
Transportation Committee

ESSB 5431

Brief Description: Updating laws on drugs and alcohol use by commercial drivers.

Sponsors: Senate Committee on Highways & Transportation (originally sponsored by Senators Oke, Prentice, Horn, Haugen and Rasmussen; by request of Department of Licensing).

Brief Summary of Engrossed Substitute Bill

- Requires employers of commercial drivers to report to the Department of Licensing when a commercial driver refuses to take a drug or alcohol test, if the refusal has not been reported by the medical review officer or blood alcohol technician. Specifies reporting requirements for transit employees.
- Clarifies the scope of hearings requested by drivers to challenge disqualification based on a positive drug or alcohol test.

Hearing Date: 2/23/04

Staff: Jill Satran (786-7315).

Background:

Commercial motor carriers are required under federal law to conduct drug and alcohol testing of commercial drivers both prior, and subsequent, to employment. In 2002, state legislation was enacted requiring all medical review officers (MROs) or breath alcohol technicians (BATs) who conduct drug and alcohol testing for commercial motor carriers to report positive tests to the Department of Licensing (DOL). A driver who wishes to challenge the result of a positive drug or alcohol test is entitled to a hearing.

The DOL is required to disqualify a commercial drivers from driving a commercial motor vehicle if he or she tests positive for alcohol or drug use. The disqualification remains in effect until the appropriate period of time has expired and the DOL receives evidence of satisfactory participation in, or completion of, a drug or alcohol treatment program certified by the Department of Social and Health Services.

Summary of Bill:

Definitions are provided for "positive alcohol confirmation test," "substance abuse professional," and "verified positive drug test" and the definition of "drugs" is clarified to include those substances defined in federal regulations. A report that a driver refused to take a drug or alcohol

test meeting the state and federal requirements is considered to be equivalent to a report of a positive test for drugs or alcohol.

Motor carriers or employers required by federal regulation to have a testing program must report to the DOL a commercial driver's refusal to take a drug or alcohol test, when the refusal has not been reported by the MRO or BAT.

An MRO or BAT under contract with an employer involved in transit operations may only report a positive alcohol or drug test for a transit driver when the positive test is a pre-employment screening test. A transit employer is required to report a positive test to the DOL only when a driver's employment has been terminated and any grievance procedures have been concluded.

A driver's disqualification remains in effect until a driver undergoes a drug and alcohol assessment by a substance abuse professional (SAP) who meets federal requirements and the driver presents proof of satisfactory participation or completion of a drug or alcohol program, as recommended by the SAP. The SAP is required to provide a diagnostic evaluation and treatment recommendation to the DOL for use in determining a person's eligibility for driving a commercial motor vehicle.

At a hearing to challenge a driver's disqualification, evidence of a positive result with a declaration by the tester, MRO or BAT stating the accuracy of the test constitutes prima facie evidence of: 1) a positive test result; 2) the motor carrier, employer or consortium has a testing program that is subject to federal requirements; and 3) the MRO or BAT making the report accurately followed the testing protocols established for verifying or confirming results.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.