
HOUSE BILL 2981

State of Washington

59th Legislature

2006 Regular Session

By Representatives Fromhold, Clements and Murray; by request of Washington State Patrol

Read first time 01/17/2006. Referred to Committee on Transportation.

1 AN ACT Relating to commercial vehicles; and amending RCW 46.25.010,
2 46.32.005, 46.37.395, and 46.44.105.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.25.010 and 2005 c 325 s 2 are each amended to read
5 as follows:

6 The definitions set forth in this section apply throughout this
7 chapter.

8 (1) "Alcohol" means any substance containing any form of alcohol,
9 including but not limited to ethanol, methanol, propanol, and
10 isopropanol.

11 (2) "Alcohol concentration" means:

12 (a) The number of grams of alcohol per one hundred milliliters of
13 blood; or

14 (b) The number of grams of alcohol per two hundred ten liters of
15 breath.

16 (3) "Commercial driver's license" (CDL) means a license issued in
17 accordance with the requirements of this chapter to an individual that
18 authorizes the individual to drive a class of commercial motor vehicle.

1 (4) The "commercial driver's license information system" (CDLIS) is
2 the information system established pursuant to the CMVSA to serve as a
3 clearinghouse for locating information related to the licensing and
4 identification of commercial motor vehicle drivers.

5 (5) "Commercial driver's instruction permit" means a permit issued
6 under RCW 46.25.060(5).

7 (6) "Commercial motor vehicle" means a motor vehicle (~~designed~~)
8 or combination of motor vehicles used in commerce to transport
9 passengers or property if the motor vehicle:

10 (a) (~~If the vehicle~~) Has a gross vehicle weight rating of
11 (~~26,001 or more pounds~~) 11,794 kilograms or more (26,001 pounds or
12 more) inclusive of a towed unit with a gross vehicle weight rating of
13 more than 4,536 kilograms (10,000 pounds or more); or

14 (b) (~~If the vehicle is designed to transport sixteen or more~~
15 ~~passengers, including the driver~~) Has a gross vehicle weight rating of
16 11,794 kilograms or more (26,001 pounds or more); or

17 (c) (~~If the vehicle is transporting hazardous materials as defined~~
18 ~~in this section~~) Is designed to transport sixteen or more passengers,
19 including the driver; or

20 (d) (~~If the vehicle~~) Is of any size and is used in the
21 transportation of hazardous materials as defined in this section; or

22 (e) Is a school bus regardless of weight or size.

23 (7) "Conviction" has the definition set forth in RCW 46.20.270.

24 (8) "Disqualification" means a prohibition against driving a
25 commercial motor vehicle.

26 (9) "Drive" means to drive, operate, or be in physical control of
27 a motor vehicle in any place open to the general public for purposes of
28 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
29 46.25.120, "drive" includes operation or physical control of a motor
30 vehicle anywhere in the state.

31 (10) "Drugs" are those substances as defined by RCW 69.04.009,
32 including, but not limited to, those substances defined by 49 C.F.R.
33 40.3.

34 (11) "Employer" means any person, including the United States, a
35 state, or a political subdivision of a state, who owns or leases a
36 commercial motor vehicle, or assigns a person to drive a commercial
37 motor vehicle.

1 (12) "Gross vehicle weight rating" (GVWR) means the value specified
2 by the manufacturer as the maximum loaded weight of a single (~~or a~~
3 ~~combination or articulated vehicle, or the registered gross weight,~~
4 ~~where this value cannot be determined~~) vehicle. The GVWR of a
5 combination or articulated vehicle, commonly referred to as the "gross
6 combined weight rating" or GCWR, is the GVWR of the power unit plus the
7 GVWR of the towed unit or units. If the GVWR of any unit cannot be
8 determined, the actual gross weight will be used. If a vehicle with a
9 GVWR of less than 11,794 kilograms (26,001 pounds or less) has been
10 structurally modified to carry a heavier load, then the actual gross
11 weight capacity of the modified vehicle, as determined by RCW 46.44.041
12 and 46.44.042, will be used as the GVWR.

13 (13) "Hazardous materials" means any material that has been
14 designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be
15 placarded under subpart F of 49 C.F.R. part 172 or any quantity of a
16 material listed as a select agent or toxin in 42 C.F.R. part 73.

17 (14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or
18 semitrailer propelled or drawn by mechanical power used on highways, or
19 any other vehicle required to be registered under the laws of this
20 state, but does not include a vehicle, machine, tractor, trailer, or
21 semitrailer operated exclusively on a rail.

22 (15) "Out-of-service order" means a temporary prohibition against
23 driving a commercial motor vehicle.

24 (16) "Positive alcohol confirmation test" means an alcohol
25 confirmation test that:

26 (a) Has been conducted by a breath alcohol technician under 49
27 C.F.R. 40; and

28 (b) Indicates an alcohol concentration of 0.04 or more.

29 A report that a person has refused an alcohol test, under
30 circumstances that constitute the refusal of an alcohol test under 49
31 C.F.R. 40, will be considered equivalent to a report of a positive
32 alcohol confirmation test for the purposes of this chapter.

33 (17) "School bus" means a commercial motor vehicle used to
34 transport preprimary, primary, or secondary school students from home
35 to school, from school to home, or to and from school-sponsored events.
36 School bus does not include a bus used as a common carrier.

37 (18) "Serious traffic violation" means:

- 1 (a) Excessive speeding, defined as fifteen miles per hour or more
2 in excess of the posted limit;
- 3 (b) Reckless driving, as defined under state or local law;
- 4 (c) A violation of a state or local law relating to motor vehicle
5 traffic control, other than a parking violation, arising in connection
6 with an accident or collision resulting in death to any person;
- 7 (d) Driving a commercial motor vehicle without obtaining a
8 commercial driver's license;
- 9 (e) Driving a commercial motor vehicle without a commercial
10 driver's license in the driver's possession; however, any individual
11 who provides proof to the court by the date the individual must appear
12 in court or pay any fine for such a violation, that the individual held
13 a valid CDL on the date the citation was issued, is not guilty of a
14 "serious traffic offense";
- 15 (f) Driving a commercial motor vehicle without the proper class of
16 commercial driver's license endorsement or endorsements for the
17 specific vehicle group being operated or for the passenger or type of
18 cargo being transported; and
- 19 (g) Any other violation of a state or local law relating to motor
20 vehicle traffic control, other than a parking violation, that the
21 department determines by rule to be serious.
- 22 (19) "State" means a state of the United States and the District of
23 Columbia.
- 24 (20) "Substance abuse professional" means an alcohol and drug
25 specialist meeting the credentials, knowledge, training, and continuing
26 education requirements of 49 C.F.R. 40.281.
- 27 (21) "Tank vehicle" means a vehicle that is designed to transport
28 a liquid or gaseous material within a tank that is either permanently
29 or temporarily attached to the vehicle or the chassis. Tank vehicles
30 include, but are not limited to cargo tanks and portable tanks.
31 However, this definition does not include portable tanks having a rated
32 capacity under one thousand gallons.
- 33 (22) "United States" means the fifty states and the District of
34 Columbia.
- 35 (23) "Verified positive drug test" means a drug test result or
36 validity testing result from a laboratory certified under the authority
37 of the federal department of health and human services that:

1 (a) Indicates a drug concentration at or above the cutoff
2 concentration established under 49 C.F.R. 40.87; and

3 (b) Has undergone review and final determination by a medical
4 review officer.

5 A report that a person has refused a drug test, under circumstances
6 that constitute the refusal of a federal department of transportation
7 drug test under 49 C.F.R. 40, will be considered equivalent to a report
8 of a verified positive drug test for the purposes of this chapter.

9 **Sec. 2.** RCW 46.32.005 and 1993 c 403 s 1 are each amended to read
10 as follows:

11 For the purpose of this chapter "commercial motor vehicle" means a
12 self-propelled or towed vehicle (~~((designed or))~~) used on a highway in
13 interstate or intrastate commerce to transport passengers or property,
14 (~~((if))~~) when the vehicle:

15 (1) Has a gross vehicle weight rating or gross combination weight
16 rating (~~((of ten thousand one or more pounds))~~) or gross weight or gross
17 combination weight of 4,536 kilograms or more (10,001 pounds or more);
18 or

19 (2) Is designed or used to transport (~~((sixteen or))~~) more than eight
20 passengers, including the driver, for compensation; or

21 (3) (~~((Is transporting hazardous materials and is required to be~~
22 ~~identified by a placard in accordance with 49 C.F.R. Sec. 172.500-.560~~
23 ~~(1991).))~~) Is designed or used to transport more than fifteen
24 passengers, including the driver, and is not used to transport
25 passengers for compensation; or

26 (4) Is used in transporting materials found by the secretary of
27 transportation to be hazardous under 49 U.S.C. Sec. 5103 and
28 transported in a quantity requiring placarding under regulations
29 prescribed by the secretary under 49 C.F.R., subtitle B, Chapter I,
30 subchapter C.

31 A recreational vehicle used for noncommercial purposes is not
32 considered a commercial motor vehicle. "Recreational vehicle" includes
33 a vehicle towing a horse trailer for a noncommercial purpose.

34 **Sec. 3.** RCW 46.37.395 and 2005 c 320 s 1 are each amended to read
35 as follows:

36 (1) This section applies to all motor vehicles with a (~~((declared~~

1 ~~gross weight in excess of 10,000 pounds))~~ gross vehicle weight rating
2 of 4,536 kilograms or more (10,001 pounds or more), registered and
3 domiciled in Washington state, operated on public roads and equipped
4 with engine compression brake devices. An engine compression brake
5 device is any device that uses the engine and transmission to impede
6 the forward motion of the motor vehicle by compression of the engine.

7 (2) The driver of a motor vehicle equipped with a device that uses
8 the compression of the motor vehicle engine shall not use the device
9 unless:

10 ~~((a))~~ The motor vehicle is equipped with an operational muffler
11 and exhaust system to prevent excess noise. ~~((The muffler and exhaust~~
12 ~~system must maintain the noise level at eighty three decibels or less~~
13 ~~for motor vehicles manufactured after January 1, 1979, and eighty~~
14 ~~decibels or less for motor vehicles manufactured after January 1, 1988;~~
15 ~~or~~

16 ~~(b) The driver reasonably believes that an emergency exists which~~
17 ~~requires the use of the device to: (i) Protect against an immediate~~
18 ~~threat to the physical safety of the driver or others; (ii) protect~~
19 ~~against immediate threat of damage to property; or (iii) effectively~~
20 ~~reduce the speed of the motor vehicle using the manufacturer's motor~~
21 ~~vehicle braking system when declining from an elevated roadway))~~ A
22 muffler is part of an engine exhaust system which acts as a noise
23 dissipative device. A turbocharger is not permitted to be used as a
24 muffler or a noise dissipative device.

25 (3) The monetary penalty for violating subsection (2) of this
26 section is: (a) Two hundred fifty dollars for the first violation; (b)
27 five hundred dollars for the second violation; and (c) seven hundred
28 fifty dollars for each violation thereafter.

29 ~~(4) ((The Washington state patrol must establish rules for~~
30 ~~Washington state law enforcement agencies to enforce subsection (2) of~~
31 ~~this section.~~

32 ~~(5))~~ All medium and heavy trucks must comply with federal code 205
33 - transportation equipment noise emission controls, subpart B.

34 ~~((6))~~ (5) Nothing in this section prohibits a local jurisdiction
35 from implementing an ordinance that is more restrictive than the state
36 law and Washington state patrol rules regarding the use of compression
37 brakes.

1 **Sec. 4.** RCW 46.44.105 and 2002 c 254 s 1 are each amended to read
2 as follows:

3 (1) Violation of any of the provisions of this chapter is a traffic
4 infraction, and upon the first finding thereof shall be assessed a
5 basic penalty of not less than fifty dollars; and upon a second finding
6 thereof shall be assessed a basic penalty of not less than seventy-five
7 dollars; and upon a third or subsequent finding shall be assessed a
8 basic penalty of not less than one hundred dollars.

9 (2) In addition to the penalties imposed in subsection (1) of this
10 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,
11 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each
12 pound overweight, as follows:

13 (a) One pound through four thousand pounds overweight is three
14 cents for each pound;

15 (b) Four thousand one pounds through ten thousand pounds overweight
16 is one hundred twenty dollars plus twelve cents per pound for each
17 additional pound over four thousand pounds overweight;

18 (c) Ten thousand one pounds through fifteen thousand pounds
19 overweight is eight hundred forty dollars plus sixteen cents per pound
20 for each additional pound over ten thousand pounds overweight;

21 (d) Fifteen thousand one pounds through twenty thousand pounds
22 overweight is one thousand six hundred forty dollars plus twenty cents
23 per pound for each additional pound over fifteen thousand pounds
24 overweight;

25 (e) Twenty thousand one pounds and more is two thousand six hundred
26 forty dollars plus thirty cents per pound for each additional pound
27 over twenty thousand pounds overweight.

28 Upon a first violation in any calendar year, the court may suspend
29 the penalty for five hundred pounds of excess weight for each axle on
30 any vehicle or combination of vehicles, not to exceed a two thousand
31 pound suspension. In no case may the basic penalty assessed in
32 subsection (1) of this section or the additional penalty assessed in
33 subsection (2) of this section, except as provided for the first
34 violation, be suspended.

35 (3) Whenever any vehicle or combination of vehicles is involved in
36 two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,
37 46.44.091, or 46.44.095 during any twelve-month period, the court may
38 suspend the certificate of license registration of the vehicle or

1 combination of vehicles for not less than thirty days. Upon a third or
2 succeeding violation in any twelve-month period, the court shall
3 suspend the certificate of license registration for not less than
4 thirty days. Whenever the certificate of license registration is
5 suspended, the court shall secure such certificate and immediately
6 forward the same to the director with information concerning the
7 suspension.

8 (4) Any person found to have violated any posted limitations of a
9 highway or section of highway shall be assessed a monetary penalty of
10 not less than one hundred and fifty dollars, and the court shall in
11 addition thereto upon second violation within a twelve-month period
12 involving the same power unit, suspend the certificate of license
13 registration for not less than thirty days.

14 (5) It is unlawful for the driver of a vehicle to fail or refuse to
15 stop and submit the vehicle and load to a weighing, or to fail or
16 refuse, when directed by an officer upon a weighing of the vehicle to
17 stop the vehicle and otherwise comply with the provisions of this
18 section. It is unlawful for a driver of a commercial motor vehicle as
19 defined in RCW 46.32.005, other than the driver of a bus as defined in
20 RCW 46.32.005(~~((+2))~~) (3) or a vehicle with a gross vehicle weight
21 rating or gross combination weight (~~((not over sixteen thousand pounds))~~)
22 rating of 7,257 kilograms or less (16,000 pounds or less) and not
23 transporting hazardous materials in accordance with RCW
24 46.32.005(~~((+3))~~) (4), to fail or refuse to stop at a weighing station
25 when proper traffic control signs indicate scales are open. However,
26 unladen tow trucks regardless of weight and farm vehicles carrying farm
27 produce with a gross vehicle weight rating or gross combination weight
28 (~~((not over twenty six thousand pounds))~~) rating of 11,794 kilograms or
29 less (26,000 pounds or less) may fail or refuse to stop at a weighing
30 station when proper traffic control signs indicate scales are open.

31 Any police officer is authorized to require the driver of any
32 vehicle or combination of vehicles to stop and submit to a weighing
33 either by means of a portable or stationary scale and may require that
34 the vehicle be driven to the nearest public scale. Whenever a police
35 officer, upon weighing a vehicle and load, determines that the weight
36 is unlawful, the officer may require the driver to stop the vehicle in
37 a suitable location and remain standing until such portion of the load
38 is removed as may be necessary to reduce the gross weight of the

1 vehicle to the limit permitted by law. If the vehicle is loaded with
2 grain or other perishable commodities, the driver shall be permitted to
3 proceed without removing any of the load, unless the gross weight of
4 the vehicle and load exceeds by more than ten percent the limit
5 permitted by this chapter. The owner or operator of the vehicle shall
6 care for all materials unloaded at the risk of the owner or operator.

7 Any vehicle whose driver or owner represents that the vehicle is
8 disabled or otherwise unable to proceed to a weighing location shall
9 have its load sealed or otherwise marked by any police officer. The
10 owner or driver shall be directed that upon completion of repairs, the
11 vehicle shall submit to weighing with the load and markings and/or seal
12 intact and undisturbed. Failure to report for weighing, appearing for
13 weighing with the seal broken or the markings disturbed, or removal of
14 any cargo prior to weighing is unlawful. Any person so convicted shall
15 be fined one thousand dollars, and in addition the certificate of
16 license registration shall be suspended for not less than thirty days.

17 (6) Any other provision of law to the contrary notwithstanding,
18 district courts having venue have concurrent jurisdiction with the
19 superior courts for the imposition of any penalties authorized under
20 this section.

21 (7) For the purpose of determining additional penalties as provided
22 by subsection (2) of this section, "overweight" means the poundage in
23 excess of the maximum allowable gross weight or axle/axle grouping
24 weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091,
25 and 46.44.095.

26 (8) The penalties provided in subsections (1) and (2) of this
27 section shall be remitted as provided in chapter 3.62 RCW or RCW
28 10.82.070. For the purpose of computing the basic penalties and
29 additional penalties to be imposed under subsections (1) and (2) of
30 this section, the convictions shall be on the same vehicle or
31 combination of vehicles within a twelve-month period under the same
32 ownership.

33 (9) Any state patrol officer or any weight control officer who
34 finds any person operating a vehicle or a combination of vehicles in
35 violation of the conditions of a permit issued under RCW 46.44.047,
36 46.44.090, and 46.44.095 may confiscate the permit and forward it to
37 the state department of transportation which may return it to the
38 permittee or revoke, cancel, or suspend it without refund. The

1 department of transportation shall keep a record of all action taken
2 upon permits so confiscated, and if a permit is returned to the
3 permittee the action taken by the department of transportation shall be
4 endorsed thereon. Any permittee whose permit is suspended or revoked
5 may upon request receive a hearing before the department of
6 transportation or person designated by that department. After the
7 hearing the department of transportation may reinstate any permit or
8 revise its previous action.

9 Every permit issued as provided for in this chapter shall be
10 carried in the vehicle or combination of vehicles to which it refers
11 and shall be open to inspection by any law enforcement officer or
12 authorized agent of any authority granting such a permit.

13 Upon the third finding within a calendar year of a violation of the
14 requirements and conditions of a permit issued under RCW 46.44.095, the
15 permit shall be canceled, and the canceled permit shall be immediately
16 transmitted by the court or the arresting officer to the department of
17 transportation. The vehicle covered by the canceled permit is not
18 eligible for a new permit for a period of thirty days.

19 (10) For the purposes of determining gross weights the actual scale
20 weight taken by the arresting officer is prima facie evidence of the
21 total gross weight.

22 (11) It is a traffic infraction to direct the loading of a vehicle
23 with knowledge that it violates the requirements in RCW 46.44.041,
24 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is
25 to be operated on the public highways of this state.

26 (12) The chief of the state patrol, with the advice of the
27 department, may adopt reasonable rules to aid in the enforcement of
28 this section.

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