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HOUSE BILL 2696

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Valdez, Orcutt, Eslick, and Jinkins; by request of Department of Licensing

Read first time 01/12/18. Referred to Committee on Transportation.

1 AN ACT Relating to medical certificate requirements for  
2 applicants and holders of commercial drivers' licenses and commercial  
3 learners' permits; amending RCW 46.25.055, 46.25.057, and 46.25.075;  
4 reenacting and amending RCW 46.25.010; prescribing penalties; and  
5 providing an effective date.

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

7 **Sec. 1.** RCW 46.25.055 and 2003 c 195 s 3 are each amended to  
8 read as follows:

9 A person may not drive a commercial motor vehicle unless he or  
10 she is (~~physically qualified to do so and, except as provided in 49~~  
11 ~~C.F.R. Sec. 391.67, has on his or her person the original, or a~~  
12 ~~photographic copy, of a medical examiner's certificate that he or she~~  
13 ~~is physically qualified to drive a commercial motor vehicle))  
14 medically examined and certified in accordance with 49 C.F.R. Sec.  
15 391.43 as it existed on the effective date of this section, or such  
16 subsequent date as may be provided by the department by rule,  
17 consistent with the purposes of this section. A commercial motor  
18 vehicle driver needs to carry on his or her person the medical  
19 examiner certificate for fifteen days after the date of issuance as  
20 valid proof of medical certification as specified in 49 C.F.R. Sec.  
21 391.41(a)(2) as it existed on the effective date of this section, or~~

1 such subsequent date as may be provided by the department by rule,  
2 consistent with the purposes of this section.

3 **Sec. 2.** RCW 46.25.057 and 2003 c 195 s 4 are each amended to  
4 read as follows:

5 (1) It is a traffic infraction for a licensee under this chapter  
6 to drive a commercial vehicle (~~((without having on his or her person~~  
7 ~~the original, or a photographic copy, of a medical examiner's~~  
8 ~~certificate that he or she is physically qualified to drive a~~  
9 ~~commercial motor vehicle))~~ while being downgraded for not maintaining  
10 a current medical certificate with the department.

11 (2) A person who violates this section is subject to a penalty of  
12 two hundred fifty dollars. If the person appears in person before the  
13 court or submits by mail written proof that he or she had, at the  
14 time the infraction took place, the medical examiner's certificate,  
15 the court shall reduce the penalty to fifty dollars.

16 **Sec. 3.** RCW 46.25.075 and 2013 c 224 s 8 are each amended to  
17 read as follows:

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

- 21 (a) Nonexcepted interstate;
- 22 (b) Excepted interstate;
- 23 (c) Nonexcepted intrastate; or
- 24 (d) Excepted intrastate.

25 (2) A CDL or CLP applicant or holder who certifies under  
26 subsection (1)(a), (b), or (c) of this section that he or she is or  
27 expects to be engaged in nonexcepted interstate, excepted interstate,  
28 or nonexcepted intrastate commerce must provide a copy of a medical  
29 examiner's certificate prepared by a medical examiner, as defined in  
30 49 C.F.R. Sec. 390.5 as it existed on July 8, 2014, or such  
31 subsequent date as may be provided by the department by rule,  
32 consistent with the purposes of this section. (~~(Upon submission, a~~  
33 ~~copy of the medical examiner's certificate must be date stamped by~~  
34 ~~the department.)) A CDL or CLP holder who certifies under subsection  
35 (1)(a), (b), or (c) of this section must (~~submit~~) provide a copy of  
36 each subsequently issued medical examiner's certificate.~~

1 (3) For each operator of a commercial motor vehicle required to  
2 have a CDL or CLP, the department must meet the following  
3 requirements:

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

7 (ii) The copy of a medical examiner's certificate, when  
8 (~~submitted~~) provided under subsection (2) of this section, must be  
9 retained for three years beyond the date the certificate was issued;  
10 and

11 (iii) When a medical examiner's certificate is (~~submitted~~)  
12 provided under subsection (2) of this section, the information  
13 required under 49 C.F.R. Sec. 383.73 as it existed on July 8, 2014,  
14 or such subsequent date as may be provided by the department by rule,  
15 consistent with the purposes of this section must be posted to the  
16 CDLIS driver record within ten calendar days from the date  
17 (~~submitted~~) provided. The indicator of medical certification  
18 status, such as "certified" or "not-certified," must be maintained on  
19 the driver's record.

20 (b) Within ten calendar days of the driver's medical  
21 certification status expiring or a medical variance expiring or being  
22 rescinded, the medical certification status of the driver must be  
23 updated to "not-certified."

24 (c) Within ten calendar days of receiving information from the  
25 federal motor carrier safety administration or the department  
26 regarding issuance or renewal of a medical variance for a driver, the  
27 department must update the CDLIS driver record to include the medical  
28 variance information.

29 (4) Upon receiving an electronic copy of the medical examiner's  
30 certificate from the federal motor carrier safety administration, the  
31 department must post a medical qualification status of "certified" on  
32 the CDLIS driver record for the driver.

33 (5)(a) If a driver's medical certification or medical variance  
34 expires, or the federal motor carrier safety administration or  
35 issuing medical examiner notifies the department that a medical  
36 variance was removed or rescinded, the department must:

37 (i) Notify the driver of his or her "not-certified" medical  
38 certification status and that the privilege of operating a commercial  
39 motor vehicle will be removed from the CDL or CLP unless the driver  
40 (~~submits~~) provides a current medical certificate or medical

1 variance, or changes his or her self-certification to driving  
2 (~~only~~) in excepted (~~or~~) intrastate commerce; and

3 (ii) Initiate procedures for downgrading the CDL or CLP. The CDL  
4 or CLP downgrade must be completed and recorded within sixty days of  
5 the driver's medical certification status becoming "not-certified" to  
6 operate a commercial motor vehicle.

7 (b) If a driver fails to provide the department with the  
8 certification required in subsection (1) of this section, or a  
9 current medical examiner's certificate if the driver self-certifies  
10 under subsection (1)(a), (b), or (c) of this section that he or she  
11 is operating in nonexcepted interstate, excepted interstate, or  
12 nonexcepted intrastate commerce as required in subsection (2) of this  
13 section, the department must mark the CDLIS driver record as "not-  
14 certified" and initiate a CDL or CLP downgrade in accordance with  
15 (a)(ii) of this subsection.

16 (c) A driver whose CDL or CLP has been downgraded under this  
17 subsection may restore the CDL or CLP privilege by providing the  
18 necessary certifications or medical variance information to the  
19 department.

20 **Sec. 4.** RCW 46.25.010 and 2017 c 334 s 4 and 2017 c 194 s 1 are  
21 each reenacted and amended to read as follows:

22 The definitions set forth in this section apply throughout this  
23 chapter.

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

27 (2) "Alcohol concentration" means:

28 (a) The number of grams of alcohol per one hundred milliliters of  
29 blood; or

30 (b) The number of grams of alcohol per two hundred ten liters of  
31 breath.

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

36 (4) The "commercial driver's license information system" (CDLIS)  
37 is the information system established pursuant to 49 U.S.C. Sec.  
38 31309 to serve as a clearinghouse for locating information related to  
39 the licensing and identification of commercial motor vehicle drivers.

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

3 (6) "Commercial motor vehicle" means a motor vehicle or  
4 combination of motor vehicles used in commerce to transport  
5 passengers or property if the motor vehicle:

6 (a) Has a gross combination weight rating or gross combination  
7 weight of 11,794 kilograms or more (26,001 pounds or more), whichever  
8 is greater, inclusive of any towed unit or units with a gross vehicle  
9 weight rating or gross vehicle weight of more than 4,536 kilograms  
10 (10,000 pounds or more), whichever is greater; or

11 (b) Has a gross vehicle weight rating or gross vehicle weight of  
12 11,794 kilograms or more (26,001 pounds or more), whichever is  
13 greater; or

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

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

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

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

29 (8) "Disqualification" means a prohibition against driving a  
30 commercial motor vehicle.

31 (9) "Drive" means to drive, operate, or be in physical control of  
32 a motor vehicle in any place open to the general public for purposes  
33 of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and  
34 46.25.120, "drive" includes operation or physical control of a motor  
35 vehicle anywhere in the state.

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

39 (11) "Employer" means any person, including the United States, a  
40 state, or a political subdivision of a state, who owns or leases a

1 commercial motor vehicle, or assigns a person to drive a commercial  
2 motor vehicle.

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

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

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

23 (15)(a) "Nondomiciled CLP or CDL" means a permit or license,  
24 respectively, issued under RCW 46.25.054 to a person who meets one of  
25 the following criteria:

26 (i) Is domiciled in a foreign country as provided in 49 C.F.R.  
27 Sec. 383.23(b)(1) as it existed on October 1, 2017, or such  
28 subsequent date as may be provided by the department by rule,  
29 consistent with the purposes of this section; or

30 (ii) Is domiciled in another state as provided in 49 C.F.R. Sec.  
31 383.23(b)(2) as it existed on October 1, 2017, or such subsequent  
32 date as may be provided by the department by rule, consistent with  
33 the purposes of this section.

34 (b) The definition in this subsection (15) applies exclusively to  
35 the use of the term in this chapter and is not to be applied in any  
36 other chapter of the Revised Code of Washington.

37 (16) "Out-of-service order" means a declaration by an authorized  
38 enforcement officer of a federal, state, Canadian, Mexican, or local  
39 jurisdiction that a driver, a commercial motor vehicle, or a motor  
40 carrier operation is out-of-service pursuant to 49 C.F.R. Secs.

1 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North  
2 American uniform out-of-service criteria.

3 (17) "Positive alcohol confirmation test" means an alcohol  
4 confirmation test that:

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

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

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

12 (18) "School bus" means a commercial motor vehicle used to  
13 transport preprimary, primary, or secondary school students from home  
14 to school, from school to home, or to and from school-sponsored  
15 events. School bus does not include a bus used as a common carrier.

16 (19) "Serious traffic violation" means:

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

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

20 (c) Driving while using a personal electronic device, defined as  
21 a violation of RCW 46.61.672, which includes in the activities it  
22 prohibits driving while holding a personal electronic device in  
23 either or both hands and using a hand or finger for texting, or an  
24 equivalent administrative rule or local law, ordinance, rule, or  
25 resolution;

26 (d) A violation of a state or local law relating to motor vehicle  
27 traffic control, other than a parking violation, arising in  
28 connection with an accident or collision resulting in death to any  
29 person;

30 (e) Driving a commercial motor vehicle without obtaining a  
31 commercial driver's license;

32 (f) Driving a commercial motor vehicle without a commercial  
33 driver's license in the driver's possession; however, any individual  
34 who provides proof to the court by the date the individual must  
35 appear in court or pay any fine for such a violation, that the  
36 individual held a valid CDL on the date the citation was issued, is  
37 not guilty of a "serious traffic violation";

38 (g) Driving a commercial motor vehicle without the proper class  
39 of commercial driver's license endorsement or endorsements for the

1 specific vehicle group being operated or for the passenger or type of  
2 cargo being transported; and

3 (h) Any other violation of a state or local law relating to motor  
4 vehicle traffic control, other than a parking violation, that the  
5 department determines by rule to be serious.

6 (20) "State" means a state of the United States and the District  
7 of Columbia.

8 (21) "Substance abuse professional" means an alcohol and drug  
9 specialist meeting the credentials, knowledge, training, and  
10 continuing education requirements of 49 C.F.R. Sec. 40.281.

11 (22) "Tank vehicle" means any commercial motor vehicle that is  
12 designed to transport any liquid or gaseous materials within a tank  
13 or tanks having an individual rated capacity of more than one hundred  
14 nineteen gallons and an aggregate rated capacity of one thousand  
15 gallons or more that is either permanently or temporarily attached to  
16 the vehicle or the chassis. A commercial motor vehicle transporting  
17 an empty storage container tank, not designed for transportation,  
18 with a rated capacity of one thousand gallons or more that is  
19 temporarily attached to a flatbed trailer is not considered a tank  
20 vehicle.

21 (23) "Type of driving" means one of the following:

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

31 (b) "Excepted interstate," which means the CDL or CLP holder or  
32 applicant operates or expects to operate in interstate commerce, but  
33 engages exclusively in transportation or operations excepted under 49  
34 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on  
35 July 8, 2014, or such subsequent date as may be provided by the  
36 department by rule, consistent with the purposes of this section,  
37 from all or parts of the qualification requirements of 49 C.F.R. Part  
38 391 as it existed on July 8, 2014, or such subsequent date as may be  
39 provided by the department by rule, consistent with the purposes of  
40 this section, and is ((therefore not)) required to obtain a medical



1 examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on  
2 July 8, 2014, or such subsequent date as may be provided by the  
3 department by rule, consistent with the purposes of this section;

4 (c) "Nonexcepted intrastate," which means the CDL or CLP holder  
5 or applicant operates only in intrastate commerce and is (~~therefore~~  
6 ~~subject to state driver qualification requirements~~) required to  
7 obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45  
8 as it existed on July 8, 2014, or such subsequent date as may be  
9 provided by the department by rule, consistent with the purposes of  
10 this section; or

11 (d) "Excepted intrastate," which means the CDL or CLP holder (~~or~~  
12 ~~applicant operates in intrastate commerce, but engages exclusively in~~  
13 ~~transportation or operations excepted from all or parts of the state~~  
14 ~~driver qualification requirements~~) wishes to maintain a CDL or CLP  
15 but not operate a commercial motor vehicle without changing his or  
16 her self-certification type.

17 (24) "United States" means the fifty states and the District of  
18 Columbia.

19 (25) "Verified positive drug test" means a drug test result or  
20 validity testing result from a laboratory certified under the  
21 authority of the federal department of health and human services  
22 that:

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

25 (b) Has undergone review and final determination by a medical  
26 review officer.

27 A report that a person has refused a drug test, under  
28 circumstances that constitute the refusal of a federal department of  
29 transportation drug test under 49 C.F.R. Part 40, will be considered  
30 equivalent to a report of a verified positive drug test for the  
31 purposes of this chapter.

32 NEW SECTION. **Sec. 5.** This act takes effect April 30, 2019.

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