

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1273

Chapter 194, Laws of 2017

65th Legislature
2017 Regular Session

NONDOMICILED COMMERCIAL DRIVERS' LICENSES AND LEARNERS' PERMITS--
FEDERAL STANDARDS

EFFECTIVE DATE: 10/1/2017 -- Except for section 4, which becomes
effective 6/1/2018.

Passed by the House April 17, 2017
Yeas 80 Nays 15

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2017
Yeas 43 Nays 6

CYRUS HABIB

President of the Senate

Approved May 5, 2017 10:06 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1273** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 5, 2017

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1273

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By House Transportation (originally sponsored by Representatives Ryu, Farrell, Fey, and Ortiz-Self; by request of Department of Licensing)

READ FIRST TIME 02/06/17.

1 AN ACT Relating to the alignment of state statutes with federal
2 standards for the issuance of nondomiciled commercial drivers'
3 licenses and nondomiciled commercial learners' permits; amending RCW
4 46.25.010, 46.25.070, and 46.25.---; adding a new section to chapter
5 46.25 RCW; and providing effective dates.

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

7 **Sec. 1.** RCW 46.25.010 and 2013 c 224 s 3 are each amended to
8 read as follows:

9 The definitions set forth in this section apply throughout this
10 chapter.

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

14 (2) "Alcohol concentration" means:

15 (a) The number of grams of alcohol per one hundred milliliters of
16 blood; or

17 (b) The number of grams of alcohol per two hundred ten liters of
18 breath.

19 (3) "Commercial driver's license" (CDL) means a license issued to
20 an individual under chapter 46.20 RCW that has been endorsed in

1 accordance with the requirements of this chapter to authorize the
2 individual to drive a class of commercial motor vehicle.

3 (4) The "commercial driver's license information system" (CDLIS)
4 is the information system established pursuant to 49 U.S.C. Sec.
5 31309 to serve as a clearinghouse for locating information related to
6 the licensing and identification of commercial motor vehicle drivers.

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

9 (6) "Commercial motor vehicle" means a motor vehicle or
10 combination of motor vehicles used in commerce to transport
11 passengers or property if the motor vehicle:

12 (a) Has a gross combination weight rating or gross combination
13 weight of 11,794 kilograms or more (26,001 pounds or more), whichever
14 is greater, inclusive of (~~(a-[any])~~) any towed unit (~~([for-units])~~) or
15 units with a gross vehicle weight rating or gross vehicle weight of
16 more than 4,536 kilograms (10,000 pounds or more), whichever is
17 greater; or

18 (b) Has a gross vehicle weight rating or gross vehicle weight of
19 11,794 kilograms or more (26,001 pounds or more), whichever is
20 greater; or

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

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

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

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

36 (8) "Disqualification" means a prohibition against driving a
37 commercial motor vehicle.

38 (9) "Drive" means to drive, operate, or be in physical control of
39 a motor vehicle in any place open to the general public for purposes
40 of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and

1 46.25.120, "drive" includes operation or physical control of a motor
2 vehicle anywhere in the state.

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

6 (11) "Employer" means any person, including the United States, a
7 state, or a political subdivision of a state, who owns or leases a
8 commercial motor vehicle, or assigns a person to drive a commercial
9 motor vehicle.

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

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

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

30 (15) "Out-of-service order" means a declaration by an authorized
31 enforcement officer of a federal, state, Canadian, Mexican, or local
32 jurisdiction that a driver, a commercial motor vehicle, or a motor
33 carrier operation is out-of-service pursuant to 49 C.F.R. Secs.
34 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North
35 American uniform out-of-service criteria.

36 (16) "Positive alcohol confirmation test" means an alcohol
37 confirmation test that:

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

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

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

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

9 (18) "Serious traffic violation" means:

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

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

13 (c) Driving while using a handheld wireless communications device
14 [handheld mobile telephone], defined as a violation of RCW
15 46.61.667(1)(b) or an equivalent administrative rule or local law,
16 ordinance, rule, or resolution;

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

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

24 (f) Driving a commercial motor vehicle without obtaining a
25 commercial driver's license;

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

32 (h) Driving a commercial motor vehicle without the proper class
33 of commercial driver's license endorsement or endorsements for the
34 specific vehicle group being operated or for the passenger or type of
35 cargo being transported; and

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

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

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

4 (21) "Tank vehicle" means any commercial motor vehicle that is
5 designed to transport any liquid or gaseous materials within a tank
6 or tanks having an individual rated capacity of more than one hundred
7 nineteen gallons and an aggregate rated capacity of one thousand
8 gallons or more that is either permanently or temporarily attached to
9 the vehicle or the chassis. A commercial motor vehicle transporting
10 an empty storage container tank, not designed for transportation,
11 with a rated capacity of one thousand gallons or more that is
12 temporarily attached to a flatbed trailer is not considered a tank
13 vehicle.

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

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

24 (b) "Excepted interstate," which means the CDL or CLP holder or
25 applicant operates or expects to operate in interstate commerce, but
26 engages exclusively in transportation or operations excepted under 49
27 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on
28 July 8, 2014, or such subsequent date as may be provided by the
29 department by rule, consistent with the purposes of this section,
30 from all or parts of the qualification requirements of 49 C.F.R. Part
31 391 as it existed on July 8, 2014, or such subsequent date as may be
32 provided by the department by rule, consistent with the purposes of
33 this section, and is therefore not required to obtain a medical
34 examiner's certificate under 49 C.F.R. Sec. 391.45 as it 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 (c) "Nonexcepted intrastate," which means the CDL or CLP holder
38 or applicant operates only in intrastate commerce and is therefore
39 subject to state driver qualification requirements; or

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

5 (23) "United States" means the fifty states and the District of
6 Columbia.

7 (24) "Verified positive drug test" means a drug test result or
8 validity testing result from a laboratory certified under the
9 authority of the federal department of health and human services
10 that:

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

13 (b) Has undergone review and final determination by a medical
14 review officer.

15 A report that a person has refused a drug test, under
16 circumstances that constitute the refusal of a federal department of
17 transportation drug test under 49 C.F.R. Part 40, will be considered
18 equivalent to a report of a verified positive drug test for the
19 purposes of this chapter.

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

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

27 (ii) Is domiciled in another state as provided in 49 C.F.R. Sec.
28 383.23(b)(2) as it existed on the effective date of this section, or
29 such subsequent date as may be provided by the department by rule,
30 consistent with the purposes of this section.

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

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

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

38 (a) The full name and current mailing and residential address of
39 the person;

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

3 (c) Date of birth;

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

7 (e) The person's signature;

8 (f) Certifications including those required by 49 C.F.R. Sec.
9 383.71;

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

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

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

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

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

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

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

31 NEW SECTION. Sec. 3. A new section is added to chapter 46.25
32 RCW to read as follows:

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

35 (a) Is domiciled in a foreign country as provided in 49 C.F.R.
36 Sec. 383.23(b)(1) as it existed on the effective date of this
37 section, or such subsequent date as may be provided by the department
38 by rule, consistent with the purposes of this section; or

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

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

6 (a) Surrender any nonresident or nondomiciled CLP or CDL issued
7 by another state;

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

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

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

17 (3) Before issuing a nondomiciled CLP or CDL, the department must
18 establish the practical capability of disqualifying the person under
19 the conditions applicable to a CLP or CDL issued to a resident of
20 this state.

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

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

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

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

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

32 (5) A nondomiciled CLP or CDL issued to an individual who has
33 temporary lawful status or valid employment authorization in the
34 United States:

35 (a) Is valid only when accompanied by an unexpired employment
36 authorization document issued by the United States citizenship and
37 immigration services or an unexpired foreign passport accompanied by
38 an approved I-94 form documenting the applicant's most recent
39 admittance into the United States;

1 (b) Must expire no later than the first anniversary of the
2 individual's birthdate that occurs after the expiration of the
3 individual's employment authorization document or authorized stay in
4 the United States, or if there is no expiration date for the
5 employment authorization or authorized stay, one year from the first
6 anniversary of the individual's birthdate that occurs after issuance;
7 and

8 (c) May be renewed if the individual presents valid documentary
9 evidence that the employment authorization document or temporary
10 lawful status in the United States is still in effect or has been
11 extended.

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

13 (a) Is subject to all applicable requirements for and
14 disqualifications from operating a commercial motor vehicle as
15 provided under this chapter and is subject to the withdrawal of
16 driving privileges as provided by this title; and

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

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

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

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

28 (b) Is domiciled in another state as provided in 49 C.F.R. Sec.
29 383.23(b)(2) as it existed on the effective date of this section, or
30 such subsequent date as may be provided by the department by rule,
31 consistent with the purposes of this section.

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

33 (a) Surrender any nonresident or nondomiciled CLP or CDL issued
34 by another state;

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

37 (c) Meet the requirements of 49 C.F.R. Sec. 383.71(f) as it
38 existed on the effective date of this section, or such subsequent

1 date as may be provided by the department by rule, consistent with
2 the purposes of this section; and

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

6 (3) Before issuing a nondomiciled CLP or CDL, the department must
7 establish the practical capability of disqualifying the person under
8 the conditions applicable to a CLP or CDL issued to a resident of
9 this state.

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

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

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

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

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

21 (5) A nondomiciled CLP or CDL issued to an individual who has
22 temporary lawful status or valid employment authorization in the
23 United States:

24 (a) Is valid only when accompanied by an unexpired employment
25 authorization document issued by the United States citizenship and
26 immigration services or an unexpired foreign passport accompanied by
27 an approved I-94 form documenting the applicant's most recent
28 admittance into the United States;

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

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

40 (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 NEW SECTION. **Sec. 5.** Except for section 4 of this act, this act
9 takes effect October 1, 2017.

10 NEW SECTION. **Sec. 6.** Section 4 of this act takes effect June 1,
11 2018.

Passed by the House April 17, 2017.
Passed by the Senate April 12, 2017.
Approved by the Governor May 5, 2017.
Filed in Office of Secretary of State May 5, 2017.

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