

# SENATE BILL REPORT

## SHB 1266

---

As Reported By Senate Committee On:  
Transportation, March 28, 2005

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

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

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Murray, Woods and Kenney; by request of Department of Licensing).

**Brief History:** Passed House: 3/04/05, 96-0.

**Committee Activity:** Transportation: 3/28/05 [DPA].

---

### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended.

Signed by Senators Haugen, Chair; Poulsen, Vice Chair; Swecker, Ranking Minority Member; Esser, Kastama, Mulliken, Oke, Spanel and Weinstein.

**Staff:** Kimberly Johnson (786-7346)

**Background:** Commercial motor carriers are required by federal law to implement a drug and alcohol testing program for their drivers. Under current state law, all medical review officers (MRO) and breath alcohol technicians (BAT) under contract with a motor carrier to conduct drug or alcohol testing must report positive test results for a commercial driver directly to the Department of Licensing (DOL). A driver who wishes to challenge the positive test result is entitled to a hearing.

DOL disqualifies commercial drivers who fail a drug or alcohol test. The employer of a driver who has refused to submit to a test may notify law enforcement, the MRO, or the BAT. A disqualification remains in effect until the driver presents evidence of satisfactory participation in, or completion of, a drug or alcohol program certified by the Department of Social and Health Services. 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

**Summary of Amended Bill:** "Positive alcohol confirmation test," "substance abuse professional" and "verified positive drug test" are defined.

A refusal to take a drug or alcohol test that meets the standard for refusal under federal law is considered equivalent to a report of a verified positive drug test or a positive alcohol confirmation test, respectively.

A motor carrier, employer, or consortium that is required to have a testing program must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test to DOL, when the refusal has not been reported by an 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 transit drivers to DOL when the positive test is a pre-employment screening test. A transit employer must report a positive test to DOL only after: (1) the driver's employment has been terminated or the driver has resigned; (2) any grievance procedures, up to but not including arbitration, have been concluded; and (3) at the time of termination or resignation the driver has not been cleared to return to safety sensitive functions.

For purposes of a hearing, a copy of a positive test result with a declaration by the tester, MRO, or BAT that states the accuracy of the laboratory protocols used to arrive at the test result is prima facie evidence of: (1) the positive test result; (2) that the motor carrier, employer, or consortium has a program subject to federal requirements; and (3) that the MRO or BAT making the report accurately followed the protocols for testing established to verify or confirm the results.

A disqualification remains in effect until the person both undergoes a drug and alcohol assessment by a substance abuse professional (SAP) who meets federal requirements and offers proof of satisfactory participation in or completion of a drug or alcohol program as recommended by the SAP.

The SAP must forward a diagnostic evaluation and treatment recommendation to DOL for use in determining the person's eligibility for driving a commercial motor vehicle.

**Amended Bill Compared to Original Bill:** The original bill was not considered.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** None.

**Testimony Against:** None.

**Who Testified:** No one.