

HOUSE BILL REPORT

SSB 6461

As Reported by House Committee On:
Transportation

Title: An act relating to positive drug or alcohol test results of commercial motor vehicle operators.

Brief Description: Strengthening procedures for disqualification of drinking or drugged commercial drivers.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Gardner, Benton, Haugen, Horn, Jacobsen, Costa, Oke and Winsley).

Brief History:

Committee Activity:

Transportation: 2/26/02, 3/4/02 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Commercial drivers are disqualified from driving when the Department of Licensing (DOL) is notified of a confirmed positive drug or alcohol test by a motor carrier's medical review officer or breath alcohol technician.
- Hearing provisions to challenge disqualification are described.
- Commercial drivers disqualified under federal law more than twice in a five-year period are disqualified for life.
- Procedures are provided for having a commercial drivers license re-instated after meeting certain conditions and upon payment of a \$150 fee.
- Employers of a driver who has refused to take a required drug or alcohol test may notify law enforcement or their medical review officer.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 24 members: Representatives Fisher, Chair; Cooper, Vice Chair; Lovick, Vice Chair; Mitchell, Ranking Minority Member; Anderson, Ericksen, Haigh, Hankins, Hatfield, Holmquist, Jackley, Jarrett, Mielke, Morell, Murray, Ogden, Reardon, Rockefeller, Romero, Schindler, Simpson, Sullivan,

Wood and Woods.

Staff: Penny Nerup (786-7335).

Background:

Since January 1, 1996, federal law has required all commercial motor carriers to implement a drug and alcohol testing program for its drivers. Fifty percent of a carrier's drivers must be tested for drugs during the year and 25 percent for alcohol. Any driver who tests positive must: 1) provide the carrier's medical review officer with the names of any prescription medication taken that might interfere with the test; 2) be evaluated by a substance abuse professional; and/or 3) complete a rehabilitation program before being reinstated.

Some drivers who obtain a positive drug or alcohol test, or who fail a pre-employment drug or alcohol test, simply look for new employment with another motor carrier. The new employer is required by federal law to inquire about the driver's prior positive alcohol or drug test (or refusals to be tested) from other carriers who employed him/her during the preceding two years. However, if a driver does not provide the name of his/her prior employer(s), the new employer would not know who to call for information about that driver.

In order to protect a motor carrier and the traveling public from a driver who hides his/her positive drug or alcohol test, a task force of interested parties (legislators, the Department of Licensing, the trucking industry, the Teamsters union, the Motor Carriers Division of the Federal Highway Administration, the Department of Social and Health Services, among others) met to discuss legislation during the 2000 interim. This bill is the result of those discussions.

Summary of Amended Bill:

All medical review officers (MROs) and breath alcohol technicians (BATs) under contract to a motor carrier required to test its drivers under federal law must provide confirmed positive drug or alcohol test results on Washington-licensed commercial drivers to the DOL. If the motor carrier fails to obtain this condition in its contract with the MRO or BAT, the motor carrier will be fined. The substances collected for drug or alcohol testing under the federal law cannot be used for any purpose other than drug or alcohol testing.

A hearing process is provided for those drivers who challenge the confirmed positive drug or alcohol test; but the hearing is limited to: a) whether the driver is the person who took the test; b) whether the motor carrier has a testing program that meets the requirements of the federal law; c) whether the MRO or BAT accurately followed the

testing protocols; and d) to provide evidence that the test was a false positive. The driver's disqualification does not take effect while the appeal is progressing.

Commercial drivers are disqualified by the DOL for failing a drug or alcohol test, either as part of the federal testing program or as part of a pre-employment drug test. The disqualification remains in effect until the driver presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment program certified by the Department of Social and Health Services. The agency making a drug or alcohol assessment forwards a diagnostic evaluation recommendation to the DOL for use in determining the driver's eligibility to drive commercially. Drivers who are disqualified under the federal law more than twice in a five-year period are disqualified for life.

Commercial drivers can have their license reinstated once the DOL receives a drug and alcohol assessment and evidence of satisfactory participation in or completion of any required drug or alcohol treatment program. The driver must pay \$150 to reinstate his/her commercial license.

Amended Bill Compared to Substitute Bill:

Employers of a driver who has refused to submit to a required drug or alcohol test following an accident may notify either law enforcement or his/her medical review officer or breath alcohol technician.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill closes loopholes in the law and will improve highway safety.

Testimony Against: None.

Testified: Jay Lawley, Washington Trucking Association.