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ENGROSSED SUBSTITUTE HOUSE BILL 1209

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State of Washington

54th Legislature

1995 Regular Session

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Mielke, Johnson, Quall, Mitchell, Buck, Romero, Horn and Huff)

Read first time 02/22/95.

1 AN ACT Relating to commercial vehicle safety enforcement by the  
2 Washington state patrol; amending RCW 81.80.330; adding new sections to  
3 chapter 46.32 RCW; creating a new section; repealing RCW 81.80.145;  
4 prescribing penalties; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.32 RCW  
7 to read as follows:

8 (1) The Washington state patrol is responsible for enforcement of  
9 safety requirements for commercial motor vehicles, including but not  
10 limited to terminal safety audits. Those carriers that have terminal  
11 operations in this state are subject to the patrol's terminal safety  
12 audits.

13 (2) This section does not apply to:

14 (a) Motor vehicles owned and operated by farmers in the  
15 transportation of their own farm, orchard, or dairy products, including  
16 livestock and plant or animal wastes, from point of production to  
17 market or disposal; or supplies or commodities to be used on the farm,  
18 orchard, or dairy;

1 (b) Commercial motor vehicles regulated under chapters 81.68 (auto  
2 transportation companies), 81.70 (passenger charter carriers), 81.77  
3 (solid waste collection companies), 81.80 (motor freight carriers), and  
4 81.90 (limousine charter carriers) RCW; and

5 (c) Vehicles exempted from registration by RCW 46.16.020.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.32 RCW  
7 to read as follows:

8 The department shall collect a fee of ten dollars, in addition to  
9 all other fees and taxes, for each motor vehicle base plated in the  
10 state of Washington that is subject to highway inspections and terminal  
11 audits under section 1 of this act, at the time of registration and  
12 renewal of registration under chapter 46.16 or 46.87 RCW. Refunds will  
13 not be provided for fees paid under this section when the vehicle is no  
14 longer subject to section 1 of this act. The department may deduct an  
15 amount equal to the cost of administering the program. All remaining  
16 fees shall be deposited with the state treasurer and credited to the  
17 state patrol highway account of the motor vehicle fund.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.32 RCW  
19 to read as follows:

20 In addition to all other penalties provided by law, a commercial  
21 motor vehicle that is subject to terminal safety audits under this  
22 chapter and an officer, agent, or employee of a company operating a  
23 commercial motor vehicle who violates or who procures, aids, or abets  
24 in the violation of this title or any order or rule of the state patrol  
25 is liable for a penalty of one hundred dollars for each violation.  
26 Each violation is a separate and distinct offense, and in case of a  
27 continuing violation every day's continuance is a separate and distinct  
28 violation.

29 The penalty provided in this section is due and payable when the  
30 person incurring it receives a notice in writing from the patrol  
31 describing the violation and advising the person that the penalty is  
32 due. The patrol may, upon written application for review, received  
33 within fifteen days, remit or mitigate a penalty provided for in this  
34 section or discontinue a prosecution to recover the penalty upon such  
35 terms it deems proper and may ascertain the facts upon all such  
36 applications in such manner and under such rules as it deems proper.  
37 If the amount of the penalty is not paid to the patrol within fifteen

1 days after receipt of the notice imposing the penalty, or application  
2 for remission or mitigation has not been made within fifteen days after  
3 the violator has received notice of the disposition of the application,  
4 the attorney general shall bring an action in the name of the state of  
5 Washington in the superior court of Thurston county or of some other  
6 county in which the violator does business, to recover the penalty. In  
7 all such actions the procedure and rules of evidence are the same as an  
8 ordinary civil action except as otherwise provided in this chapter.  
9 All penalties recovered under this section shall be paid into the state  
10 treasury and credited to the state patrol highway account of the motor  
11 vehicle fund.

12 NEW SECTION. **Sec. 4.** (1) All powers, duties, and functions of the  
13 utilities and transportation commission pertaining to safety  
14 inspections of commercial vehicles, including but not limited to  
15 terminal safety audits, except for those carriers subject to the  
16 economic regulation of the commission, are transferred to the  
17 Washington state patrol.

18 (2)(a) All reports, documents, surveys, books, records, files,  
19 papers, or written material in the possession of the utilities and  
20 transportation commission pertaining to the powers, functions, and  
21 duties transferred shall be delivered to the custody of the Washington  
22 state patrol. All cabinets, furniture, office equipment, motor  
23 vehicles, and other tangible property employed by the utilities and  
24 transportation commission in carrying out the powers, functions, and  
25 duties transferred shall be made available to the Washington state  
26 patrol. All funds, credits, or other assets held in connection with  
27 the powers, functions, and duties transferred shall be assigned to the  
28 Washington state patrol.

29 (b) Any appropriations made to the utilities and transportation  
30 commission for carrying out the powers, functions, and duties  
31 transferred shall, on the effective date of this act, be transferred  
32 and credited to the Washington state patrol.

33 (c) Whenever any question arises as to the transfer of any  
34 personnel, funds, books, documents, records, papers, files, equipment,  
35 or other tangible property used or held in the exercise of the powers  
36 and the performance of the duties and functions transferred, the  
37 director of financial management shall make a determination as to the  
38 proper allocation and certify the same to the state agencies concerned.

1 (3) In filling new merit system terminal auditor positions, the  
2 Washington state patrol shall give preferential consideration to  
3 employees of the utilities and transportation commission engaged in  
4 performing the powers, functions, and duties transferred.

5 (4) All rules and all pending business before the utilities and  
6 transportation commission pertaining to the powers, functions, and  
7 duties transferred shall be continued and acted upon by the Washington  
8 state patrol. All existing contracts and obligations remain in full  
9 force and shall be performed by the Washington state patrol.

10 (5) The transfer of the powers, duties, functions, and personnel of  
11 the utilities and transportation commission does not affect the  
12 validity of any act performed before the effective date of this act.

13 (6) If apportionments of budgeted funds are required because of the  
14 transfers directed by this section, the director of financial  
15 management shall certify the apportionments to the agencies affected,  
16 the state auditor, and the state treasurer. Each of these shall make  
17 the appropriate transfer and adjustments in funds and appropriation  
18 accounts and equipment records in accordance with the certification.

19 (7) Nothing contained in this section alters an existing collective  
20 bargaining unit or the provisions of an existing collective bargaining  
21 agreement until the agreement has expired or until the bargaining unit  
22 has been modified by action of the personnel board as provided by law.

23 **Sec. 5.** RCW 81.80.330 and 1980 c 132 s 3 are each amended to read  
24 as follows:

25 The commission is hereby empowered to administer and enforce all  
26 provisions of this chapter and to inspect the vehicles, books, and  
27 documents of all "motor carriers" and the books, documents, and records  
28 of those using the service of the carriers for the purpose of  
29 discovering all discriminations and rebates and other information  
30 pertaining to the enforcement of this chapter and shall prosecute  
31 violations thereof. The commission shall employ such auditors,  
32 inspectors, clerks, and assistants as it may deem necessary for the  
33 enforcement of this chapter(~~(, and it shall be the duty of)~~). The  
34 Washington state patrol ((to assist in the enforcement of)) shall  
35 perform all motor carrier safety inspections required by this chapter,  
36 ((and the duty of)) including terminal safety audits, except for (1)  
37 those carriers subject to the economic regulation of the commission, or  
38 (2) a vehicle owned or operated by a carrier affiliated with a solid

1 waste company subject to economic regulation by the commission. The  
2 attorney general ((tø)) shall assign at least one assistant to the  
3 exclusive duty of assisting the commission in the enforcement of this  
4 chapter, and the prosecution of persons charged with the violation  
5 thereof. It shall be the duty of the Washington state patrol and the  
6 sheriffs of the counties to make arrests and the county attorneys to  
7 prosecute violations of this chapter.

8 NEW SECTION. Sec. 6. RCW 81.80.145 and 1993 c 359 s 1 are each  
9 repealed.

10 NEW SECTION. Sec. 7. This act takes effect January 1, 1996.

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