

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1229

62nd Legislature
2011 Regular Session

Passed by the House April 21, 2011
Yeas 56 Nays 41

Speaker of the House of Representatives

Passed by the Senate April 21, 2011
Yeas 40 Nays 5

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1229** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1229

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

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 certain commercial motor vehicle provisions;
2 amending RCW 46.25.010, 46.25.090, 46.32.100, and 46.20.049; reenacting
3 and amending RCW 46.25.080; adding a new section to chapter 46.25 RCW;
4 prescribing penalties; and providing 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 **Sec. 4.** RCW 46.25.090 and 2006 c 327 s 4 are each amended to read
33 as follows:

34 (1) A person is disqualified from driving a commercial motor
35 vehicle for a period of not less than one year if a report has been
36 received by the department pursuant to RCW 46.20.308 or 46.25.120, or

1 if the person has been convicted of a first violation, within this or
2 any other jurisdiction, of:

3 (a) Driving a motor vehicle under the influence of alcohol or any
4 drug;

5 (b) Driving a commercial motor vehicle while the alcohol
6 concentration in the person's system is 0.04 or more, or driving a
7 noncommercial motor vehicle while the alcohol concentration in the
8 person's system is 0.08 or more, or is 0.02 or more if the person is
9 under age twenty-one, as determined by any testing methods approved by
10 law in this state or any other state or jurisdiction;

11 (c) Leaving the scene of an accident involving a motor vehicle
12 driven by the person;

13 (d) Using a motor vehicle in the commission of a felony;

14 (e) Refusing to submit to a test or tests to determine the driver's
15 alcohol concentration or the presence of any drug while driving a motor
16 vehicle;

17 (f) Driving a commercial motor vehicle when, as a result of prior
18 violations committed while operating a commercial motor vehicle, the
19 driver's commercial driver's license is revoked, suspended, or
20 canceled, or the driver is disqualified from operating a commercial
21 motor vehicle;

22 (g) Causing a fatality through the negligent operation of a
23 commercial motor vehicle, including but not limited to the crimes of
24 vehicular homicide and negligent homicide.

25 If any of the violations set forth in this subsection occurred
26 while transporting hazardous material, the person is disqualified for
27 a period of not less than three years.

28 (2) A person is disqualified for life if it has been determined
29 that the person has committed or has been convicted of two or more
30 violations of any of the offenses specified in subsection (1) of this
31 section, or any combination of those offenses, arising from two or more
32 separate incidents.

33 (3) The department may adopt rules, in accordance with federal
34 regulations, establishing guidelines, including conditions, under which
35 a disqualification for life under subsection (2) of this section may be
36 reduced to a period of not less than ten years.

37 (4) A person is disqualified from driving a commercial motor
38 vehicle for life who uses a motor vehicle in the commission of a felony

1 involving the manufacture, distribution, or dispensing of a controlled
2 substance, as defined by chapter 69.50 RCW, or possession with intent
3 to manufacture, distribute, or dispense a controlled substance, as
4 defined by chapter 69.50 RCW.

5 (5)(a) A person is disqualified from driving a commercial motor
6 vehicle for a period of:

7 (i) Not less than sixty days if:

8 (A) Convicted of or found to have committed a second serious
9 traffic violation while driving a commercial motor vehicle; or

10 (B) Convicted of reckless driving, where there has been a prior
11 serious traffic violation; or

12 (ii) Not less than one hundred twenty days if:

13 (A) Convicted of or found to have committed a third or subsequent
14 serious traffic violation while driving a commercial motor vehicle; or

15 (B) Convicted of reckless driving, where there has been two or more
16 prior serious traffic violations.

17 (b) The disqualification period under (a)(ii) of this subsection
18 must be in addition to any other previous period of disqualification.

19 (c) For purposes of determining prior serious traffic violations
20 under this subsection, each conviction of or finding that a driver has
21 committed a serious traffic violation while driving a commercial motor
22 vehicle or noncommercial motor vehicle, arising from a separate
23 incident occurring within a three-year period, must be counted.

24 (6) A person is disqualified from driving a commercial motor
25 vehicle for a period of:

26 (a) Not less than (~~ninety~~) one hundred eighty days nor more than
27 one year if convicted of or found to have committed a first violation
28 of an out-of-service order while driving a commercial vehicle;

29 (b) Not less than (~~one~~) two years nor more than five years if,
30 during a ten-year period, the person is convicted of or is found to
31 have committed two violations of out-of-service orders while driving a
32 commercial motor vehicle in separate incidents;

33 (c) Not less than three years nor more than five years if, during
34 a ten-year period, the person is convicted of or is found to have
35 committed three or more violations of out-of-service orders while
36 driving commercial motor vehicles in separate incidents;

37 (d) Not less than one hundred eighty days nor more than two years
38 if the person is convicted of or is found to have committed a first

1 violation of an out-of-service order while transporting hazardous
2 materials, or while operating motor vehicles designed to transport
3 sixteen or more passengers, including the driver. A person is
4 disqualified for a period of not less than three years nor more than
5 five years if, during a ten-year period, the person is convicted of or
6 is found to have committed subsequent violations of out-of-service
7 orders, in separate incidents, while transporting hazardous materials,
8 or while operating motor vehicles designed to transport sixteen or more
9 passengers, including the driver.

10 (7) A person is disqualified from driving a commercial motor
11 vehicle if a report has been received by the department under RCW
12 46.25.125 that the person has received a verified positive drug test or
13 positive alcohol confirmation test as part of the testing program
14 conducted under 49 C.F.R. 40. A disqualification under this subsection
15 remains in effect until the person undergoes a drug and alcohol
16 assessment by a substance abuse professional meeting the requirements
17 of 49 C.F.R. 40, and the person presents evidence of satisfactory
18 participation in or successful completion of a drug or alcohol
19 treatment and/or education program as recommended by the substance
20 abuse professional, and until the person has met the requirements of
21 RCW 46.25.100. The substance abuse professional shall forward a
22 diagnostic evaluation and treatment recommendation to the department of
23 licensing for use in determining the person's eligibility for driving
24 a commercial motor vehicle. Persons who are disqualified under this
25 subsection more than twice in a five-year period are disqualified for
26 life.

27 (8)(a) A person is disqualified from driving a commercial motor
28 vehicle for the period of time specified in (b) of this subsection if
29 he or she is convicted of or is found to have committed one of the
30 following six offenses at a railroad-highway grade crossing while
31 operating a commercial motor vehicle in violation of a federal, state,
32 or local law or regulation:

33 (i) For drivers who are not required to always stop, failing to
34 slow down and check that the tracks are clear of an approaching train;

35 (ii) For drivers who are not required to always stop, failing to
36 stop before reaching the crossing, if the tracks are not clear;

37 (iii) For drivers who are always required to stop, failing to stop
38 before driving onto the crossing;

1 (iv) For all drivers, failing to have sufficient space to drive
2 completely through the crossing without stopping;

3 (v) For all drivers, failing to obey a traffic control device or
4 the directions of an enforcement officer at the crossing;

5 (vi) For all drivers, failing to negotiate a crossing because of
6 insufficient undercarriage clearance.

7 (b) A person is disqualified from driving a commercial motor
8 vehicle for a period of:

9 (i) Not less than sixty days if the driver is convicted of or is
10 found to have committed a first violation of a railroad-highway grade
11 crossing violation;

12 (ii) Not less than one hundred twenty days if the driver is
13 convicted of or is found to have committed a second railroad-highway
14 grade crossing violation in separate incidents within a three-year
15 period;

16 (iii) Not less than one year if the driver is convicted of or is
17 found to have committed a third or subsequent railroad-highway grade
18 crossing violation in separate incidents within a three-year period.

19 (9) A person is disqualified from driving a commercial motor
20 vehicle for not more than one year if a report has been received by the
21 department from the federal motor carrier safety administration that
22 the person's driving has been determined to constitute an imminent
23 hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously
24 disqualified from driving a commercial motor vehicle under this
25 subsection and under other provisions of this chapter, or under 49
26 C.F.R. 383.52, shall serve those disqualification periods concurrently.

27 (10) Within ten days after suspending, revoking, or canceling a
28 commercial driver's license or disqualifying a driver from operating a
29 commercial motor vehicle, the department shall update its records to
30 reflect that action.

31 **Sec. 5.** RCW 46.32.100 and 2010 c 161 s 1116 are each amended to
32 read as follows:

33 (1)(a) In addition to all other penalties provided by law, and
34 except as provided otherwise in (a)(i), (ii), or (iii) of this
35 subsection, a commercial motor vehicle that is subject to compliance
36 reviews under this chapter and an officer, agent, or employee of a
37 company operating a commercial motor vehicle who violates or who

1 procures, aids, or abets in the violation of this title or any order or
2 rule of the state patrol is liable for a penalty of one hundred dollars
3 for each violation.

4 (i) It is a violation of this chapter for a person operating a
5 commercial motor vehicle to fail to comply with the requirements of 49
6 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49
7 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec.
8 396.9(c)(2), moving a vehicle placed out of service before the out of
9 service defects have been satisfactorily repaired. For each violation
10 the person is liable for a penalty of five hundred dollars.

11 (ii) The driver of a commercial motor vehicle who (~~(violates)~~) is
12 convicted of violating an out-of-service order is liable for a penalty
13 of at least (~~(one)~~) two thousand (~~(one)~~) five hundred dollars (~~((but not~~
14 ~~more than two thousand seven hundred fifty dollars for each))~~) for a
15 first violation, and not less than five thousand dollars for second or
16 subsequent violation.

17 (iii) An employer who allows (~~(a driver to operate)~~) the operation
18 of a commercial motor vehicle when there is an out-of-service order is
19 liable for a penalty of at least two thousand seven hundred fifty
20 dollars but not more than (~~(eleven)~~) twenty-five thousand dollars for
21 each violation.

22 (iv) Each violation under this subsection (1)(a) is a separate and
23 distinct offense, and in case of a continuing violation every day's
24 continuance is a separate and distinct violation.

25 (b) In addition to all other penalties provided by law, any motor
26 carrier, company, or any officer or agent of a motor carrier or company
27 operating a commercial motor vehicle subject to compliance reviews
28 under this chapter who refuses entry or to make the required records,
29 documents, and vehicles available to a duly authorized agent of the
30 state patrol is liable for a penalty of at least five thousand dollars
31 as well as an out-of-service order being placed on the department of
32 transportation number, as defined in RCW 46.16A.010, and vehicle
33 registration to operate. Each violation is a separate and distinct
34 offense, and in case of a continuing violation every day's continuance
35 is a separate and distinct violation.

36 (c) A motor carrier operating a commercial motor vehicle after
37 receiving a final unsatisfactory rating or being placed out of service
38 is liable for a penalty of not more than eleven thousand dollars for

1 each violation. Each violation is a separate and distinct offense, and
2 in case of a continuing violation every day's continuance is a separate
3 and distinct violation.

4 (d) A high-risk carrier is liable for double the amount of the
5 penalty of a prior violation if the high-risk carrier repeats the same
6 violation during a follow-up compliance review. Each repeat violation
7 is a separate and distinct offense, and in case of a repeat continuing
8 violation every day's continuance is a separate and distinct violation.

9 (2) The Washington state patrol may place an out-of-service order
10 on a department of transportation number, as defined in RCW 46.16A.010,
11 for violations of this chapter or for nonpayment of any monetary
12 penalties assessed by the state patrol or the utilities and
13 transportation commission, as a result of compliance reviews, or for
14 violations of cease and desist orders issued by the utilities and
15 transportation commission. The state patrol shall notify the
16 department of licensing when an out-of-service order has been placed on
17 a motor carrier's department of transportation number. The state
18 patrol shall notify the motor carrier when there has been an out-of-
19 service order placed on the motor carrier's department of
20 transportation number and the vehicle registrations have been revoked
21 by sending a notice by first-class mail using the last known address
22 for the registered or legal owner or owners, and recording the
23 transmittal on an affidavit of first-class mail. Notices under this
24 section fulfill the requirements of RCW 46.12.550. Motor carriers may
25 not be eligible for a new department of transportation number, vehicle
26 registration, or temporary permits to operate unless the violations
27 that resulted in the out-of-service order have been corrected.

28 (3) Any penalty provided in this section is due and payable when
29 the person incurring it receives a notice in writing from the state
30 patrol describing the violation and advising the person that the
31 penalty is due.

32 (a)(i) Any motor carrier who incurs a penalty as provided in this
33 section, except for a high-risk carrier that incurs a penalty for a
34 repeat violation during a follow-up compliance review, may, upon
35 written application, request that the state patrol mitigate the
36 penalty. An application for mitigation must be received by the state
37 patrol within twenty days of the receipt of notice.

1 (ii) The state patrol may decline to consider any application for
2 mitigation.

3 (b) Any motor carrier who incurs a penalty as provided in this
4 section has a right to an administrative hearing under chapter 34.05
5 RCW to contest the violation or the penalty imposed, or both. In all
6 such hearings, the procedure and rules of evidence are as specified in
7 chapter 34.05 RCW except as otherwise provided in this chapter. Any
8 request for an administrative hearing must be made in writing and must
9 be received by the state patrol within twenty days after the later of
10 (i) receipt of the notice imposing the penalty, or (ii) disposition of
11 a request for mitigation, or the right to a hearing is waived.

12 (c) All penalties recovered under this section shall be paid into
13 the state treasury and credited to the state patrol highway account of
14 the motor vehicle fund.

15 **Sec. 6.** RCW 46.20.049 and 2005 c 314 s 309 are each amended to
16 read as follows:

17 There shall be an additional fee for issuing any class of
18 commercial driver's license in addition to the prescribed fee required
19 for the issuance of the original driver's license. The additional fee
20 for each class shall be (~~thirty~~) sixty-one dollars for the original
21 commercial driver's license or subsequent renewals. If the commercial
22 driver's license is renewed or extended for a period other than five
23 years, the fee for each class shall be (~~six~~) twelve dollars and
24 twenty cents for each year that the commercial driver's license is
25 renewed or extended. The fee shall be deposited in the highway safety
26 fund.

27 NEW SECTION. **Sec. 7.** Sections 1 through 3 of this act take effect
28 January 30, 2012.

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