

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2459

62nd Legislature
2012 Regular Session

Passed by the House February 9, 2012
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 1, 2012
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2459** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2459

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Kagi, Armstrong, and Johnson

Read first time 01/16/12. Referred to Committee on Transportation.

1 AN ACT Relating to the confiscation of commercial motor vehicle
2 license plates when operated with a revoked registration; and amending
3 RCW 46.32.100.

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

5 **Sec. 1.** RCW 46.32.100 and 2011 c 227 s 5 are each amended to read
6 as follows:

7 (1)(a) In addition to all other penalties provided by law, and
8 except as provided otherwise in (a)(i), (ii), or (iii) of this
9 subsection, a commercial motor vehicle that is subject to compliance
10 reviews under this chapter and an officer, agent, or employee of a
11 company operating a commercial motor vehicle who violates or who
12 procures, aids, or abets in the violation of this title or any order or
13 rule of the state patrol is liable for a penalty of one hundred dollars
14 for each violation.

15 (i) It is a violation of this chapter for a person operating a
16 commercial motor vehicle to fail to comply with the requirements of 49
17 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49
18 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec.

1 396.9(c)(2), moving a vehicle placed out of service before the out of
2 service defects have been satisfactorily repaired. For each violation
3 the person is liable for a penalty of five hundred dollars.

4 (ii) The driver of a commercial motor vehicle who is convicted of
5 violating an out-of-service order is liable for a penalty of at least
6 two thousand five hundred dollars for a first violation, and not less
7 than five thousand dollars for (~~the~~) a second or subsequent
8 violation.

9 (iii) An employer who allows the operation of a commercial motor
10 vehicle when there is an out-of-service order is liable for a penalty
11 of at least two thousand seven hundred fifty dollars but not more than
12 twenty-five thousand dollars for each violation.

13 (iv) Each violation under this subsection (1)(a) is a separate and
14 distinct offense, and in case of a continuing violation every day's
15 continuance is a separate and distinct violation.

16 (b) In addition to all other penalties provided by law, any motor
17 carrier, company, or any officer or agent of a motor carrier or company
18 operating a commercial motor vehicle subject to compliance reviews
19 under this chapter who refuses entry or to make the required records,
20 documents, and vehicles available to a duly authorized agent of the
21 state patrol is liable for a penalty of at least five thousand dollars
22 as well as an out-of-service order being placed on the department of
23 transportation number, as defined in RCW 46.16A.010, and vehicle
24 registration to operate. Each violation is a separate and distinct
25 offense, and in case of a continuing violation every day's continuance
26 is a separate and distinct violation.

27 (c) A motor carrier operating a commercial motor vehicle after
28 receiving a final unsatisfactory rating or being placed out of service
29 is liable for a penalty of not more than eleven thousand dollars for
30 each violation. Each violation is a separate and distinct offense, and
31 in case of a continuing violation every day's continuance is a separate
32 and distinct violation.

33 (d) A high-risk carrier is liable for double the amount of the
34 penalty of a prior violation if the high-risk carrier repeats the same
35 violation during a follow-up compliance review. Each repeat violation
36 is a separate and distinct offense, and in case of a repeat continuing
37 violation every day's continuance is a separate and distinct violation.

1 (2) The Washington state patrol may place an out-of-service order
2 on a department of transportation number, as defined in RCW 46.16A.010,
3 for violations of this chapter or for nonpayment of any monetary
4 penalties assessed by the state patrol or the utilities and
5 transportation commission, as a result of compliance reviews, or for
6 violations of cease and desist orders issued by the utilities and
7 transportation commission. The state patrol shall notify the
8 department of licensing when an out-of-service order has been placed on
9 a motor carrier's department of transportation number. The state
10 patrol shall notify the motor carrier when there has been an out-of-
11 service order placed on the motor carrier's department of
12 transportation number and the vehicle registrations have been revoked
13 by sending a notice by first-class mail using the last known address
14 for the registered or legal owner or owners, and recording the
15 transmittal on an affidavit of first-class mail. Notices under this
16 section fulfill the requirements of RCW 46.12.550. Motor carriers may
17 not be eligible for a new department of transportation number, vehicle
18 registration, or temporary permits to operate unless the violations
19 that resulted in the out-of-service order have been corrected. The
20 Washington state patrol or other law enforcement agency must confiscate
21 and may recycle or destroy the license plates from a motor carrier who
22 operates a commercial motor vehicle while the vehicle registration is
23 revoked, suspended, or canceled. The confiscation of license plates
24 under this subsection only applies to trucks, truck tractors, and
25 tractors.

26 (3) Any penalty provided in this section is due and payable when
27 the person incurring it receives a notice in writing from the state
28 patrol describing the violation and advising the person that the
29 penalty is due.

30 (a)(i) Any motor carrier who incurs a penalty as provided in this
31 section, except for a high-risk carrier that incurs a penalty for a
32 repeat violation during a follow-up compliance review, may, upon
33 written application, request that the state patrol mitigate the
34 penalty. An application for mitigation must be received by the state
35 patrol within twenty days of the receipt of notice.

36 (ii) The state patrol may decline to consider any application for
37 mitigation.

1 (b) Any motor carrier who incurs a penalty as provided in this
2 section has a right to an administrative hearing under chapter 34.05
3 RCW to contest the violation or the penalty imposed, or both. In all
4 such hearings, the procedure and rules of evidence are as specified in
5 chapter 34.05 RCW except as otherwise provided in this chapter. Any
6 request for an administrative hearing must be made in writing and must
7 be received by the state patrol within twenty days after the later of
8 (i) receipt of the notice imposing the penalty, or (ii) disposition of
9 a request for mitigation, or the right to a hearing is waived.

10 (c) All penalties recovered under this section shall be paid into
11 the state treasury and credited to the state patrol highway account of
12 the motor vehicle fund.

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