

SENATE BILL REPORT

SB 5590

As Reported by Senate Committee On:
Transportation, February 20, 2013

Title: An act relating to requirements for the operation of commercial motor vehicles in compliance with federal regulations.

Brief Description: Modifying requirements for the operation of commercial motor vehicles in compliance with federal regulations.

Sponsors: Senators Eide, King and Shin; by request of Department of Licensing.

Brief History:

Committee Activity: Transportation: 2/19/13, 2/20/13 [DPS].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5590 be substituted therefor, and the substitute bill do pass.

Signed by Senators Eide, Co-Chair; King, Co-Chair; Hobbs, Vice Co-Chair; Fain, Budget Leadership Cabinet; Billig, Brown, Ericksen, Mullet, Rolfes, Schlicher, Sheldon and Smith.

Staff: Kim Johnson (786-7472)

Background: The operation of commercial motor vehicles is regulated under both state and federal law. In order to operate a commercial motor vehicle in Washington, a person generally must hold a commercial driver's license (CDL), issued by the Department of Licensing (DOL), with the applicable endorsements for the vehicle that is being driven. DOL issues commercial driver instruction permits that authorize a person who passes the CDL knowledge test to operate a commercial motor vehicle under the supervision of a CDL holder.

Recent changes to federal rules regarding the issuance and regulation of CDLs and commercial learner's permits (CLPs) set deadlines in late 2013 and mid 2014 for states to bring their CDL programs into compliance.

Specifically, federal regulations prohibit commercial motor vehicle operators from texting while driving and require that a violation be counted as a serious traffic violation and recorded on the driver's record. A serious traffic violation is defined in state law and includes

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violations such as excessive speeding, reckless driving, and driving a commercial motor vehicle without obtaining a CDL. Under state law, a person operating a motor vehicle who, by means of an electronic wireless communications device, sends, reads, or writes a text message or who uses a handheld mobile telephone, is guilty of a traffic infraction. This infraction does not become part of the driver's record and is not made available to insurance companies or employers.

DOL currently conducts background checks on employees who issue or have the ability to create or modify records of applicants for enhanced driver's licenses and identicards every five years.

Summary of Bill (Recommended Substitute): Background Checks. DOL must perform background checks on any employee or prospective employee who conducts skills or knowledge examinations related to the issuance of a CDL or CLP. The background check must be performed on an annual basis, in compliance with federal regulations.

CDL Application Requirements. Applicants for a CDL must meet the requirements specified in 49 CFR sec. 383.71, which require the applicant to submit proof of legal presence.

CLPs. The commercial driver's instruction permit is changed to the CLP. Other changes are made to the CLP and include the following: (1) a CDL may not be issued to a person who has not been issued a CLP; (2) the only endorsement that a CLP may contain is a P, N, or S endorsement; however, the CLP driver may not transport passengers other than authorized employees of DOL, the Federal Motor Carrier Safety Administration, examiners, other CLP holders or trainees, and supervising CDL holders; (3) the holder of a CLP with an N endorsement may only operate an empty tank vehicle and may not operate a vehicle that previously contained hazardous materials that has not been purged of residue; (4) a CLP applicant must meet the requirements specified in 49.CFR sec. 383.71, which require the applicant to submit proof of citizenship or lawful permanent residency; and (5) a CDL may not be issued to the holder of a CLP until after 14 days have passed.

Serious Traffic Violation. The definition of a serious traffic violation is expanded to include texting while operating a commercial motor vehicle; and using a handheld mobile telephone while operating a commercial motor vehicle.

A person driving a commercial motor vehicle who sends, reads, or writes a text message or who uses a handheld mobile telephone is guilty of a traffic infraction. Under these new infractions, driving includes while the vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delay. However, driving does not include when the driver has moved the vehicle to the side of, or off, a highway and has stopped in a location where the vehicle can safely remain stationary, with or without the motor running. This prohibition also does not apply when the activity is necessary to communicate with law enforcement officials or other emergency services. These infractions become part of a commercial driver's record. Additionally, a finding that a person has committed either of these infractions may be made available to insurance companies or employers.

CDL Endorsements and Restrictions. Various endorsements and restrictions are changed to sync up with the federal endorsements and restrictions. For example, the current Washington

restriction K regarding air brakes is renamed restriction L and a new restriction K is created that indicates a prohibition for that driver from the interstate operation of a commercial motor vehicle.

Other Miscellaneous Changes. Language changes are made throughout the CDL statutes to refer to the CLP and conform to federal regulations. Various changes are also made to definitions in the CDL statute.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Substitute): Technical changes were made to correct a reference to the Code of Federal Regulations. Clarifications were made regarding what is required at renewal of a CDL.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: PRO: This bill moves Washington CDL statutes into compliance with new and existing federal regulations. We are currently the only state that does not require proof of legal presence to issue a CDL. This bill also provides the authority to conduct background checks on employees who conduct examinations related to the CDL. Another important point of the bill is that it designates texting and cell phone infractions committed in a commercial motor vehicle as a serious traffic offense and brings us into compliance with federal law on this issue. One thing to note about the fiscal note is that DOL has applied for a federal grant to help pay for the implementation costs associated with this legislation. We should know by April whether we will get the grant.

Persons Testifying: PRO: Tony Sermonti, DOL.