

# SENATE BILL REPORT

## SB 6461

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As Reported By Senate Committee On:  
Transportation, January 29, 2002

**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:** Senators Gardner, Benton, Haugen, Horn, Jacobsen, Costa, Oke and Winsley.

**Brief History:**

**Committee Activity:** Transportation: 1/23/02, 1/29/02 [DPS].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 6461 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Gardner, Vice Chair; Benton, Finkbeiner, Horn, Jacobsen, Kastama, Keiser, McAuliffe, McDonald, Oke, Prentice, T. Sheldon and Shin.

**Staff:** Dean Carlson (786-7305)

**Background:** Since 1996, commercial motor carriers have been required by federal law to implement a drug and alcohol testing program for their drivers. Fifty percent of a carrier's drivers must be tested for drugs and 25 percent for alcohol each year. Some drivers whose drug or alcohol tests are positive, or who fail a pre-employment drug or alcohol test, simply look for new employment with another motor carrier. The new employer is unsuspecting about the driver's potential drug or alcohol problem.

To protect a motor carrier and the public from a driver who hides his or her positive drug or alcohol test, a task force of interested parties (legislators, Department of Licensing (DOL), the trucking industry, the Teamsters Union, the Motor Carriers Division of the Federal Highway Administration, Department of Social and Health Services (DSHS)) met to discuss legislation. This bill is the result of those discussions.

**Summary of Substitute Bill:** All medical review officers (MRO) and breath alcohol technicians (BAT) under contract with a motor carrier to conduct drug or alcohol testing must provide positive results on commercial drivers directly to DOL. If a motor carrier does not have this condition in its contract with a MRO or BAT, DOL fines the carrier.

Any drivers who want to challenge the positive alcohol or drug results are entitled to a hearing. The hearing is limited to the following issues: whether the driver is the person who took the test; whether the carrier has a testing program that meets federal law; whether the

MRO or BAT accurately followed the testing protocols; and to provide evidence that the test was a false positive.

DOL disqualifies commercial drivers who fail the drug or alcohol test. The disqualification remains in effect until the driver presents evidence of satisfactory participation in or completion of a drug or alcohol program certified by DSHS. DOL reinstates the commercial driver's license once it receives a drug and alcohol assessment and evidence of satisfactory participation in, or completion of any required drug or alcohol treatment program.

**Substitute Bill Compared to Original Bill:** The substitute allows for evidence of a false positive at a hearing challenging the results.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2002.

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

**Testimony For:** This is not a new law, just closes a loop hole. Currently a driver can fail a drug or alcohol test and change employers so nobody would be aware of the failed test.

**Testimony Against:** None.

**Testified:** Jay Lawley, Washington Trucking Association (pro).