

SENATE BILL REPORT

SB 5041

As Passed Senate, February 15, 2023

Title: An act relating to compliance with federal motor carrier safety administration requirements for the drug and alcohol clearinghouse.

Brief Description: Concerning compliance with federal motor carrier safety administration requirements for the drug and alcohol clearinghouse.

Sponsors: Senators Lovick, King and Liias; by request of Department of Licensing.

Brief History:

Committee Activity: Transportation: 1/19/23, 1/26/23 [DP].

Floor Activity: Passed Senate: 2/15/23, 48-0.

Brief Summary of Bill

- Links the disqualification of commercial drivers for drug and alcohol violations to ones reported through the federal Drug and Alcohol Clearinghouse.
- Removes certain requirements related to drug and alcohol violations of commercial drivers reported to the state.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass.

Signed by Senators Liias, Chair; Lovick, Vice Chair; Shewmake, Vice Chair; King, Ranking Member; Cleveland, Fortunato, Hawkins, Kauffman, Lovelett, MacEwen, Nobles, Padden, Randall, Valdez, Wilson, C. and Wilson, J..

Staff: Bryon Moore (786-7726)

Background: A person must have a Commercial Learner's Permit (CLP) or Commercial

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Driver's License (CDL) to legally drive a commercial vehicle in Washington. Both state law and Federal Motor Carrier Safety Administration (FMCSA) regulations provide the licensing requirements, on-going standards, and disqualification procedures for commercial drivers.

Under state law, employers, medical review officers, and substance abuse professionals are required to submit positive drug and alcohol test results, and refusals to submit to a test with respect to commercial drivers to the Department of Licensing (DOL). When the agency receives this notification, DOL is required to disqualify the CLP or CDL of that driver. The driver remains disqualified until they complete a drug and alcohol assessment, and presents evidence of satisfactory progress or completion of treatment, or education program, or both. Both state and federal law provide hearing procedures for a driver facing a disqualification of their CLP or CDL.

In 2020, the FMCSA established a nationwide Drug and Alcohol Clearinghouse (DAC) to maintain the records of federal drug and alcohol violations, including positive drug or alcohol test results and refusals to submit to a test. Employers, medical review officers, and substance abuse professionals are federally required to report violations to the federal DAC.

Beginning November 18, 2024, the FMCSA has required states to participate in the federal drug and alcohol testing program and check the federal DAC system before issuing, renewing, upgrading or taking certain other actions with respect to the holder or applicant for a CLP or CDL.

Summary of Bill: The state law requirement for employers, medical review officers, and substance abuse professionals to submit positive drug and alcohol test results, and refusals to submit to a test with respect to commercial drivers to DOL, is removed. The state law requirements around issuance and disqualification based on the drug and alcohol notifications to DOL are removed.

The issuance restrictions and disqualification requirements are linked to DOL's query of the federal DAC. After receiving notification from the federal DAC, DOL is required to downgrade a CLP or CDL within 60 days. Any administrative review made available by the FMCSA is the exclusive remedy for a CDL or CLP holder to contest administrative or clerical errors in the information sent to DOL from the DAC. When DOL receives notification that a CLP or CDL holder is no longer prohibited from operating a commercial motor vehicle, or was erroneously identified, DOL must remove the downgrade or pending downgrade.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on November 18, 2024.

Staff Summary of Public Testimony: PRO: Part of the legislation is geared toward bringing the state into the compliance with the Federal Motor Carrier Safety Administration requirements, but the bill is also about improving safety. Washington is somewhat unique in operating a separate state commercial driver alcohol and drug testing program that is somewhat redundant of the federal system . The linking to the federal clearinghouse will bring consistency and standardize the practice amongst the states. While there is a high upfront cost, the benefits of the linkage to the federal clearinghouse outweigh this.

Persons Testifying: PRO: Senator John Lovick, Prime Sponsor; Beau Perschbacher, WA Dept. of Licensing.

Persons Signed In To Testify But Not Testifying: No one.