16, 2025, 6:00 AM), <https://perma.cc/9KCE-Z3QY>.

³ *State of Florida v. State of California and State of Washington*, U.S. Supreme Court, No. 22O162, Letter from Noah G. Purcell to Clerk of Court Scott Harris, Nov. 18, 2025.

Substantively, Florida's case is even worse. In recent years, Florida has improperly licensed thousands of commercial drivers without evidence that those drivers speak English or meet residency requirements. Seeking to distract from its own incompetence, Florida now claims that Washington's practices for issuing Commercial Driver Licenses (CDLs) violate federal immigration law and create a nuisance thousands of miles away, in Florida. These arguments fail on multiple levels.

To begin with, Florida fails to demonstrate standing to bring these claims because it has shown neither direct harm from the State of Washington nor redressability. In an original action, the complaining State must "demonstrate that the injury for which it seeks redress was directly caused by the actions of another State," *Pennsylvania v. New Jersey*, 426 U.S. 660, 663 (1976) (per curiam), not an "injury that results from the independent action of some third party not before the court." *Maryland v. Louisiana*, 451 U.S. 725, 736 (1981) (quoting *Simon v. E. Ky. Welfare Rts. Org.*, 426 U.S. 26, 41-42 (1976)). Florida claims that a 2019 Washington statute is causing more CDL-related deaths in Florida, but in fact: (1) nothing in Washington law restricts the State from implementing and enforcing federal residency and language proficiency requirements for CDL drivers; (2) deaths caused by CDL vehicles in Florida have declined dramatically over the last 20 years; (3) Florida itself has improperly licensed thousands of CDL drivers in recent years; and (4) several states much closer to Florida, including Texas, whose immigration cooperation policies differ wildly from Washington's, have recently been found to have

improperly issued large numbers of CDLs. Florida simply cannot show that Washington law is harming Florida. Even as to the single crash that is the focus of Florida’s brief, the driver had no valid Washington CDL at the time of the accident.

Even if Florida could show harm, it cannot show redressability. Nothing in Washington’s law regulating state and local cooperation with immigration authorities restricts Washington from implementing and enforcing federal requirements for CDLs. Thus, invalidating the law, as Florida requests, could not possibly impact the harms Florida alleges.

Even if Florida had standing, its claims come nowhere close to satisfying this Court’s demanding standard for exercising original jurisdiction. This Court has exercised original jurisdiction only “when the necessity was absolute[.]” *Louisiana v. Texas*, 176 U.S. 1, 15 (1900), usually in interstate “controversies as to boundaries,” *id.* at 18. The Court considers two specific factors: (1) “the nature of the interest of the complaining State, [and] the seriousness and dignity of the claim,” and (2) “the availability of an alternative forum in which the issue tendered can be resolved.” *Mississippi v. Louisiana*, 506 U.S. 73, 77 (1992) (citations omitted). Both factors here counsel declining jurisdiction.

As to the first factor, Florida’s allegations come nowhere close to the sorts of sovereign injuries that this Court has heard previously. This dispute is not about boundaries or water; it is about the wisdom of state policies. Even setting that aside, Florida’s claims are meritless. Florida claims that a 2019 Washington statute is preempted by federal law, but Florida fails

even to explain what sections of the statute it thinks are preempted, and no court has ever found any portion of the statute preempted. Florida also claims that Washington's CDL licensing policies create a public nuisance in Florida, but news articles about one accident allegedly caused by a driver who wasn't even licensed in Washington at the time cannot possibly establish a public nuisance. More broadly, if States can use this Court to litigate policy disputes like this, there will be no end to the claims. Can States bring nuisance claims against each other in this Court alleging that lax vaccination policies or firearm restrictions in one state are causing harm in another? The Court should not open that door.

As to the second factor, there is an obvious alternative forum in which allegations as to Washington's CDL practices can be resolved. The Federal Motor Carrier Safety Administration (FMCSA) has explicit authority to audit State CDL practices and impose penalties on states that violate federal law. Indeed, the FMCSA is currently auditing the CDL practices of many States, including Washington, and has threatened multiple states with penalties unless they modify various practices. There is no need for this Court to expend its limited time on this topic when a federal agency is directly granted that responsibility and is currently exercising it.

In short, there is no good reason for the Court to hear this case. The Court should decline to exercise its jurisdiction.

STATEMENT OF THE CASE

A. Washington Is Governed by Federal Laws and Regulations Governing Commercial Driver Licensing

1. The Federal Motor Carrier Safety Administration regulates commercial driver licensing

Issuance of commercial driver's licenses (CDLs) in the United States is governed by the Commercial Motor Vehicle Safety Act of 1986 (CMVSA), Pub. L. No. 99-570, 100 Stat. 3207, Tit. XII. The CMVSA establishes uniform national standards for the CDL program and conditions States' receipt of federal highway funds on compliance with those standards. Under 49 U.S.C. § 31308, "the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses and learner's permits by the States and for information to be contained on each of the licenses and permits," requiring States to implement testing and licensing consistent with those minimum standards. 49 U.S.C. § 31311 governs State participation, specifying that a State "may issue a commercial driver's license to an individual only if the individual passes written and driving tests . . . that comply with the minimum standards . . . prescribed by the Secretary," and imposes requirements relating to disqualification, suspension, reciprocity, and information systems to support compliance.

The Secretary delegates authority to the Federal Motor Carrier Safety Administration (FMCSA) under 49 U.S.C. § 113. The Secretary has

assigned administration and enforcement of 49 U.S.C. chapter 313 to FMCSA by regulation at 49 C.F.R. § 1.87(e). FMCSA promulgates binding regulations governing state CDL issuance and enforcement and oversees state compliance through audits, corrective-action determinations, and funding consequences, while the licenses themselves remain issued by the States under federally mandated minimum standards. *See* 49 C.F.R. §§ 383.1-.155.

The FMCSA conducts periodic compliance reviews of each state's CDL program to determine whether it meets federal standards. States "must cooperate with the review and provide any information requested by the FMCSA." 49 C.F.R. § 384.307. If the FMCSA finds a state in noncompliance, the agency issues a formal notice of deficiency and generally gives the state a specified period to correct the violations. *Id.* During this period, the state "must explain what corrective action it either has implemented or intends to implement to correct the deficiencies cited in the notice" and "provide documentation of corrective action as required by the agency." *Id.* If the FMCSA determines the state is not in compliance, the Secretary of Transportation may withhold up to four percent of the state's federal-aid highway funds for the first year of noncompliance and up to eight percent for subsequent years until the deficiency is cured. 49 C.F.R. § 384.401. The FMCSA may also decertify a state CDL program for substantial noncompliance. 49 C.F.R. § 384.405. States may seek judicial review of a final adverse decision by FMCSA. 49 C.F.R. §§ 384.307(e), 384.405(g).

2. Washington implements the federal CDL program

Washington implements the federal CDL program through chapter 46.25 of the Revised Code of Washington, which was enacted to bring state law into conformity with the CMVSA and FMCSA regulations, to “reduce or prevent commercial motor vehicle accidents, fatalities, and injuries[,]” and to preserve the State’s eligibility for federal highway funding. Wash. Rev. Code § 46.25.005. The chapter applies to the licensing, qualification, disqualification, and control of commercial motor vehicle drivers operating in interstate and intrastate commerce. Wash. Rev. Code § 46.25.010.

The Washington State Department of Licensing (DOL) is the state agency responsible for administering the CDL program. Wash. Rev. Code §§ 46.01.040(12); 46.20.001; 46.25.010(3). DOL is authorized to issue commercial driver’s licenses and commercial learner’s permits only in accordance with the minimum testing, qualification, and information standards prescribed by federal law and regulation. Wash. Rev. Code § 46.25.070. Consistent with 49 U.S.C. § 31311, Washington law requires CDL applicants to pass written knowledge tests and skills tests that meet federal standards and prohibits issuance of a CDL unless the applicant is domiciled in Washington and otherwise federally qualified. Wash. Rev. Code § 46.25.070(2). Thus, Washington law requires that applicants meet all requirements of 49 C.F.R. § 383.71 to obtain a CDL. And in certain instances, Washington law has imposed requirements

that exceed those specified in federal law. *E.g.*, Wash. Rev. Code §46.25.054(5)(b) (requiring that non-domiciled CDLs expire when employment authorization or authorized stay in the U.S. expires or within one year).

The Washington Administrative Code supplies the detailed regulatory framework implementing the state's statutory scheme. DOL has adopted regulations in chapter 308-100 of the Washington Administrative Code governing CDL classifications, training requirements, endorsements, testing procedures, and reporting of those results. *See, e.g.*, Wash. Admin. Code § 308-100-020 (CDL eligibility); Wash. Admin. Code § 308-100-034 (demonstrated proficiency); Wash. Admin. Code § 308-100-036 (reporting training results). These rules expressly align Washington's testing and qualification standards with those imposed under 49 C.F.R. parts 383 and 391, including the requirement that "[t]raining providers must determine any potential driver-trainee has the basic skills necessary to complete and benefit from the program including, but not limited to, determining English proficiency[.]" Wash. Admin. Code § 308-100-034.

Washington also participates in the federally mandated CDL information-sharing systems required for state compliance. Washington law requires DOL to record, maintain, and exchange driver history and licensing information through the Commercial Driver License Information System and the National Driver Register, and to promptly report convictions, withdrawals, and disqualifications as required by federal regulation. Wash. Rev. Code §§ 46.25.082, .130, .150. The statute further authorizes DOL to take

administrative action to downgrade, suspend, or cancel a CDL as necessary to maintain compliance with federal law and FMCSA directives. *E.g.*, Wash. Rev. Code § 46.25.105.

B. The Keep Washington Working Act

In 2019, the Washington State Legislature passed the Keep Washington Working Act, 2019 Wash. Sess. Laws 3953 (ch. 440, § 7), to establish statewide practices regarding the enforcement of federal immigration laws by state and local agencies. *See* Wash. Rev. Code §§ 10.93, 43.10, and 43.17 *et seq.* While the Act restricts state and local agencies from engaging in certain voluntary aspects of federal immigration enforcement, it requires agencies to comply with mandatory provisions of federal law. Wash. Rev. Code § 43.17.425(3)(a). Furthermore, the Legislature directed that “[i]f any part of th[e] act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of th[e] act is inoperative[,]” and that any “[r]ules adopted under th[e] act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.” 2019 Wash. Sess. Laws 3953 (ch. 440, § 9). Therefore, where federal law requires inquiry into an individual’s citizenship status, the Act does not interfere with or supersede that requirement.

C. The Federal Motor Carrier Safety Administration Has Recently Audited Many States' CDL Programs and Found Flaws, Regardless of Whether Those States have "Sanctuary State" Policies

In September 2025, the FMCSA announced that it had identified at least six states that had improperly issued CDLs, and that it "expect[ed] the number of States discovered to have improperly issued non-domiciled CDLs to grow[.]" Federal Motor Carrier Safety Administration, *Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses*, 90 Fed. Reg. 46509, 46512 (Sept. 29, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-09-29/pdf/2025-18869.pdf>. Three of the originally identified states that had allegedly improperly issued CDLs are Texas, Pennsylvania, and South Dakota, which, according to the United States, do not have "sanctuary" laws. *See* Off. of Pub. Affairs, U.S. Dep't of Justice, *Justice Department Publishes List of Sanctuary Jurisdictions* (Aug. 5, 2025), <https://www.justice.gov/opa/pr/justice-department-publishes-list-sanctuary-jurisdictions>.

Since that time, it appears that the FMCSA has issued preliminary determination of non-compliance letters to a number of other states. *See FMCSA Continues Focus on State Issuance of Non-Domiciled CDLs*, Heavy Duty Trucking (Jan. 8, 2026), <https://www.truckinginfo.com/10252989/fmcsa-continues-focus-on-state-issuance-of-non-domiciled-cdl>. *See also* U.S. Dep't of Transp., Press Releases, *Trump's Transportation Secretary Sean P. Duffy Exposes Over 50% of North Carolina Trucking*

Licenses for Foreigners Were Issued Illegally (Jan. 8, 2026), <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-exposes-over-50-north-carolina-trucking> (alleging that non-sanctuary state North Carolina issued over half of its non-domiciled commercial driver’s licenses illegally). As with the original list, about half of the identified states do not have “sanctuary” laws. See Office of Public Affairs, U.S. Dep’t of Justice, *Justice Department Publishes List of Sanctuary Jurisdictions* (Aug. 5, 2025), <https://www.justice.gov/opa/pr/justice-department-publishes-list-sanctuary-jurisdictions>.

Although Washington is among the growing list of states that has been issued a preliminary finding of noncompliance from FMCSA, DOL has been actively working with FMCSA to take all necessary steps to ensure its CDL program is in full compliance with federal law. On August 19, 2025, U.S. Secretary of Transportation Sean P. Duffy announced that the FMCSA had launched an investigation into the accident that is the focus of Florida’s complaint. The FMCSA requested documents from Washington’s DOL related to the truck driver involved, which DOL provided. FMCSA also advised DOL that it would be conducting a comprehensive review of the DOL’s CDL practices during its annual performance review and moved to expedite that annual review. That review remains ongoing, and Washington continues to provide information in response to FMCSA’s requests and engage cooperatively in the investigation and audit process.

D. Florida Itself Has Improperly Licensed Thousands of Commercial Drivers, and Tens of Thousands of Crashes Involving Commercial Drivers Occur in Florida Every Year

Florida’s own Department of Highway Safety and Motor Vehicles reports that Florida sees more than 46,000 crashes annually involving commercial vehicles, causing over 300 fatalities.⁴ The number of fatalities involving commercial vehicles in Florida used to be significantly higher than it is today. For example, in 2005 there were 536 fatalities in Florida caused by crashes involving commercial vehicles.⁵ Nationwide, virtually none of the states with the highest fatality rates for commercial truck crashes are “sanctuary states.” See, e.g., *Worst Fatal Truck Crash States In 2023*, <https://img.ccjdigital.com/mindful/rr/workspaces/default/uploads/2025/09/deadliest-truck-crash-states-2023.7Fg4GusPM1.jpg?auto=format%2Ccompress&dpr=2&fit=max&q=70&w=700> (last visited Jan. 21, 2026).

Florida itself has experienced challenges in administering its CDL program. In September 2020, for instance, a Florida CDL holder and Kazakhstan

⁴ See Fla. Dept’ of Highway Safety & Motor Vehicles, *By The Numbers* (2024), https://www.flhsmv.gov/pdf/opengov/by-the-numbers_feb-24.pdf (last visited Jan. 21, 2026); Fla. Dep’t of Highway Safety & Motor Vehicles, *Traffic Crash Facts: Annual Report 2023* p. 114 (last visited Jan. 21, 2026) (2023-21 statistics).

⁵ Fla. Highway Safety & Motor Vehicles, *Traffic Crash Statistics Report 2008* p. 83, https://www.flhsmv.gov/pdf/crash-reports/crash_facts_2008.pdf (last visited Jan. 21, 2026).

native crashed and killed several people in Florida while driving, allegedly, “60 miles per hour, in the rain, in the fast lane, on cruise control, in a fully loaded tractor trailer, during rush hour traffic, while approaching a bridge, a curve, and a construction zone,” driving past several signs warning of ongoing construction. *Gresham v. FEC Highway Servs., LLC*, No. 20-CA-005431, 2025 WL 881287, at *10 (Fla. Dist. Ct. App. Mar. 12, 2025) (citation omitted) (Appellee’s Answer Brief). In a lawsuit brought by the estate of the deceased, the Florida CDL holder reportedly admitted in his deposition that he only speaks “English 15-20%,” and that he “reads Russian and some English.” *Id.* at *12 (citation omitted).

In 2016, a non-English speaking Cuban national with a Florida CDL, then residing in Texas, caused a crash in Oklahoma by making an improper left turn in dense fog. *Loyd v. Salazar*, No. CIV-17-977-D, 2020 WL 7220790, at *3 (W.D. Okla. Dec. 7, 2020). The driver, who had moved to Texas from Cuba six months before the accident, obtained a Florida CDL after he “visited Florida for two weeks” and “attended a truck driving school[.]” *Id.* A federal court determined that the driver, who had to use an interpreter during court proceedings, could “read some English but is not proficient enough to understand written federal safety regulations.” *Id.*

In 2007, New Jersey police arrested a non-English speaking Florida CDL holder for transporting approximately two dozen bags of drugs. *State of New Jersey, v. Fontaine-Pompa*, No. A-0139-08T4, 2009 WL 10280792, at *16 (N.J. Super. Ct. App. Div. Oct. 15, 2009) (Defendant-Appellant’s Brief). The driver, who had a valid Florida CDL at the time, was

an asylum seeker from Cuba, who obtained his Florida CDL from a driver's school in Miami, took his CDL test only in Spanish, and according to the driver himself, "does not speak English well." *Fontaine-Pompa*, 2009 WL 10280792, at *16.

Florida's CDL program has also encountered more recent issues. For instance, in June 2025, local law enforcement in Bay County, Florida, announced they had unearthed a sprawling "illegal alien driver's license scheme" whereby several Florida State DMV employees were selling "hundreds or thousands" of CDLs to undocumented immigrants for bribes—without the applicants passing any knowledge, skills, or language tests.⁶ Aside from announcing it was reportedly "ask[ing] our DMV officers and tax collectors around the state to pay attention, do a deep dive and look out for any signs of somebody taking cash on the side to help criminal aliens get driver's licenses,"⁷ Florida has not given any indication whether any CDLs issued by these employees would be canceled or what Florida was doing to prevent this type of scheme from occurring.

And in September 2025, Florida Highway Patrol disclosed publicly an investigation into a "cheating scheme" in Jacksonville where CDL applicants who did not speak English wore communication equipment while taking CDL tests, receiving answers from off-site in their native

⁶ Alex Lockie, *Hundreds of CDLs sold for cash to illegal immigrants: Florida AG*, Overdrive (updated June 21, 2025), <https://www.overdriveonline.com/life/article/15748547/8-arrested-120000-seized-in-cashforcdl-ring-florida-ag>.

⁷ *id.*

language.⁸ Florida authorities noted that this “organized fraud . . . may extend across the state.”⁹ Florida has made scant public mention on what actions it has taken (if any) on these fraudulently issued CDLs, or what (if any) steps it has taken to stop this repeated pattern of cheating.

REASONS TO DENY MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

A. This Court Accepts Original Cases Involving Controversies Between States Only Sparingly and When Absolutely Necessary

This Court has original and exclusive jurisdiction over suits brought by one state against another. 28 U.S.C. § 1251(a); Stephen M. Shapiro, et al., *Supreme Court Practice* § 10.2, at 10-6 (11th ed. 2019). But this original jurisdiction is subject to this Court’s discretion, which “should be exercised ‘sparingly.’” *Maryland v. Louisiana*, 451 U.S. 725, 739 (1981) (quoting *United States v. Nevada*, 412 U.S. 534 (1973)). Well over a century ago, this Court recognized that “[original] jurisdiction is of so delicate and grave a character that it was not contemplated that it would be exercised save when *the necessity was absolute . . .*” *Louisiana v. Texas*, 176 U.S. 1, 15 (1900) (emphasis

⁸ Jeannie Blaylock, *How truck drivers who don’t speak English cheat DMV tests, causing fatal crashes like St. Johns teen’s*, First Coast News (updated Sept. 2, 2025) <https://www.firstcoastnews.com/article/news/local/how-truck-drivers-dont-speak-english-cheat-dmv-tests-causing-fatal-crashes-like-nassau-teens/77-2941dbb4-b1c2-4047-a0f4-766e6a6a2483>.

⁹ *Id.*

added). Thus, “[a]s might be expected in view of the nature of the jurisdiction, the cases are few in which the aid of the court has been sought . . . and are chiefly controversies as to boundaries.” *Id.* at 18.

Illustrating the type of controversy envisioned by the Founders, the Court has explained that “[t]he model case for invocation of this Court’s original jurisdiction is a dispute between States of such seriousness that it would amount to *casus belli* if the States were fully sovereign.” *Mississippi v. Louisiana*, 506 U.S. 73, 77 (1992) (quoting *Texas v. New Mexico*, 462 U.S. 554, 571 n.18 (1983)). Additionally, a “controversy” requires the complaining State to show standing. *Wyoming v. Oklahoma*, 502 U.S. 437 (1992); *Maryland*, 451 U.S. 725. Given the Court’s discretion, a complaining State must carry a burden “much greater” than that normally imposed in litigation between private parties. *Alabama v. Arizona*, 291 U.S. 286, 292 (1934); *North Dakota v. Minnesota*, 263 U.S. 365, 374 (1923).

Two factors govern the Court’s discretion to hear original proceedings. First, the Court considers the claims at issue, focusing on “the nature of the interest of the complaining State, [and] the seriousness and dignity of the claim.” *Mississippi*, 506 U.S. at 77 (citations omitted). Second, the Court considers “the availability of an alternative forum in which the issue tendered can be resolved.” *Id.*

Here, Florida lacks standing to bring its action, but even if Florida could show standing, its plainly unserious claim cannot meet either of these factors, and its claims fail on their merits. The Court should deny Florida’s motion.

B. Florida Lacks Standing to Bring this Original Action

“No principle is more fundamental to the judiciary’s proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.” *FDA v. All. For Hippocratic Med.*, 602 U.S. 367, 397 (2024) (quoting *Simon v. E. Ky. Welfare Rts. Org.*, 426 U.S. 26, 37 (1976)). To invoke this Court’s original jurisdiction, a case must “present a justiciable controversy between . . . States.” *Massachusetts v. Missouri*, 308 U.S. 1, 15 (1939).

Here, Florida lacks standing because it has failed to show an actual harm directly caused by Washington or a remedy this Court could provide that would redress the harm Florida alleges. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992).

1. Florida has not shown an actual or imminent injury that is directly caused by Washington

For a plaintiff to have standing, “there must be a causal connection between the injury and the conduct complained of[.]” *Id.* at 560. In other words, the complaining State must “first demonstrate that the injury for which it seeks redress was directly caused by the actions of another State.” *Pennsylvania v. New Jersey*, 426 U.S. 660, 663 (1976) (per curiam) (citing *Massachusetts*, 308 U.S. at 15). Standing generally cannot be based on “injury that results from the independent action of some third party not before the court.” *Maryland*, 451 U.S. at 736 (quoting *Simon*, 426 U.S. at 41-42).

When analyzing this Court’s original jurisdiction, there is a difference between claims that the defendant State has itself inflicted injury on the plaintiff State, and claims that the defendant State’s actions have merely permitted other persons to inflict such an injury. This Court has exercised original jurisdiction over claims that the defendant State took regulatory action that targeted the plaintiff State or its citizens and of its own force directly inflicted injuries on them. *See, e.g., Wyoming v. Oklahoma*, 502 U.S. 437, 450-54 (1992) (jurisdiction over challenge to Oklahoma law requiring in-state utilities to purchase less coal from Wyoming); *Maryland*, 451 U.S. at 735-45 (jurisdiction over a challenge to Louisiana tax on natural gas where the incidence of the tax fell on plaintiff States and a wide swath of their populations).

In contrast, where a State has alleged that another State permitted—but did not direct or require—the injurious actions of other parties, this Court has declined to exercise original jurisdiction. In *Louisiana*, 176 U.S. at 8-10, for example, Louisiana alleged that a Texas health officer, under the pretext of implementing Texas’s quarantine laws, imposed a total embargo on commerce from New Orleans. After reviewing the history of original jurisdiction, this Court declined jurisdiction because the prerequisite for exclusive original jurisdiction is that “the controversy to be determined is a controversy arising *directly* between the state of Louisiana and the state of Texas[.]” *Id.* at 16 (emphasis added). Because Louisiana had not alleged “facts which show that the state of Texas ha[d] so *authorized or confirmed* the alleged action of her health officer as to make it

her own,” *Louisiana*, 176 U.S. at 22 (emphasis added), there was no “direct issue between” the States, *id.* at 18, as “the action complained of” was not “state action,” *id.* at 22. Put another way, where the plaintiff State does not allege that the defendant State has “authorized or confirmed” the injury-inflicting action, there does not exist a “controversy” between the States appropriate for resolution under this Court’s exclusive original jurisdiction. *Id.* See also *Nebraska v. Colorado*, 577 U.S. 1211 (2016) (Thomas, J. dissenting) (declining jurisdiction where complaining States alleged Colorado’s legalization of recreational use of marijuana encouraged third parties to engage in criminal activities).

Here, as in *Louisiana* and *Nebraska*, the actions Florida complains of are not state action. Florida lists news stories from around the country that involve immigrants, but those reflect the actions of private persons—not any conduct by Washington, let alone Washington’s issuance of CDLs. In fact, many of the news stories seem to have no connection to Washington at all, or even Florida for that matter. See Bill of Compl. 15-16, 19-20 (¶¶ 36, 37, 43, 44, 45) (referring to crimes in Minnesota, New York, Wisconsin, Georgia, and Louisiana).

The single tangible injury Florida cites that is remotely connected to a state action stems from a vehicular accident caused by the illegal U-turn of a commercial driver in Florida. Bill of Compl. 21-22 (¶¶ 47-49). Florida essentially contends that Washington once issued the driver a CDL, and Washington’s processes for issuing CDLs pose traffic

risks when those drivers cross the country, enter Florida, and drive on its highways, which, in turn, requires Florida to increase its own law enforcement inspections at state entry points. Bill of Compl. 22-23 (¶¶ 50-51).

But even assuming Florida has actually incurred increased enforcement costs, it is not Washington's conduct that directly injures Florida. Instead, it is the reckless or negligent driving of CDL drivers about which Florida complains. When a third party is the source of an alleged injury, causation "hinge[s] on the response of th[at] regulated (or regulable) third party to the government action or inaction—and perhaps on the response of others as well." *Lujan*, 504 U.S. at 562. For example, any of the forty-nine other states may issue CDLs, regardless of Washington's own CDL process. In fact, the United States Department of Transportation recently confirmed that several states have improperly issued CDLs, including Texas and South Dakota. *See* 90 Fed. Reg. at 46512. And Florida itself has improperly issued thousands of CDLs. *See supra* pp. 12-15.

In this case, at the time of the Florida accident, the driver had no valid Washington-issued CDL. *See* Devoun Cetoute, *Truck driver in Florida Turnpike crash that killed three failed driver's test 10 times: reports*, Miami Herald, updated Oct. 25, 2025, <https://www.miamiherald.com/news/state/florida/article312638787.html#storylink=cpy>; *see also* 49 C.F.R. § 383.21 ("No person who operates a commercial motor vehicle shall at any time have more than one driver's license.").

Nor has Florida alleged that Washington itself has directed or authorized CDL drivers to engage in reckless or negligent driving. Indeed, such an allegation would not be plausible. If Florida's injuries have occurred at all, they are linked to Washington only by a long and attenuated causal chain that depends on both the unlawful behavior of private individuals and the procedures of any number of intervening States issuing CDLs. Florida has not sufficiently alleged that Washington has inflicted the sort of direct injury to their sovereign interests warranting an exercise of original jurisdiction. Florida's allegations are far less of a direct connection between state action and the alleged injury than even the connections this Court found insufficient in *Louisiana v. Texas*. Washington's one-time issuance of a CDL (or any driver's license, for that matter) to a driver who later is involved in a motor vehicle accident is not enough for causation or for Florida to invoke this Court's original jurisdiction.

2. A declaratory judgment that the Keep Washington Working Act is preempted and an injunction will not redress Florida's alleged injuries

Florida's purported injury is not redressable either. To satisfy Article III standing requirements, "it must be 'likely,' as opposed to merely 'speculative,' that the [plaintiff's] injury will be 'redressed by a favorable decision.'" *Lujan*, 504 U.S. at 561 (quoting *Simon*, 425 U.S. at 38, 43).

Florida asks for a declaration that the Keep Washington Working Act is preempted and unenforceable, and for an injunction barring Washington from issuing CDLs to non-domiciled applicants who do not meet federal requirements. Bill of Compl. 29-30 (§ 72). But enjoining Keep Washington Working would not impact Washington's CDL program at all; in contending otherwise, Florida misunderstands Washington law.

In fact, Florida nowhere identifies any specific provisions of Keep Washington Working it seeks to enjoin. Florida cannot do so because nothing in Keep Washington Working prevents Washington's CDL program from inquiring into applicants' immigration status or otherwise complying with federal law. In fact, the opposite is true. *See* Wash. Rev. Code § 43.17.425 ("Nothing in . . . this section prohibits the collection, use, or disclosure of information that is (a) [r]equired to comply with state or federal law[.]"). Given that, it seems Florida's complaints are actually about the arrival of immigrants to its state and reflect nothing more than a policy disagreement with Keep Washington Working. *See* Bill of Compl. 15-18, 20 (§§ 35, 38-42, 46). However, bare disagreement with another state's law is insufficient to confer standing. *See Hollingsworth v. Perry*, 570 U.S. 693, 704 (2013) ("The presence of a disagreement, however sharp and acrimonious it may be, is insufficient by itself to meet Art. III's requirements." (quoting *Diamond v. Charles*, 476 U.S. 54, 62 (1986))).

Regardless, even assuming Florida's claims have merit (which they do not), Florida's alleged harms are not redressable. Neither enjoining Keep Washington Working nor prohibiting Washington

from issuing CDLs will protect Florida from vehicular accidents on its highways. Indeed, Florida saw hundreds more traffic fatalities annually involving commercial vehicles before Washington even enacted Keep Washington Working. *Compare By The Numbers, supra* note 4 (showing 315 CDL-related fatalities in 2024) *with Traffic Crash Statistics Report 2008, supra* note 5, at 83. (showing 536 CDL-related fatalities in 2005). And as discussed above, the FMCSA has identified many states that have allegedly improperly issued CDLs, and there is no apparent correlation with noncompliance and “sanctuary” policies among the states. So, even if Keep Washington Working did somehow prevent Washington’s CDL program from inquiring into an applicants’ immigration status (which it does not), Florida would still have to increase its inspections at state entry points, given non-compliance by states much closer to Florida than one located nearly three thousand miles away.

At most, Florida has alleged that third-party drivers are inflicting injuries on its highways, and falsely claimed that Washington’s legal regime makes it easier for them to do so. Florida has not identified a remedy this Court could provide that would redress the harm they allege.

C. The Issues Raised by Florida’s Claims Can be Resolved by the Federal Motor Carrier Safety Administration

As noted above, this Court examines two factors to determine “whether a case is ‘appropriate’” for the exercise of original jurisdiction: (1) the “seriousness and dignity of the claim” and (2) “the

availability of an alternative forum in which the issue tendered can be resolved.” *Mississippi*, 506 U.S. at 77 (citation omitted). Starting with the second factor, Florida cannot satisfy it because the “issue tendered” in its complaint—Washington’s alleged “fail[ure] to honor the federal safety regulations regarding the commercial driver’s licenses (CDLs) needed to operate eighteen-wheelers and other commercial motor vehicles” (Bill of Compl. 2)—can be resolved in administrative proceedings by the FMCSA under federal law.

FMCSA’s administrative process “provides an appropriate forum in which the Issues tendered here may be litigated.” *Arizona v. New Mexico*, 425 U.S. 794, 797 (1976). In fact, Washington’s compliance with federal commercial driver’s license issuance regulations has already been the subject of administrative action by FMCSA in response to the events described in Florida’s Bill of Complaint. See Letter from Jesse Elison, Chief Counsel, FMCSA, to The Honorable Bob Ferguson, Governor, State of Washington and Marcus J. Glasper, Director, Washington State Department of Licensing (Oct. 23, 2025), https://downloads.regulations.gov/FMCSA-2025-0622-4009/attachment_1.pdf. Because these issues can be and have been presented for resolution in a forum other than this Court, this Court should decline to exercise jurisdiction over Florida’s claims.

D. The Alleged Controversy Is Well Outside Those Traditionally Meriting This Court’s Review

As to the first factor, the seriousness and dignity of the claim, the present dispute is far outside

the traditional controversies that warrant this Court's exercise of original jurisdiction. Most of the instances in which this Court has exercised its original jurisdiction over interstate controversies involved "sovereignty and property, such as those between states in controversies concerning boundaries, and the manner of use of the waters of interstate lakes and rivers." Shapiro, et al., § 10.2, at 10-7 (citing numerous cases). Other examples of this Court's exercise of original jurisdiction include enforcing interstate compacts or Commerce Clause limitations. *Id.* But where, as here, a State asserts that another State's regulatory actions or alleged failure to enforce certain laws have inflicted injury on the plaintiff State, the Court has been far more skeptical.

Washington is not aware of *any* prior case in which this Court has accepted original jurisdiction over a controversy (like this one) involving alleged failure to enforce a law or a defendant State's regulation allegedly allowing a third party to cause injury in the plaintiff State. Nor has Florida even argued that such a case exists.

The (flawed) premise of Florida's case is that Washington is not sufficiently enforcing federal law, resulting in harm to Florida. But this sort of allegation—never previously recognized by this Court as warranting exercise of its original jurisdiction—could be made in many cases. For example, states might sue each other alleging violations of 49 U.S.C. § 14501(c)(1), which preempts certain state laws relating to the trucking industry, whenever one state believed another state's regulations were affecting a trucking company's prices or routes.

Florida’s public nuisance theory would open an even larger can of worms. Washington or any other state might sue Florida because it does not appropriately enforce its firearms laws or because they allow too many dangerous individuals to obtain firearms; because it did not appropriately monitor convicted felons on supervised release; or because it fails to enact or enforce vaccination requirements. *Cf.* Elizabeth Wiley, *A family visiting Washington over the holidays exposed others to measles at these locations*, msn.com, Jan. 9, 2026, <https://www.msn.com/en-us/health/other/a-family-visiting-washington-over-the-holidays-exposed-others-to-measles-at-these-locations/ar-AA1TUfqW?ocid=BingNewsSerp> (identifying numerous public exposure sites in Washington visited by South Carolina family with unvaccinated children who were later diagnosed with measles). The potential firestorm of cases between states would be limited only by the imagination of a state’s lawyers.

Exercising original jurisdiction in such a broad array of cases would flatly contradict this Court’s traditional and oft-stated admonition that original jurisdiction be exercised only “sparingly.”¹⁰ *E.g.*,

¹⁰ Amici Iowa and other states, but not Plaintiff Florida, ask this Court to jettison 100 years of precedent and accept any lawsuit by one state against another, no matter how frivolous. Br. of Iowa & 16 as Amici Curiae 2-8. The lion’s share of Iowa’s brief is word-for-word the same amicus brief submitted by Florida in 2024 in support of Missouri’s lawsuit against New York. *Compare* Br. of Iowa & 16 as Amici Curiae at 1-8, *with* Br. of Florida, et al. as Amici Curiae 1-8, *Missouri v. New York*,

Mississippi, 506 U.S. at 76. And it would raise the specter identified by this Court of requiring it to either “pick and choose arbitrarily among similarly situated litigants” to manage its docket or “to devote truly enormous portions of [the Court’s] energies to such matters.” *Ohio v. Wyandotte Chemicals Corp.*, 401 U.S. 493, 505 (1971).

Finally, it is not just this Court’s firm tradition of rejecting attempts by one state to control another state’s regulation of third parties that demonstrates that Florida’s claim is profoundly unserious. Florida’s motion itself indicates its lack of seriousness. Florida offers literally two sentences addressing the factors considered by this Court when determining whether to accept a bill of complaint. Bill of Compl. 4 (¶ 6). Florida simply asserts, without any argument or acknowledgment of this Court’s precedent, that the claim is “unquestionabl[y]” serious. Bill of Compl. 4 (¶ 6). It then summarily asserts that there is no other adequate forum available because the case involves a dispute between sovereigns. Bill of Compl. 4 (¶ 6). But accepting that scant rationale would make the adequate-forum factor a nullity—every attempt by a state to bring an action against another state involves an alleged dispute between sovereigns.

Exercising this Court’s original jurisdiction here would represent a vast and unwarranted expansion of the Court’s original jurisdiction. The Court should deny Florida’s motion.

No. 220159 (U.S. July 10, 2024), This Court rejected Amici’s position in *Missouri* and Amici provide no reason for this Court to revisit its position.

E. Florida’s Proposed Claims are Meritless

Finally, the theories underpinning Florida’s proposed claims are wrong (*see* Bill of Comp. 23-29) and the claims themselves are meritless. The Keep Washington Working Act does not conflict with and is therefore not preempted by federal law, including the Commercial Motor Vehicle Safety Act. And the public nuisance theory underpinning Florida’s second claim is preempted by the same statute.

1. Keep Washington Working does not conflict with federal law

Florida’s preemption claim is without merit. The Keep Washington Working Act does not prohibit the Department of Licensing from inquiring into an individual’s immigration status. Rather, the plain text of the law makes clear that federal law, including conditions or requirements for state agencies to receive federal funding, controls to the extent that it conflicts with the statute. *See* 2019 Wash. Sess. Laws 3953 (ch. 440, § 9). Courts have consistently upheld state laws similar to Keep Washington Working that prevent the federal government from commandeering state agencies and resources for enforcement of federal laws. *E.g.*, *Printz v. United States*, 521 U.S. 898, 935 (1997) (“Congress cannot compel the States to enact or enforce a regulatory program.” and “cannot circumvent that prohibition by conscripting the State’s officers directly.”); *United States v. California*, 921 F.3d 865, 889 (9th Cir. 2019) (stating that under Tenth Amendment anti-commandeering rule that Congress cannot issue

orders to state legislatures or put into its service state police to enforce federal immigration law), *cert. denied*, 141 S. Ct. 124 (2020).

In fact, the statute was written to avoid any conflicts with federal law. Florida’s claim therefore has no basis in the statute. Contrary to Florida’s allegations, nothing in the Keep Washington Working Act “prohibit[s] the agencies administering state CDL programs from inquiring into applicants’ immigration status” or prohibits them from “establish[ing] a commercial motor vehicle safety standard that is ‘less stringent’ than the ‘proof of citizenship or lawful permanent residency’ requirement in 49 C.F.R. §§ 383.71(a)(5), (b)(9), 383.73(a)(6).” *Cf.* Bill of Compl. 25-26. Florida identifies no specific Washington State statutory provision, regulation, or policy that purports to do either, because none exist.

Florida is demonstrably wrong that the Keep Washington Working Act “prohibit[s] the agencies administering state CDL programs from inquiring into applicants’ immigration status.” *Cf.* Bill of Compl. 25-26. Not only does the Act do no such thing, as explained above, but in fact DOL requires proof of citizenship or lawful immigration status before issuing a CDL. *See, e.g.,* Wash. Dep’t of Licensing, *Getting a commercial driver license (CDL)*, <https://dol.wa.gov/driver-licenses-and-permits/commercial-driver-licenses-cdl/getting-commercial-driver-license-cdl> (last visited Jan. 21, 2026) (“required documents . . . [include] Proof of U.S. Citizenship or lawful permanent residency[.]”); Wash. Dep’t of Licensing, *CDL-approved documents*, <https://dol.wa.gov/driver-licenses-and-permits/commercial-driver-licenses-cdl/cdl-approved->

documents (last visited Jan. 21, 2026) (identifying federally issued documents, including a valid U.S. Passport, Certificate of Naturalization or Consular Report of Birth Abroad acceptable for proving citizenship).

While state law may not conflict with controlling federal law, neither can the federal government “compel the States to enact or administer a federal regulatory program.” *New York v. United States*, 505 U.S. 144, 188 (1992). For this reason, courts have upheld statutes similar to the Keep Washington Working Act pursuant to the Tenth Amendment to the Constitution under the anti-commandeering doctrine, which limits the federal government’s ability to mandate particular action by states such as federal immigration law enforcement and investigations. *Printz*, 521 U.S. at 935; *California*, 921 F.3d at 889. In *California*, the Ninth Circuit held that where federal law provides states and localities the option, rather than a mandate, to assist with federal immigration enforcement, a state’s decision to refrain from providing such assistance is permissible under the anti-commandeering doctrine. *California*, 921 F.3d at 891. The Ninth Circuit held “the federal government was free to expect” cooperation between state and federal immigration authorities, but it could “not *require* California’s cooperation without running afoul of the Tenth Amendment.” *Id.* For all of these reasons, Florida’s preemption claim is misplaced.

2. Florida’s public nuisance theory is meritless

Florida’s claim that Washington’s administration of its CDL program amounts to an “actionable public nuisance” is equally meritless because the Commercial Motor Vehicle Safety Act “speaks directly” to the question of commercial vehicle driver licensing and therefore preempts any federal common-law public nuisance claim flowing from it. *See City of Milwaukee v. Illinois & Michigan*, 451 U.S. 304, 315-16 (1981) (holding Federal Water Pollution Control Act precluded any public nuisance remedy); *accord Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 424 (2011) (Clean Air Act and EPA regulations “displace any federal common-law right to seek abatement of carbon-dioxide emissions from fossil-fuel fired powerplants” under federal common-law public nuisance theory.).

The cases Florida cites to support its claim that “[n]uisance violations can . . . justify ‘a suit in this court’” (Bill of Compl. 28 (citing *Georgia v. Tenn. Copper Co.*, 206 U.S. 230, 237 (1907))), are distinguishable because all involve the type of neighbor-state public nuisance suits concerning shared water resources over which this Court has historically exercised its original jurisdiction. *See Vermont v. New York*, 417 U.S. 270 (1974) (granting Vermont’s bill of complaint against New York alleging that New York was responsible for a sludge bed in Lake Champlain and Ticonderoga Creek that polluted the water, impeded navigation, and constituted a public nuisance); *New Jersey v. City of New York*, 283 U.S. 473, 476 (1931) (granting New Jersey’s bill of complaint against New York for dumping garbage into

the ocean off the New Jersey coast); *New York v. New Jersey*, 256 U.S. 296, 298 (1921) (New York alleged a public nuisance claim against New Jersey for sewage pollution in upper New York harbor); *Missouri v. Illinois*, 180 U.S. 208, 244 (1901) (Missouri alleged a public nuisance claim against Illinois and the Sanitary District of Chicago over sewage pollution in the Mississippi River.). Even if Florida's claim were not preempted by the Commercial Motor Vehicle Safety Act (which it is), exercising jurisdiction over a claim backed by such an attenuated public nuisance theory against a state in the opposite corner of the country would set a radically expansive precedent that would invite a flood of state-versus-state litigation in this Court.

CONCLUSION

The Court should deny Florida's motion for leave to file a bill of complaint.

RESPECTFULLY SUBMITTED.

NICHOLAS W. BROWN
Attorney General

NOAH G. PURCELL
Solicitor General
Counsel of Record

MARSHA CHIEN
PETER B. GONICK
Deputy Solicitors General

SPENCER COATES
ZANE MULLER
LAURYN FRASS
DIONNE PADILLA-HUDDLESTON
Assistant Attorneys General

1125 Washington Street SE
Olympia, WA 98504-0100
360-753-6200

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