

HOUSE BILL REPORT

HB 1179

As Passed House:

January 28, 2002

Title: An act relating to positive drug or alcohol test results of commercial motor vehicle operators.

Brief Description: Strengthening procedures for disqualification of drinking or drugged commercial drivers.

Sponsors: By Representatives Ericksen, Lovick, G. Chandler and O'Brien.

Brief History:

Committee Activity:

Transportation: 2/13/01, 2/15/01 [DP].

Floor Activity:

Passed House: 3/9/01, 98-0; 1/28/02, 96-0.

Brief Summary of Bill

- Commercial drivers are disqualified from driving when the Department of Licensing is notified of a confirmed positive drug or alcohol test by a motor carrier's medical review officer or breath alcohol technician.
- Hearing provisions to challenge disqualification are described.
- Commercial drivers disqualified under federal law more than twice in a five-year period are disqualified for life.
- Procedures are provided for having a commercial drivers license re-instated after meeting certain conditions and upon payment of a \$150 fee.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 27 members: Representatives Fisher, Democratic Co-Chair; Mitchell, Republican Co-Chair; Cooper, Democratic Vice Chair; Ericksen, Republican Vice Chair; Hankins, Republican Vice Chair; Lovick, Democratic Vice Chair; Ahern, Anderson, Armstrong, Edmonds, Haigh, Hatfield, Hurst, Jarrett, Marine, Mielke, Morell, Murray, Ogden, Reardon, Rockefeller, Romero, Schindler, Simpson, Sump, Wood and Woods.

Staff: Penny Nerup (786-7335).

Background:

Since January 1, 1996 federal law has required all commercial motor carriers to implement a drug and alcohol testing program for its drivers. Fifty percent of a carrier's drivers must be tested for drugs during the year and 25 percent for alcohol. Any driver who tests positive must: 1) provide the carrier's medical review officer with the names of any prescription medication taken that might interfere with the test; 2) be evaluated by a substance abuse professional; and/or 3) complete a rehabilitation program before being reinstated.

Some drivers who obtain a positive drug or alcohol test, or who fail a pre-employment drug or alcohol test, simply look for new employment with another motor carrier. The new employer is required by federal law to inquire about the driver's prior positive alcohol or drug test (or refusals to be tested) from other carriers who employed him during the preceding two years. However, if the driver does not provide the name of his prior employer(s), the new employer would not know who to call for information about that driver.

In order to protect a motor carrier, and the traveling public, from a driver who hides his positive drug or alcohol test, a task force of interested parties (legislators, the Department of Licensing, the trucking industry, the Teamsters union, the Motor Carriers Division of the Federal Highway Administration, the Department of Social and Health Services, among others) met to discuss legislation. This bill is the result of those discussions.

Summary of Bill:

All medical review officers (MROs) and breath alcohol technicians (BATs) under contract to a motor carrier required to test its drivers under federal law must provide confirmed positive drug or alcohol test results on Washington State licensed commercial drivers to the Department of Licensing. If the motor carrier fails to obtain this condition in its contract with the MRO or BAT, the motor carrier will be fined. The substances collected for drug or alcohol testing under the federal law cannot be used for any purpose other than drug or alcohol testing.

A hearing process is provided for those drivers who challenge the confirmed positive drug or alcohol test, but limited to a) whether the driver is the person who took the test; b) whether the motor carrier has a testing program that meets the requirements of the federal law; and c) whether the MRO or BAT accurately followed the testing protocols. The driver's disqualification does not take effect while the appeal is progressing.

Commercial drivers are disqualified by the Department of Licensing for failing a drug or

alcohol test either as part of the federal testing program or as part of a pre-employment drug test. The disqualification remains in effect until the driver presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment program certified by the Department of Social and Health Services. The agency making a drug or alcohol assessment forwards a diagnostic evaluation recommendation to the Department of Licensing for use in determining the driver's eligibility to drive commercially. Drivers who are disqualified under the federal law more than twice in a five-year period are disqualified for life.

Commercial drivers can have their license reinstated once the Department of Licensing receives a drug and alcohol assessment and evidence of satisfactory participation in, or completion of, any required drug or alcohol treatment program. The driver must pay \$150 to reinstate his commercial license.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is an important step to close a loop-hole in the federal law and to protect the traveling public and other commercial drivers.

Testimony Against: None.

Testified: Representative Ericksen, prime sponsor; Jay Lawley, Washington Trucking Association; and Don Lewis, citizen.