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HOUSE BILL 1229

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Moscoso, Armstrong, and Kenney; by request of Department of Licensing

Read first time 01/17/11. Referred to Committee on Transportation.

1 AN ACT Relating to the certification of commercial driver's license  
2 holders and applicants; amending RCW 46.25.010; reenacting and amending  
3 RCW 46.25.080; adding a new section to chapter 46.25 RCW; and providing  
4 an effective date.

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

6 **Sec. 1.** RCW 46.25.010 and 2009 c 181 s 2 are each amended to read  
7 as follows:

8 The definitions set forth in this section apply throughout this  
9 chapter.

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

13 (2) "Alcohol concentration" means:

14 (a) The number of grams of alcohol per one hundred milliliters of  
15 blood; or

16 (b) The number of grams of alcohol per two hundred ten liters of  
17 breath.

18 (3) "Commercial driver's license" (CDL) means a license issued to

1 an individual under chapter 46.20 RCW that has been endorsed in  
2 accordance with the requirements of this chapter to authorize the  
3 individual to drive a class of commercial motor vehicle.

4 (4) The "commercial driver's license information system" (CDLIS) is  
5 the information system established pursuant to (~~the CMVSA~~) 49 U.S.C.  
6 Sec. 31309 to serve as a clearinghouse for locating information related  
7 to the licensing and identification of commercial motor vehicle  
8 drivers.

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

11 (6) "Commercial motor vehicle" means a motor vehicle or combination  
12 of motor vehicles used in commerce to transport passengers or property  
13 if the motor vehicle:

14 (a) Has a gross vehicle weight rating of 11,794 kilograms or more  
15 (26,001 pounds or more) inclusive of a towed unit with a gross vehicle  
16 weight rating of more than 4,536 kilograms (10,000 pounds or more); or

17 (b) Has a gross vehicle weight rating of 11,794 kilograms or more  
18 (26,001 pounds or more); or

19 (c) Is designed to transport sixteen or more passengers, including  
20 the driver; or

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

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

24 (7) "Conviction" means an unvacated adjudication of guilt, or a  
25 determination that a person has violated or failed to comply with the  
26 law in a court of original jurisdiction or by an authorized  
27 administrative tribunal, an unvacated forfeiture of bail or collateral  
28 deposited to secure the person's appearance in court, a plea of guilty  
29 or nolo contendere accepted by the court, the payment of a fine or  
30 court cost, entry into a deferred prosecution program under chapter  
31 10.05 RCW, or violation of a condition of release without bail,  
32 regardless of whether or not the penalty is rebated, suspended, or  
33 probated.

34 (8) "Disqualification" means a prohibition against driving a  
35 commercial motor vehicle.

36 (9) "Drive" means to drive, operate, or be in physical control of  
37 a motor vehicle in any place open to the general public for purposes of

1 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and  
2 46.25.120, "drive" includes operation or physical control of a motor  
3 vehicle anywhere in the state.

4 (10) "Drugs" are those substances as defined by RCW 69.04.009,  
5 including, but not limited to, those substances defined by 49 C.F.R.  
6 Sec. 40.3.

7 (11) "Employer" means any person, including the United States, a  
8 state, or a political subdivision of a state, who owns or leases a  
9 commercial motor vehicle, or assigns a person to drive a commercial  
10 motor vehicle.

11 (12) "Gross vehicle weight rating" (GVWR) means the value specified  
12 by the manufacturer as the maximum loaded weight of a single vehicle.  
13 The GVWR of a combination or articulated vehicle, commonly referred to  
14 as the "gross combined weight rating" or GCWR, is the GVWR of the power  
15 unit plus the GVWR of the towed unit or units. If the GVWR of any unit  
16 cannot be determined, the actual gross weight will be used. If a  
17 vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or  
18 less) has been structurally modified to carry a heavier load, then the  
19 actual gross weight capacity of the modified vehicle, as determined by  
20 RCW 46.44.041 and 46.44.042, will be used as the GVWR.

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

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

30 (15) "Out-of-service order" means a declaration by an authorized  
31 enforcement officer of a federal, state, Canadian, Mexican, or local  
32 jurisdiction that a driver, a commercial motor vehicle, or a motor  
33 carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72,  
34 392.5, 395.13, 396.9, or compatible laws, or the North American uniform  
35 out-of-service criteria.

36 (16) "Positive alcohol confirmation test" means an alcohol  
37 confirmation test that:

1 (a) Has been conducted by a breath alcohol technician under 49  
2 C.F.R. Part 40; and

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

4 A report that a person has refused an alcohol test, under  
5 circumstances that constitute the refusal of an alcohol test under 49  
6 C.F.R. Part 40, will be considered equivalent to a report of a positive  
7 alcohol confirmation test for the purposes of this chapter.

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

12 (18) "Serious traffic violation" means:

13 (a) Excessive speeding, defined as fifteen miles per hour or more  
14 in excess of the posted limit;

15 (b) Reckless driving, as defined under state or local law;

16 (c) A violation of a state or local law relating to motor vehicle  
17 traffic control, other than a parking violation, arising in connection  
18 with an accident or collision resulting in death to any person;

19 (d) Driving a commercial motor vehicle without obtaining a  
20 commercial driver's license;

21 (e) Driving a commercial motor vehicle without a commercial  
22 driver's license in the driver's possession; however, any individual  
23 who provides proof to the court by the date the individual must appear  
24 in court or pay any fine for such a violation, that the individual held  
25 a valid CDL on the date the citation was issued, is not guilty of a  
26 "serious traffic offense";

27 (f) Driving a commercial motor vehicle without the proper class of  
28 commercial driver's license endorsement or endorsements for the  
29 specific vehicle group being operated or for the passenger or type of  
30 cargo being transported; and

31 (g) Any other violation of a state or local law relating to motor  
32 vehicle traffic control, other than a parking violation, that the  
33 department determines by rule to be serious.

34 (19) "State" means a state of the United States and the District of  
35 Columbia.

36 (20) "Substance abuse professional" means an alcohol and drug  
37 specialist meeting the credentials, knowledge, training, and continuing  
38 education requirements of 49 C.F.R. Sec. 40.281.

1 (21) "Tank vehicle" means a vehicle that is designed to transport  
2 a liquid or gaseous material within a tank that is either permanently  
3 or temporarily attached to the vehicle or the chassis. Tank vehicles  
4 include, but are not limited to cargo tanks and portable tanks.  
5 However, this definition does not include portable tanks having a rated  
6 capacity under one thousand gallons.

7 (22) "Type of driving" means one of the following:

8 (a) "Nonexcepted interstate," which means the CDL holder or  
9 applicant operates or expects to operate in interstate commerce, is  
10 both subject to and meets the qualification requirements under 49  
11 C.F.R. Part 391 as it existed on the effective date of this section, or  
12 such subsequent date as may be provided by the department by rule,  
13 consistent with the purposes of this section, and is required to obtain  
14 a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it  
15 existed on the effective date of this section, or such subsequent date  
16 as may be provided by the department by rule, consistent with the  
17 purposes of this section;

18 (b) "Excepted interstate," which means the CDL holder or applicant  
19 operates or expects to operate in interstate commerce, but engages  
20 exclusively in transportation or operations excepted under 49 C.F.R.  
21 Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on the  
22 effective date of this section, or such subsequent date as may be  
23 provided by the department by rule, consistent with the purposes of  
24 this section, from all or parts of the qualification requirements of 49  
25 C.F.R. Part 391 as it existed on the effective date of this section, or  
26 such subsequent date as may be provided by the department by rule,  
27 consistent with the purposes of this section, and is therefore not  
28 required to obtain a medical examiner's certificate under 49 C.F.R.  
29 Sec. 391.45 as it existed on the effective date of this section, or  
30 such subsequent date as may be provided by the department by rule,  
31 consistent with the purposes of this section;

32 (c) "Nonexcepted intrastate," which means the CDL holder or  
33 applicant operates only in intrastate commerce and is therefore subject  
34 to state driver qualification requirements; or

35 (d) "Excepted intrastate," which means the CDL holder or applicant  
36 operates in intrastate commerce, but engages exclusively in  
37 transportation or operations excepted from all or parts of the state  
38 driver qualification requirements.

1        (23) "United States" means the fifty states and the District of  
2 Columbia.

3        (~~(23)~~) (24) "Verified positive drug test" means a drug test  
4 result or validity testing result from a laboratory certified under the  
5 authority of the federal department of health and human services that:

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

8        (b) Has undergone review and final determination by a medical  
9 review officer.

10        A report that a person has refused a drug test, under circumstances  
11 that constitute the refusal of a federal department of transportation  
12 drug test under 49 C.F.R. Part 40, will be considered equivalent to a  
13 report of a verified positive drug test for the purposes of this  
14 chapter.

15        **Sec. 2.** RCW 46.25.080 and 2004 c 249 s 8 and 2004 c 187 s 5 are  
16 each reenacted and amended to read as follows:

17        (1) The commercial driver's license must be marked "commercial  
18 driver's license" or "CDL," and must be, to the maximum extent  
19 practicable, tamperproof. It must include, but not be limited to, the  
20 following information:

21        (a) The name and residence address of the person;

22        (b) The person's color photograph;

23        (c) A physical description of the person including sex, height,  
24 weight, and eye color;

25        (d) Date of birth;

26        (e) The person's social security number or any number or identifier  
27 deemed appropriate by the department;

28        (f) The person's signature;

29        (g) The class or type of commercial motor vehicle or vehicles that  
30 the person is authorized to drive, together with any endorsements or  
31 restrictions;

32        (h) The name of the state; and

33        (i) The dates between which the license is valid.

34        (2) Commercial driver's licenses may be issued with the  
35 classifications, endorsements, and restrictions set forth in this  
36 subsection. The holder of a valid commercial driver's license may  
37 drive all vehicles in the class for which that license is issued and

1 all lesser classes of vehicles except motorcycles and vehicles that  
2 require an endorsement, unless the proper endorsement appears on the  
3 license.

4 (a) Licenses may be classified as follows:

5 (i) Class A is a combination of vehicles with a gross combined  
6 weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the  
7 vehicle or vehicles being towed is in excess of 10,000 pounds.

8 (ii) Class B is a single vehicle with a GVWR of 26,001 pounds or  
9 more, and any such vehicle towing a vehicle not in excess of 10,000  
10 pounds.

11 (iii) Class C is a single vehicle with a GVWR of less than 26,001  
12 pounds or any such vehicle towing a vehicle with a GVWR not in excess  
13 of 10,000 pounds consisting of:

14 (A) Vehicles designed to transport sixteen or more passengers,  
15 including the driver; or

16 (B) Vehicles used in the transportation of hazardous materials.

17 (b) The following endorsements and restrictions may be placed on a  
18 license:

19 (i) "H" authorizes the driver to drive a vehicle transporting  
20 hazardous materials.

21 (ii) "K" restricts the driver to vehicles not equipped with air  
22 brakes.

23 (iii) "T" authorizes driving double and triple trailers.

24 (iv) "P1" authorizes driving all vehicles, other than school buses,  
25 carrying passengers.

26 (v) "P2" authorizes driving vehicles with a GVWR of less than  
27 26,001 pounds, other than school buses, carrying sixteen or more  
28 passengers, including the driver.

29 (vi) "N" authorizes driving tank vehicles.

30 (vii) "X" represents a combination of hazardous materials and tank  
31 vehicle endorsements.

32 (viii) "S" authorizes driving school buses.

33 (ix) "V" means that the driver has been issued a medical variance.

34 The license may be issued with additional endorsements and  
35 restrictions as established by rule of the director.

36 (3) All school bus drivers must have either a "P1" or "P2"  
37 endorsement depending on the GVWR of the school bus being driven.

1 (4) Before issuing a commercial driver's license, the department  
2 shall obtain driving record information:

3 (a) Through the commercial driver's license information system;

4 (b) Through the national driver register;

5 (c) From the current state of record; and

6 (d) From all states where the applicant was previously licensed  
7 over the last ten years to drive any type of motor vehicle.

8 A check under (d) of this subsection need be done only once, either  
9 at the time of application for a new commercial driver's license, or  
10 upon application for a renewal of a commercial driver's license for the  
11 first time after July 1, 2005, provided a notation is made on the  
12 driver's record confirming that the driving record check has been made  
13 and noting the date it was completed.

14 (5) Within ten days after issuing a commercial driver's license,  
15 the department must notify the commercial driver's license information  
16 system of (~~that fact,~~) the information required under 49 C.F.R. Sec.  
17 383.73 as it existed on the effective date of this section, or such  
18 subsequent date as may be provided by the department by rule,  
19 consistent with the purposes of this section and provide all  
20 information required to ensure identification of the person.

21 (6) A commercial driver's license shall expire in the same manner  
22 as provided in RCW 46.20.181.

23 (7) When applying for renewal of a commercial driver's license, the  
24 applicant shall:

25 (a) Complete the application form required by RCW 46.25.070(1),  
26 providing updated information and required certifications;

27 (b) Submit the application to the department in person; and

28 (c) If the applicant wishes to retain a hazardous materials  
29 endorsement, take and pass the written test for a hazardous materials  
30 endorsement.

31 NEW SECTION. Sec. 3. A new section is added to chapter 46.25 RCW  
32 to read as follows:

33 (1)(a) Any person applying for a CDL must certify that he or she is  
34 or expects to be engaged in one of the following types of driving:

35 (i) Nonexcepted interstate;

36 (ii) Excepted interstate;

37 (iii) Nonexcepted intrastate; or



1 (iv) Excepted intrastate.

2 (b) From January 30, 2012, to January 30, 2014, the department may  
3 require that any person holding a CDL prior to the effective date of  
4 this section must provide the department with the certification  
5 required under (a) of this subsection. The CDL of a person failing to  
6 submit the required certification is subject to downgrade under  
7 subsection (4) of this section.

8 (2) A CDL applicant or holder who certifies under subsection  
9 (1)(a)(i) of this section that he or she is or expects to be engaged in  
10 nonexcepted interstate commerce must provide a copy of a medical  
11 examiner's certificate prepared by a medical examiner, as defined in 49  
12 C.F.R. Sec. 390.5 as it existed on the effective date of this section,  
13 or such subsequent date as may be provided by the department by rule,  
14 consistent with the purposes of this section. Upon submission, a copy  
15 of the medical examiner's certificate must be date-stamped by the  
16 department. A CDL holder who certifies under subsection (1)(a)(i) of  
17 this section must submit a copy of each subsequently issued medical  
18 examiner's certificate.

19 (3) For each operator of a commercial motor vehicle required to  
20 have a commercial driver's license, the department must meet the  
21 following requirements:

22 (a)(i) The driver's self-certification of type of driving under  
23 subsection (1) of this section must be maintained on the driver's  
24 record and the CDLIS driver record;

25 (ii) The copy of a medical examiner's certificate, when submitted  
26 under subsection (2) of this section, must be retained for three years  
27 beyond the date the certificate was issued; and

28 (iii) When a medical examiner's certificate is submitted under  
29 subsection (2) of this section, the information required under 49  
30 C.F.R. Sec. 383.73(j)(1)(iii) as it existed on the effective date of  
31 this section, or such subsequent date as may be provided by the  
32 department by rule, consistent with the purposes of this section must  
33 be posted to the CDLIS driver record within ten calendar days from the  
34 date submitted. The indicator of medical certification status, such as  
35 "certified" or "not-certified," must be maintained on the driver's  
36 record.

37 (b) Within ten calendar days of the driver's medical certification

1 status expiring or a medical variance expiring or being rescinded, the  
2 medical certification status of the driver must be updated to "not-  
3 certified."

4 (c) Within ten calendar days of receiving information from the  
5 federal motor carrier safety administration regarding issuance or  
6 renewal of a medical variance for a driver, the department must update  
7 the CDLIS driver record to include the medical variance information.

8 (4)(a) If a driver's medical certification or medical variance  
9 expires, or the federal motor carrier safety administration notifies  
10 the department that a medical variance was removed or rescinded, the  
11 department must:

12 (i) Notify the driver of his or her "not-certified" medical  
13 certification status and that the CDL privilege will be removed from  
14 the driver's license unless the driver submits a current medical  
15 certificate or medical variance, or changes his or her self-  
16 certification to driving only in excepted or intrastate commerce; and

17 (ii) Initiate procedures for downgrading the license. The CDL  
18 downgrade must be completed and recorded within sixty days of the  
19 driver's medical certification status becoming "not-certified" to  
20 operate a commercial motor vehicle.

21 (b) Beginning January 30, 2014, if a driver fails to provide the  
22 department with the certification required in subsection (1) of this  
23 section, or a current medical examiner's certificate if the driver  
24 self-certifies under subsection (1)(a)(i) of this section that he or  
25 she is operating in nonexcepted interstate commerce as required in  
26 subsection (2) of this section, the department must mark the CDLIS  
27 driver record as "not-certified" and initiate a CDL downgrade in  
28 accordance with (a)(ii) of this subsection.

29 (c) A driver whose CDL has been downgraded under this subsection  
30 may restore the CDL privilege by providing the necessary certifications  
31 or medical variance information to the department.

32 NEW SECTION. **Sec. 4.** This act takes effect January 30, 2012.

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