

# HOUSE BILL REPORT

## HB 2942

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### As Reported by House Committee On: Transportation

**Title:** An act relating to the issuance of nondomiciled commercial drivers' licenses and commercial learners' permits to nonresidents.

**Brief Description:** Concerning the issuance of nondomiciled commercial drivers' licenses and commercial learners' permits to nonresidents.

**Sponsors:** Representative Ryu; by request of Department of Licensing.

#### **Brief History:**

##### **Committee Activity:**

Transportation: 2/29/16 [DPS].

#### **Brief Summary of Substitute Bill**

- Authorizes the Department of Licensing (DOL) to issue a non-domiciled Commercial Driver's License (CDL) and Commercial Learner's Permit (CLP) to a non-resident domiciled in a foreign country if that person provides valid documentary evidence that he or she is authorized to stay in the United States or has valid employment authorization to work in the United States and meets certain specified federal requirements.
- Authorizes the DOL to issue a non-domiciled CDL and CLP to a non-resident domiciled in another state that is out of compliance with federal CLP and CDL requirements if he or she meets certain specified federal requirements.
- Requires the non-domiciled CDL and CLP to be marked "non-domiciled" on their face.
- Exempts an applicant for a non-domiciled CDL or CLP who has not been issued a Social Security number from the requirement that a Social Security number be included on the CDL or CLP application.
- Restricts application of definition of "non-domiciled CLP or CDL" to chapter 46.25 RCW, the Uniform Commercial Driver's License Act.

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### HOUSE COMMITTEE ON TRANSPORTATION

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**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Bergquist, Gregerson, McBride, Moeller, Morris, Ortiz-Self, Riccelli, Rossetti, Sells and Tarleton.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Hickel, Kochmar, Pike, Rodne, Shea, Stambaugh and Young.

**Staff:** Jennifer Harris (786-7143).

**Background:**

The operation of commercial motor vehicles is regulated by federal and state law. In the United States, a commercial driver's license (CDL) or commercial learner's permit (CLP) is required to operate any motor vehicle that meets the following criteria: (1) has a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit or units with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds; (2) has a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more, whichever is greater; (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of hazardous materials as defined under federal law.

In order to operate a commercial motor vehicle in Washington, a person must hold a CDL issued by the Department of Licensing (DOL) with the applicable endorsements for the vehicle that is being driven. The DOL issues CLPs that authorize a person who passes the CDL knowledge test to operate a commercial motor vehicle under the supervision of a qualified CDL holder. Under federal law, the DOL is required to issue CDLs and CLPs in accordance with federal standards.

In addition to providing certain personal identifying and driving history information, an applicant for a CDL or CLP in Washington must provide the DOL with a Social Security number and, as of September 1, 2015, proof of United States citizenship or lawful presence in the United States. Federal regulations also provide for the issuance of non-domiciled CDLs and CLPs to persons who are domiciled in a foreign jurisdiction that does not issue CDLs in accordance with or under similar standards to federal CDL requirements and to persons who are domiciled in another state that is out of compliance with federal CDL or CLP requirements. (Domicile generally means a place of permanent residence.) Under state law, the DOL is not currently authorized to issue non-domiciled CDLs or CLPs.

Mexico and Canada both issue CDLs in accordance with or under similar standards to federal CDL requirements.

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**Summary of Substitute Bill:**

The definition of "drive" is amended to remove the requirement that the road be open to the general public for vehicular traffic.

In line with federal regulations, an applicant for a non-domiciled CDL or CLP who is domiciled in a foreign country and has not been issued a Social Security number is not required to include one on his or her CDL or CLP application.

Provided all other CDL or CLP requirements are met, the DOL is authorized to issue a CDL or CLP to: (1) persons who are domiciled in a foreign jurisdiction that does not issue CDLs in accordance with or under similar standards to federal CDL requirements, as long as they provide valid documentary evidence that they are authorized to remain in the United States or that they are authorized to work in the United States; and (2) persons who are domiciled in a state that is prohibited from issuing CDLs and CLPs under federal law. To be eligible, applicants must also surrender any non-resident or non-domiciled CDL or CDP issued by another state, be in possession of a valid driver's license, and meet all other federal requirements. An applicant for a non-domiciled CDL or CLP is not required to surrender his or her foreign license.

A non-domiciled CDL or CLP must be marked "non-domiciled" on the face of the document and is valid only when accompanied by a valid driver's license issued by Washington or the person's jurisdiction of domicile and valid documentary evidence that the individual is authorized to stay or work in the United States. A non-domiciled CDL or CLP permits the operation of a commercial motor vehicle to the same extent as a standard CDL or CLP.

Persons who have been issued a non-domiciled CDL or CLP are subject to all applicable requirements for disqualification from operating a commercial motor vehicle and must notify the DOL of any disqualifications or license suspensions or revocations regardless of whether in the United States or the person's jurisdiction of domicile.

A CDL or CLP must expire no later than the first birthday of the individual after the expiration of the individual's authorized stay or authorization to work in the United States, or if there is no expiration of the individual's authorization to stay or work in the United States, one year from the first birthday of the individual that occurs after issuance. The non-domiciled CDL or CLP may be renewed if the individual presents valid evidence that temporary lawful status or authorization to work in the United States is still in effect or has been extended.

To comply with federal regulations, beginning July 1, 2019, the expiration date of a CDL or CLP issued to an individual who has temporary lawful status or authorization to work in the United States will be on or before the end date of the individual's authorized stay or authorization to work in the United States, and if there is not an expiration date for the authorized stay or authorization to work, then the CDL or CLP will expire one year from the date of issuance.

The definition of "non-domiciled CLP or CDL" is restricted to chapter 46.25 RCW, the Uniform Commercial Driver's License Act.

**Substitute Bill Compared to Original Bill:**

The substitute bill: (1) restricts application of the definition of "non-domiciled CLP or CDL" to chapter 46.25 RCW, the Uniform Commercial Driver's License Act; and (2) extends eligibility for non-domiciled CDLs and CLPs to include individuals with valid employment authorization to work in the United States.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 1, 2016.

**Effective Date of Substitute Bill:** The bill contains multiple effective dates.

**Staff Summary of Public Testimony:**

(In support) As of last year, federal regulations changed the way Washington issues CDLs and CLPs. This change is beginning to have a very negative impact on community members who might lose their commercial driving jobs. Commercial drivers are in high demand and there are not enough of them. The prediction is that there will be shortage of 170,000 drivers by 2024. The DOL, as it has requested, should be permitted to use the exception under federal regulations for individuals who have valid immigration status but do not have permanent residency status to qualify for a CDL or CLP. The proposed substitute to this bill was drafted to avoid unintended consequences and the DOL has concurred with the changes.

Recent federal changes requiring legal presence to obtain a commercial driver's license have forced the issue. The Legislature passed a bill in 2013 to adopt the new federal standards. In the arena of CDLs, the federal government creates the rules and regulations and states have very little leeway in adopting their own standards. States carry out the federal law. Federal law allows for states to add the non-domiciled provision to their program. Roughly 10 states have done so. If someone comes to the DOL, is in the U.S. legally, is legally able to work, and if his or her home country is any country other than Canada and Mexico, the DOL will have to deny renewal of a CDL because state law has not yet provided the DOL with the authority to implement the non-domiciled provision of federal law. The Washington Trucking Association supports this bill, as do others.

The DOL is willing to implement the bill as a pilot project and to look at other options for implementation to bring down information technology (IT) costs until it has implemented the driver component of its IT modernization project. The DOL believes that it is very important not to have a couple-of-year gap in people's ability to renew their CDLs. The DOL wants to retain the ability to grant people here legally CDL renewals or to grant new CDLs to them and would like to do this as at low a cost as possible. There are options to bring the costs down, but the fiscal note represents what the costs would be if the current IT system is utilized.

By getting into trucking, a high demand industry, people become able to support their families and better themselves, in some cases, getting off welfare in the process. The consequences of preventing some of these individuals from obtaining CDLs have not been examined. The American Trucking Association has estimated that, by 2020, there will be a

shortfall of drivers of almost one-quarter of a million drivers. The United States Bureau of Labor Statistics has estimated a need for 330,000 additional drivers. This need for more drivers will be exacerbated as baby boomers, who comprise a large percentage of commercial drivers, retire.

Nearly 70 percent of goods sold in the U.S. are transported by truck. Retail and manufacturing have become dependent on just-in-time deliveries. Businesses do not have a lot of stock and inventory, which reduces costs for them tremendously, but the delivery of goods needs to be on demand. The U.S. needs more trucks because they are more critical to the economy. This means there will be a greater demand for qualified drivers.

Some individuals have expressed concerns that the passage of the bill will result in a loss of jobs for U.S. citizens. However, statistics show that there will be more commercial driver positions available than there will be U.S. citizens to fill them. Individuals applying for these jobs are supporting families and these jobs help these individuals avoid the use of economic assistance. Family members of these individuals are often U.S. citizens, oftentimes children born in the U.S. Students of commercial driver training schools who are trained are immediately offered jobs upon graduation.

The costs of transportation are subject to economic laws of supply and demand, and as demand increases without the supply of drivers increasing, costs to transport will rise. This bill would decrease the shortage of drivers and make it more likely that there will be safe truck drivers on the road and that goods will be transported more efficiently.

(Opposed) There is concern regarding whether the bill is just a fix for a current issue or whether it is something that will streamline additional workers coming from other states and other countries to take jobs. There is a projection that there will be 500 applicants in the next year for non-domiciled CDLs and this volume will likely continue.

This legislation is targeted to a very specialized group of non-residents. No one can get an unenhanced driver's license in the state unless he or she is a resident. It is troubling that an exception is being made for commercial activity in the state. A Social Security number is not required to obtain a non-domiciled CDL. Over 350,000 driver's licenses in Washington do not currently have a Social Security number associated with them and 10,000 individuals with these licenses are registered to vote. Since this legislation does not require a Social Security number, this means that people cannot be vetted through the Systematic Alien Verification for Entitlements Program. Lawful presence documents are required, but full vetting is not required. Not doing full vetting is an issue.

The bill states that CDLs are only valid if presented with a lawful presence document. However, how will law enforcement personnel deal with this where sanctuary regulations are in place and they are not permitted to request lawful presence documentation? The state should not feel like it needs to be a relief valve for other states that are non-compliant with federal law. This seems like a big favor that's being done for a very small group of people. The bill does not improve the security or employment situation in the state.

Up until September of last year, the DOL issued CDL licenses to non-domiciled individuals. The federal regulation has been around for years. In September of 2013, the DOL decided to

become compliant with federal law. The DOL is asking for \$368,000 to service people they have been serving for years up until September of last year.

Under this bill, the government will be giving away jobs to people who are not here on a permanent legal basis. Under the current law, individuals can obtain a CDL as a citizen or if they are in the U.S. on a permanent basis. This bill will let people here legally but not on a permanent basis take jobs away from American citizens. It will give people access to 105,500 pound trucks on the freeway with hazardous materials.

The driver shortage is a myth. Companies that say there is a driver shortage have a very high turnover rate of over 100 percent. These companies do not pay people enough and keep people away from their families for weeks at a time and that is why they have high turnover. This bill would create a larger slave labor force for these companies. Local companies with a lower turnover rate do not have a problem with a driver shortage. There is a shortage of qualified drivers because people fail the marijuana test or receive a Driving under the Influence (DUI) infraction and this results in a more typical turnover rate. There is no driver shortage problem that this bill will help solve. The bill will return training schools to a position where they cannot legally turn people away if the school does not believe they have the correct documentation. This bill would create a huge problem.

**Persons Testifying:** (In support) Representative Ryu, prime sponsor; Tony Sermonti, Department of Licensing; Patricia Combs; and Samuel Ballard.

(Opposed) Craig Keller, Respect Washington; and Dilon McNeeley.

**Persons Signed In To Testify But Not Testifying:** None.