

SHB 1273 - H AMD 10

By Representative Harmsworth

WITHDRAWN 02/20/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 46.25.010 and 2013 c 224 s 3 are each amended to  
4 read as follows:

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

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

10 (2) "Alcohol concentration" means:

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

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

15 (3) "Commercial driver's license" (CDL) means a license issued to  
16 an individual under chapter 46.20 RCW that has been endorsed in  
17 accordance with the requirements of this chapter to authorize the  
18 individual to drive a class of commercial motor vehicle.

19 (4) The "commercial driver's license information system" (CDLIS)  
20 is the information system established pursuant to 49 U.S.C. Sec.  
21 31309 to serve as a clearinghouse for locating information related to  
22 the licensing and identification of commercial motor vehicle drivers.

23 (5) "Commercial learner's permit" (CLP) means a permit issued  
24 under RCW 46.25.052 for the purposes of behind-the-wheel training.

25 (6) "Commercial motor vehicle" means a motor vehicle or  
26 combination of motor vehicles used in commerce to transport  
27 passengers or property if the motor vehicle:

28 (a) Has a gross combination weight rating or gross combination  
29 weight of 11,794 kilograms or more (26,001 pounds or more), whichever  
30 is greater, inclusive of ~~((a-[any]))~~ any towed unit ~~(([for-units]))~~ or  
31 units with a gross vehicle weight rating or gross vehicle weight of

1 more than 4,536 kilograms (10,000 pounds or more), whichever is  
2 greater; or

3 (b) Has a gross vehicle weight rating or gross vehicle weight of  
4 11,794 kilograms or more (26,001 pounds or more), whichever is  
5 greater; or

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

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

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

11 (7) "Conviction" means an unvacated adjudication of guilt, or a  
12 determination that a person has violated or failed to comply with the  
13 law in a court of original jurisdiction or by an authorized  
14 administrative tribunal, an unvacated forfeiture of bail or  
15 collateral deposited to secure the person's appearance in court, a  
16 plea of guilty or nolo contendere accepted by the court, the payment  
17 of a fine or court cost, entry into a deferred prosecution program  
18 under chapter 10.05 RCW, or violation of a condition of release  
19 without bail, regardless of whether or not the penalty is rebated,  
20 suspended, or probated.

21 (8) "Disqualification" means a prohibition against driving a  
22 commercial motor vehicle.

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

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

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

35 (12) "Gross vehicle weight rating" (GVWR) means the value  
36 specified by the manufacturer as the maximum loaded weight of a  
37 single vehicle. The GVWR of a combination or articulated vehicle,  
38 commonly referred to as the "gross combined weight rating" or GCWR,  
39 is the GVWR of the power unit plus the GVWR of the towed unit or  
40 units. If the GVWR of any unit cannot be determined, the actual gross

1 weight will be used. If a vehicle with a GVWR of less than 11,794  
2 kilograms (26,001 pounds or less) has been structurally modified to  
3 carry a heavier load, then the actual gross weight capacity of the  
4 modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will  
5 be used as the GVWR.

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

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

15 (15) "Out-of-service order" means a declaration by an authorized  
16 enforcement officer of a federal, state, Canadian, Mexican, or local  
17 jurisdiction that a driver, a commercial motor vehicle, or a motor  
18 carrier operation is out-of-service pursuant to 49 C.F.R. Secs.  
19 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North  
20 American uniform out-of-service criteria.

21 (16) "Positive alcohol confirmation test" means an alcohol  
22 confirmation test that:

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

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

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

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

34 (18) "Serious traffic violation" means:

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

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

38 (c) Driving while using a handheld (~~wireless communications~~  
39 ~~device [handheld mobile telephone]~~) mobile telephone, defined as a

1 violation of RCW 46.61.667(1)(b) or an equivalent administrative rule  
2 or local law, ordinance, rule, or resolution;

3 (d) Texting, defined as a violation of RCW 46.61.668(1)(b) or an  
4 equivalent administrative rule or local law, ordinance, rule, or  
5 resolution;

6 (e) A violation of a state or local law relating to motor vehicle  
7 traffic control, other than a parking violation, arising in  
8 connection with an accident or collision resulting in death to any  
9 person;

10 (f) Driving a commercial motor vehicle without obtaining a  
11 commercial driver's license;

12 (g) Driving a commercial motor vehicle without a commercial  
13 driver's license in the driver's possession; however, any individual  
14 who provides proof to the court by the date the individual must  
15 appear in court or pay any fine for such a violation, that the  
16 individual held a valid CDL on the date the citation was issued, is  
17 not guilty of a "serious traffic violation";

18 (h) Driving a commercial motor vehicle without the proper class  
19 of commercial driver's license endorsement or endorsements for the  
20 specific vehicle group being operated or for the passenger or type of  
21 cargo being transported; and

22 (i) Any other violation of a state or local law relating to motor  
23 vehicle traffic control, other than a parking violation, that the  
24 department determines by rule to be serious.

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

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

30 (21) "Tank vehicle" means any commercial motor vehicle that is  
31 designed to transport any liquid or gaseous materials within a tank  
32 or tanks having an individual rated capacity of more than one hundred  
33 nineteen gallons and an aggregate rated capacity of one thousand  
34 gallons or more that is either permanently or temporarily attached to  
35 the vehicle or the chassis. A commercial motor vehicle transporting  
36 an empty storage container tank, not designed for transportation,  
37 with a rated capacity of one thousand gallons or more that is  
38 temporarily attached to a flatbed trailer is not considered a tank  
39 vehicle.

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

1 (a) "Nonexcepted interstate," which means the CDL or CLP holder  
2 or applicant operates or expects to operate in interstate commerce,  
3 is both subject to and meets the qualification requirements under 49  
4 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent  
5 date as may be provided by the department by rule, consistent with  
6 the purposes of this section, and is required to obtain a medical  
7 examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on  
8 July 8, 2014, or such subsequent date as may be provided by the  
9 department by rule, consistent with the purposes of this section;

10 (b) "Excepted interstate," which means the CDL or CLP holder or  
11 applicant operates or expects to operate in interstate commerce, but  
12 engages exclusively in transportation or operations excepted under 49  
13 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on  
14 July 8, 2014, or such subsequent date as may be provided by the  
15 department by rule, consistent with the purposes of this section,  
16 from all or parts of the qualification requirements of 49 C.F.R. Part  
17 391 as it existed on July 8, 2014, or such subsequent date as may be  
18 provided by the department by rule, consistent with the purposes of  
19 this section, and is therefore not required to obtain a medical  
20 examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on  
21 July 8, 2014, or such subsequent date as may be provided by the  
22 department by rule, consistent with the purposes of this section;

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

26 (d) "Excepted intrastate," which means the CDL or CLP holder or  
27 applicant operates in intrastate commerce, but engages exclusively in  
28 transportation or operations excepted from all or parts of the state  
29 driver qualification requirements.

30 (23) "United States" means the fifty states and the District of  
31 Columbia.

32 (24) "Verified positive drug test" means a drug test result or  
33 validity testing result from a laboratory certified under the  
34 authority of the federal department of health and human services  
35 that:

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

38 (b) Has undergone review and final determination by a medical  
39 review officer.

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

6 (25)(a) "Nondomiciled CLP or CDL" means a permit or license,  
7 respectively, issued under section 3 of this act to a person who  
8 meets one of the following criteria:

9 (i) Is domiciled in a foreign country as provided in 49 C.F.R.  
10 Sec. 383.23(b)(1) as it existed on the effective date of this  
11 section, or such subsequent date as may be provided by the department  
12 by rule, consistent with the purposes of this section, except that an  
13 unexpired employment authorization document issued by the United  
14 States citizenship and immigration services must be provided to  
15 qualify; or

16 (ii) Is domiciled in another state as provided in 49 C.F.R. Sec.  
17 383.23(b)(2) as it existed on the effective date of this section, or  
18 such subsequent date as may be provided by the department by rule,  
19 consistent with the purposes of this section.

20 (b) The definition in this subsection (25) applies exclusively to  
21 the use of the term in this chapter and is not to be applied in any  
22 other chapter of the Revised Code of Washington.

23 **Sec. 2.** RCW 46.25.070 and 2013 c 224 s 7 are each amended to  
24 read as follows:

25 (1) The application for a commercial driver's license or  
26 commercial learner's permit must include the following:

27 (a) The full name and current mailing and residential address of  
28 the person;

29 (b) A physical description of the person, including sex, height,  
30 weight, and eye color;

31 (c) Date of birth;

32 (d) Except in the case of an applicant for a nondomiciled CLP or  
33 CDL who is domiciled in a foreign country and who has not been issued  
34 a social security number, the applicant's social security number;

35 (e) The person's signature;

36 (f) Certifications including those required by 49 C.F.R. Sec.  
37 383.71;

1 (g) The names of all states where the applicant has previously  
2 been licensed to drive any type of motor vehicle during the previous  
3 ten years;

4 (h) Any other information required by the department; and

5 (i) A consent to release driving record information to parties  
6 identified in chapter 46.52 RCW and this chapter.

7 (2) An applicant for a commercial driver's license or commercial  
8 learner's permit, and every licensee seeking to renew his or her  
9 license, must meet the requirements of 49 C.F.R. Sec. 383.71 as it  
10 existed on July 8, 2014, or such subsequent date as may be provided  
11 by the department by rule, consistent with the purposes of this  
12 section.

13 (3) An applicant for a hazardous materials endorsement must  
14 submit an application and comply with federal transportation security  
15 administration requirements as specified in 49 C.F.R. Part 1572.

16 (4) When a licensee changes his or her name, mailing address, or  
17 residence address, the person shall notify the department as provided  
18 in RCW 46.20.205.

19 (5) No person who has been a resident of this state for thirty  
20 days may drive a commercial motor vehicle under the authority of a  
21 commercial driver's license issued by another jurisdiction.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.25  
23 RCW to read as follows:

24 (1) The department may issue a nondomiciled CLP or CDL to a  
25 person who meets one of the following criteria:

26 (a) Is domiciled in a foreign country as provided in 49 C.F.R.  
27 Sec. 383.23(b)(1) as it existed on the effective date of this  
28 section, or such subsequent date as may be provided by the department  
29 by rule, consistent with the purposes of this section, except that an  
30 unexpired employment authorization document issued by the United  
31 States citizenship and immigration services must be provided to  
32 qualify; or

33 (b) Is domiciled in another state as provided in 49 C.F.R. Sec.  
34 383.23(b)(2) as it existed on the effective date of this section, or  
35 such subsequent date as may be provided by the department by rule,  
36 consistent with the purposes of this section.

37 (2) A person applying for a nondomiciled CLP or CDL must:

38 (a) Surrender any nonresident or nondomiciled CLP or CDL issued  
39 by another state;

1 (b) Be in possession of a valid driver's license issued by this  
2 state or by his or her jurisdiction of domicile;

3 (c) Meet the requirements of 49 C.F.R. Sec. 383.71(f) as it  
4 existed on the effective date of this section, or such subsequent  
5 date as may be provided by the department by rule, consistent with  
6 the purposes of this section; and

7 (d) Be otherwise eligible and meet the applicable requirements  
8 for the issuance of a CLP or CDL under this chapter, including the  
9 payment of all appropriate fees.

10 (3) Before issuing a nondomiciled CLP or CDL, the department must  
11 establish the practical capability of disqualifying the person under  
12 the conditions applicable to a CLP or CDL issued to a resident of  
13 this state.

14 (4) A nondomiciled CLP or CDL issued under this section:

15 (a) Must be marked "non-domiciled" on the face of the document;

16 (b) Must include the information, be issued with the appropriate  
17 classifications, endorsements, and restrictions, and, except as may  
18 be limited under subsection (5) of this section, expire and be  
19 subject to renewal in the same manner as required for a CLP or CDL  
20 issued under this chapter;

21 (c) Permits operation of a commercial motor vehicle to the same  
22 extent as a CLP or CDL issued under this section; and

23 (d) Is valid only when accompanied by a valid driver's license  
24 issued by this state or by the person's jurisdiction of domicile.

25 (5) A nondomiciled CLP or CDL issued to an individual who has  
26 valid employment authorization in the United States:

27 (a) Is valid only when accompanied by an unexpired employment  
28 authorization document issued by the United States citizenship and  
29 immigration services;

30 (b) Must expire no later than the first anniversary of the  
31 individual's birthdate that occurs after the expiration of the  
32 individual's employment authorization document, or if there is no  
33 expiration date for the employment authorization, one year from the  
34 first anniversary of the individual's birthdate that occurs after  
35 issuance; and

36 (c) May be renewed if the individual presents valid documentary  
37 evidence that the employment authorization document in the United  
38 States is still in effect or has been extended.

39 (6) A person who has been issued a nondomiciled CLP or CDL:



1 (a) Is subject to all applicable requirements for and  
2 disqualifications from operating a commercial motor vehicle as  
3 provided under this chapter and is subject to the withdrawal of  
4 driving privileges as provided by this title; and

5 (b) Must notify the department of the issuance of any  
6 disqualifications or license suspensions or revocations, whether in  
7 the United States or in the person's jurisdiction of domicile.

8 **Sec. 4.** RCW 46.25.--- and 2017 c ... s 3 (section 3 of this act)  
9 are each amended to read as follows:

10 (1) The department may issue a nondomiciled CLP or CDL to a  
11 person who meets one of the following criteria:

12 (a) Is domiciled in a foreign country as provided in 49 C.F.R.  
13 Sec. 383.23(b)(1) as it existed on the effective date of this  
14 section, or such subsequent date as may be provided by the department  
15 by rule, consistent with the purposes of this section, except that an  
16 unexpired employment authorization document issued by the United  
17 States citizenship and immigration services must be provided to  
18 qualify; or

19 (b) Is domiciled in another state as provided in 49 C.F.R. Sec.  
20 383.23(b)(2) as it existed on the effective date of this section, or  
21 such subsequent date as may be provided by the department by rule,  
22 consistent with the purposes of this section.

23 (2) A person applying for a nondomiciled CLP or CDL must:

24 (a) Surrender any nonresident or nondomiciled CLP or CDL issued  
25 by another state;

26 (b) Be in possession of a valid driver's license issued by this  
27 state or by his or her jurisdiction of domicile;

28 (c) Meet the requirements of 49 C.F.R. Sec. 383.71(f) as it  
29 existed on the effective date of this section, or such subsequent  
30 date as may be provided by the department by rule, consistent with  
31 the purposes of this section; and

32 (d) Be otherwise eligible and meet the applicable requirements  
33 for the issuance of a CLP or CDL under this chapter, including the  
34 payment of all appropriate fees.

35 (3) Before issuing a nondomiciled CLP or CDL, the department must  
36 establish the practical capability of disqualifying the person under  
37 the conditions applicable to a CLP or CDL issued to a resident of  
38 this state.

39 (4) A nondomiciled CLP or CDL issued under this section:

1 (a) Must be marked "non-domiciled" on the face of the document;  
2 (b) Must include the information, be issued with the appropriate  
3 classifications, endorsements, and restrictions, and, except as may  
4 be limited under subsection (5) of this section, expire and be  
5 subject to renewal in the same manner as required for a CLP or CDL  
6 issued under this chapter;

7 (c) Permits operation of a commercial motor vehicle to the same  
8 extent as a CLP or CDL issued under this section; and

9 (d) Is valid only when accompanied by a valid driver's license  
10 issued by this state or by the person's jurisdiction of domicile.

11 (5) A nondomiciled CLP or CDL issued to an individual who has  
12 valid employment authorization in the United States:

13 (a) Is valid only when accompanied by an unexpired employment  
14 authorization document issued by the United States citizenship and  
15 immigration services;

16 (b) Must expire no later than the (~~first anniversary of the~~  
17 ~~individual's birthdate that occurs after the~~) expiration of the  
18 individual's employment authorization document, or if there is no  
19 expiration date for the employment authorization, one year from the  
20 (~~first anniversary of the individual's birthdate that occurs after~~)  
21 date of issuance; and

22 (c) May be renewed if the individual presents valid documentary  
23 evidence that the employment authorization document in the United  
24 States is still in effect or has been extended.

25 (6) A person who has been issued a nondomiciled CLP or CDL:

26 (a) Is subject to all applicable requirements for and  
27 disqualifications from operating a commercial motor vehicle as  
28 provided under this chapter and is subject to the withdrawal of  
29 driving privileges as provided by this title; and

30 (b) Must notify the department of the issuance of any  
31 disqualifications or license suspensions or revocations, whether in  
32 the United States or in the person's jurisdiction of domicile.

33 NEW SECTION. **Sec. 5.** Except for section 4 of this act, this act  
34 takes effect October 1, 2017.

35 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect June 1,  
36 2018."

37 Correct the title.

EFFECT: Limits authorization of the Department of Licensing (DOL) to issue a nondomiciled Commercial Driver's License (CDL) or Commercial Learner's Permit (CLP) to individuals domiciled in a foreign country to those who provide valid documentary evidence that they are authorized to work in the United States, removing from eligibility individuals who provide valid documentary evidence of authorization to stay in the United States in the absence of valid documentary evidence of authorization to work in the United States.

--- END ---