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SENATE BILL 6552

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State of Washington

59th Legislature

2006 Regular Session

By Senators Benson, Haugen, Mulliken, Berkey and Sheldon; by request of Department of Licensing

Read first time 01/13/2006. Referred to Committee on Transportation.

1 AN ACT Relating to commercial driver's licenses; and amending RCW  
2 46.20.270, 46.25.010, 46.25.050, 46.25.090, 46.25.120, 46.52.101, and  
3 46.63.070.

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

5 **Sec. 1.** RCW 46.20.270 and 2005 c 288 s 3 are each amended to read  
6 as follows:

7 (1) Whenever any person is convicted of any offense for which this  
8 title makes mandatory the withholding of the driving privilege of such  
9 person by the department, the court in which such conviction is had  
10 shall forthwith mark the person's Washington state driver's license or  
11 permit to drive, if any, in a manner authorized by the department. A  
12 valid driver's license or permit to drive marked under this subsection  
13 shall remain in effect until the person's driving privilege is withheld  
14 by the department pursuant to notice given under RCW 46.20.245, unless  
15 the license or permit expires or otherwise becomes invalid prior to the  
16 effective date of this action. Perfection of notice of appeal shall  
17 stay the execution of sentence including the withholding of the driving  
18 privilege.

1 (2) Every court having jurisdiction over offenses committed under  
2 this chapter, or any other act of this state or municipal ordinance  
3 adopted by a local authority regulating the operation of motor vehicles  
4 on highways, or any federal authority having jurisdiction over offenses  
5 substantially the same as those set forth in Title 46 RCW which occur  
6 on federal installations within this state, shall immediately forward  
7 to the department (~~within ten days of~~) a forfeiture of bail or  
8 collateral deposited to secure the defendant's appearance in court, a  
9 payment of a fine (~~(or)~~), penalty, or court cost, a plea of guilty or  
10 nolo contendere or a finding of guilt, or a finding that any person has  
11 committed a traffic infraction an abstract of the court record in the  
12 form prescribed by rule of the supreme court, showing the conviction of  
13 any person or the finding that any person has committed a traffic  
14 infraction in said court for a violation of any said laws other than  
15 regulations governing standing, stopping, parking, and pedestrian  
16 offenses.

17 (3) Every state agency or municipality having jurisdiction over  
18 offenses committed under this chapter, or under any other act of this  
19 state or municipal ordinance adopted by a state or local authority  
20 regulating the operation of motor vehicles on highways, may forward to  
21 the department within ten days of failure to respond, failure to pay a  
22 penalty, failure to appear at a hearing to contest the determination  
23 that a violation of any statute, ordinance, or regulation relating to  
24 standing, stopping, parking, or other infraction issued under RCW  
25 46.63.030(1)(d) has been committed, or failure to appear at a hearing  
26 to explain mitigating circumstances, an abstract of the citation record  
27 in the form prescribed by rule of the department, showing the finding  
28 by such municipality that two or more violations of laws governing  
29 standing, stopping, and parking or one or more other infractions issued  
30 under RCW 46.63.030(1)(d) have been committed and indicating the nature  
31 of the defendant's failure to act. Such violations or infractions may  
32 not have occurred while the vehicle is stolen from the registered owner  
33 or is leased or rented under a bona fide commercial vehicle lease or  
34 rental agreement between a lessor engaged in the business of leasing  
35 vehicles and a lessee who is not the vehicle's registered owner. The  
36 department may enter into agreements of reciprocity with the duly  
37 authorized representatives of the states for reporting to each other  
38 violations of laws governing standing, stopping, and parking.

1 (4) For the purposes of Title 46 RCW the term "conviction" means a  
2 final conviction in a state or municipal court or by any federal  
3 authority having jurisdiction over offenses substantially the same as  
4 those set forth in Title 46 RCW which occur on federal installations in  
5 this state, an unvacated forfeiture of bail or collateral deposited to  
6 secure a defendant's appearance in court, the payment of a fine or  
7 court cost, a plea of guilty or nolo contendere, or a finding of guilt  
8 on a traffic law violation charge, regardless of whether the imposition  
9 of sentence or sanctions are deferred or the penalty is suspended, but  
10 not including entry into a deferred prosecution agreement under chapter  
11 10.05 RCW.

12 (5) For the purposes of Title 46 RCW the term "finding that a  
13 traffic infraction has been committed" means a failure to respond to a  
14 notice of infraction or a determination made by a court pursuant to  
15 this chapter. Payment of a monetary penalty made pursuant to RCW  
16 46.63.070(2) is deemed equivalent to such a finding.

17 **Sec. 2.** RCW 46.25.010 and 2005 c 325 s 2 are each amended to read  
18 as follows:

19 The definitions set forth in this section apply throughout this  
20 chapter.

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

24 (2) "Alcohol concentration" means:

25 (a) The number of grams of alcohol per one hundred milliliters of  
26 blood; or

27 (b) The number of grams of alcohol per two hundred ten liters of  
28 breath.

29 (3) "Commercial driver's license" (CDL) means a license issued to  
30 an individual under chapter 46.20 RCW that has been endorsed in  
31 accordance with the requirements of this chapter to ~~((an individual~~  
32 ~~that authorizes))~~ authorize the individual to drive a class of  
33 commercial motor vehicle.

34 (4) The "commercial driver's license information system" (CDLIS) is  
35 the information system established pursuant to the CMVSA to serve as a  
36 clearinghouse for locating information related to the licensing and  
37 identification of commercial motor vehicle drivers.

1 (5) "Commercial driver's instruction permit" means a permit issued  
2 under RCW 46.25.060(5).

3 (6) "Commercial motor vehicle" means a motor vehicle designed or  
4 used to transport passengers or property:

5 (a) If the vehicle has a gross vehicle weight rating of 26,001 or  
6 more pounds;

7 (b) If the vehicle is designed to transport sixteen or more  
8 passengers, including the driver;

9 (c) If the vehicle is transporting hazardous materials as defined  
10 in this section; or

11 (d) If the vehicle is a school bus regardless of weight or size.

12 (7) "Conviction" (~~has the definition set forth in RCW 46.20.270~~)  
13 means an unvacated adjudication of guilt, or a determination that a  
14 person has violated or failed to comply with the law in a court of  
15 original jurisdiction or by an authorized administrative tribunal, an  
16 unvacated forfeiture of bail or collateral deposited to secure the  
17 person's appearance in court, a plea of guilty or nolo contendere  
18 accepted by the court, the payment of a fine or court cost, or  
19 violation of a condition of release without bail, regardless of whether  
20 or not the penalty is rebated, suspended, or probated.

21 (8) "Disqualification" means a prohibition against driving a  
22 commercial motor vehicle.

23 (9) "Drive" means to drive, operate, or be in physical control of  
24 a motor vehicle in any place open to the general public for purposes of  
25 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and  
26 46.25.120, "drive" includes operation or physical control of a motor  
27 vehicle anywhere in the state.

28 (10) "Drugs" are those substances as defined by RCW 69.04.009,  
29 including, but not limited to, those substances defined by 49 C.F.R.  
30 40.3.

31 (11) "Employer" means any person, including the United States, a  
32 state, or a political subdivision of a state, who owns or leases a  
33 commercial motor vehicle, or assigns a person to drive a commercial  
34 motor vehicle.

35 (12) "Gross vehicle weight rating" (GVWR) means the value specified  
36 by the manufacturer as the maximum loaded weight of a single or a  
37 combination or articulated vehicle(~~(, or the registered gross weight,~~  
38 ~~where this value cannot be determined)~~). The GVWR of a combination or

1 articulated vehicle, commonly referred to as the "gross combined weight  
2 rating" or GCWR, is the GVWR of the power unit plus the GVWR of the  
3 towed unit or units.

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

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

13 (15) "Out-of-service order" means a (~~temporary prohibition against~~  
14 ~~driving a commercial motor vehicle~~) declaration by an authorized  
15 enforcement officer of a federal, state, Canadian, Mexican, or local  
16 jurisdiction that a driver, a commercial motor vehicle, or a motor  
17 carrier operation is out-of-service pursuant to 49 C.F.R. 386.72,  
18 392.5, 395.13, 396.9, or compatible laws, or the North American uniform  
19 out-of-service criteria.

20 (16) "Positive alcohol confirmation test" means an alcohol  
21 confirmation test that:

22 (a) Has been conducted by a breath alcohol technician under 49  
23 C.F.R. 40; and

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

25 A report that a person has refused an alcohol test, under  
26 circumstances that constitute the refusal of an alcohol test under 49  
27 C.F.R. 40, will be considered equivalent to a report of a positive  
28 alcohol confirmation test for the purposes of this chapter.

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

33 (18) "Serious traffic violation" means:

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

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

37 (c) A violation of a state or local law relating to motor vehicle

1 traffic control, other than a parking violation, arising in connection  
2 with an accident or collision resulting in death to any person;

3 (d) Driving a commercial motor vehicle without obtaining a  
4 commercial driver's license;

5 (e) Driving a commercial motor vehicle without a commercial  
6 driver's license in the driver's possession; however, any individual  
7 who provides proof to the court by the date the individual must appear  
8 in court or pay any fine for such a violation, that the individual held  
9 a valid CDL on the date the citation was issued, is not guilty of a  
10 "serious traffic offense";

11 (f) Driving a commercial motor vehicle without the proper class of  
12 commercial driver's license endorsement or endorsements for the  
13 specific vehicle group being operated or for the passenger or type of  
14 cargo being transported; and

15 (g) Any other violation of a state or local law relating to motor  
16 vehicle traffic control, other than a parking violation, that the  
17 department determines by rule to be serious.

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

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

23 (21) "Tank vehicle" means a vehicle that is designed to transport  
24 a liquid or gaseous material within a tank that is either permanently  
25 or temporarily attached to the vehicle or the chassis. Tank vehicles  
26 include, but are not limited to cargo tanks and portable tanks.  
27 However, this definition does not include portable tanks having a rated  
28 capacity under one thousand gallons.

29 (22) "United States" means the fifty states and the District of  
30 Columbia.

31 (23) "Verified positive drug test" means a drug test result or  
32 validity testing result from a laboratory certified under the authority  
33 of the federal department of health and human services that:

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

36 (b) Has undergone review and final determination by a medical  
37 review officer.

1 A report that a person has refused a drug test, under circumstances  
2 that constitute the refusal of a federal department of transportation  
3 drug test under 49 C.F.R. 40, will be considered equivalent to a report  
4 of a verified positive drug test for the purposes of this chapter.

5 **Sec. 3.** RCW 46.25.050 and 1995 c 393 s 1 are each amended to read  
6 as follows:

7 ~~(1) ((Drivers of commercial motor vehicles shall obtain a  
8 commercial driver's license as required under this chapter by April 1,  
9 1992. The director shall establish a program to convert all qualified  
10 commercial motor vehicle drivers by that date. After April 1, 1992,))~~

11 Except when driving under a commercial driver's instruction permit and  
12 a valid automobile or classified license and accompanied by the holder  
13 of a commercial driver's license valid for the vehicle being driven, no  
14 person may drive a commercial motor vehicle unless the person holds and  
15 is in immediate possession of a commercial driver's license and  
16 applicable endorsements valid for the vehicle they are driving.  
17 However, this requirement does not apply to any person:

18 (a) Who is the operator of a farm vehicle, and the vehicle is:

19 (i) Controlled and operated by a farmer;

20 (ii) Used to transport either agricultural products, which in this  
21 section include Christmas trees and wood products harvested from  
22 private tree farms and transported by vehicles weighing no more than  
23 forty thousand pounds licensed gross vehicle weight, farm machinery,  
24 farm supplies, or any combination of those materials to or from a farm;

25 (iii) Not used in the operations of a common or contract motor  
26 carrier; and

27 (iv) Used within one hundred fifty miles of the person's farm; or

28 (b) Who is a fire fighter or law enforcement officer operating  
29 emergency equipment, and:

30 (i) The fire fighter or law enforcement officer has successfully  
31 completed a driver training course approved by the director; and

32 (ii) The fire fighter or law enforcement officer carries a  
33 certificate attesting to the successful completion of the approved  
34 training course; or

35 (c) Who is operating a recreational vehicle for noncommercial  
36 purposes. As used in this section, "recreational vehicle" includes a  
37 vehicle towing a horse trailer for a noncommercial purpose; or

1       (d) Who is operating a commercial motor vehicle for military  
2 purposes. This exemption is applicable to active duty military  
3 personnel; members of the military reserves; members of the national  
4 guard on active duty, including personnel on full-time national guard  
5 duty, personnel on part-time national guard training, and national  
6 guard military technicians (civilians who are required to wear military  
7 uniforms); and active duty United States coast guard personnel. This  
8 exception is not applicable to United States reserve technicians.

9       (2) No person may drive a commercial motor vehicle while his or her  
10 driving privilege is suspended, revoked, or canceled, while subject to  
11 disqualification, or in violation of an out-of-service order.  
12 Violations of this subsection shall be punished in the same way as  
13 violations of RCW 46.20.342(1).

14       **Sec. 4.** RCW 46.25.090 and 2005 c 325 s 5 are each amended to read  
15 as follows:

16       (1) A person is disqualified from driving a commercial motor  
17 vehicle for a period of not less than one year if a report has been  
18 received by the department pursuant to RCW 46.20.308 or 46.25.120, or  
19 if the person has been convicted of a first violation, within this or  
20 any other jurisdiction, of:

21       (a) Driving a motor vehicle under the influence of alcohol or any  
22 drug;

23       (b) Driving a commercial motor vehicle while the alcohol  
24 concentration in the person's system is 0.04 or more, or driving a  
25 noncommercial motor vehicle while the alcohol concentration in the  
26 person's system is 0.08 or more, or is 0.02 or more if the person is  
27 under age twenty-one, as determined by any testing methods approved by  
28 law in this state or any other state or jurisdiction;

29       (c) Leaving the scene of an accident involving a motor vehicle  
30 driven by the person;

31       (d) Using a motor vehicle in the commission of a felony;

32       (e) Refusing to submit to a test or tests to determine the driver's  
33 alcohol concentration or the presence of any drug while driving a motor  
34 vehicle;

35       (f) Driving a commercial motor vehicle when, as a result of prior  
36 violations committed while operating a commercial motor vehicle, the

1 driver's commercial driver's license is revoked, suspended, or  
2 canceled, or the driver is disqualified from operating a commercial  
3 motor vehicle;

4 (g) Causing a fatality through the negligent operation of a  
5 commercial motor vehicle, including but not limited to the crimes of  
6 vehicular homicide and negligent homicide.

7 If any of the violations set forth in this subsection occurred  
8 while transporting hazardous material, the person is disqualified for  
9 a period of not less than three years.

10 (2) A person is disqualified for life if it has been determined  
11 that the person has committed or has been convicted of two or more  
12 violations of any of the offenses specified in subsection (1) of this  
13 section, or any combination of those offenses, arising from two or more  
14 separate incidents.

15 (3) The department may adopt rules, in accordance with federal  
16 regulations, establishing guidelines, including conditions, under which  
17 a disqualification for life under subsection (2) of this section may be  
18 reduced to a period of not less than ten years.

19 (4) A person is disqualified from driving a commercial motor  
20 vehicle for life who uses a motor vehicle in the commission of a felony  
21 involving the manufacture, distribution, or dispensing of a controlled  
22 substance, as defined by chapter 69.50 RCW, or possession with intent  
23 to manufacture, distribute, or dispense a controlled substance, as  
24 defined by chapter 69.50 RCW.

25 (5)(a) A person is disqualified from driving a commercial motor  
26 vehicle for a period of:

27 (~~(a)~~) (i) Not less than sixty days if:

28 (~~(i)~~) (A) Convicted of or found to have committed a second  
29 serious traffic violation while driving a commercial motor vehicle; or

30 (~~(ii)~~) (B) Convicted of reckless driving, where there has been a  
31 prior serious traffic violation; or

32 (~~(b)~~) (ii) Not less than one hundred twenty days if:

33 (~~(i)~~) (A) Convicted of or found to have committed a third or  
34 subsequent serious traffic violation while driving a commercial motor  
35 vehicle; or

36 (~~(ii)~~) (B) Convicted of reckless driving, where there has been  
37 two or more prior serious traffic violations.

1       (b) The disqualification period under (a)(ii) of this subsection  
2 must be in addition to any other previous period of disqualification.

3       (c) For purposes of determining prior serious traffic violations  
4 under this subsection, each conviction of or finding that a driver has  
5 committed a serious traffic violation while driving a commercial motor  
6 vehicle or noncommercial motor vehicle, arising from a separate  
7 incident occurring within a three-year period, must be counted.

8       (6) A person is disqualified from driving a commercial motor  
9 vehicle for a period of:

10       (a) Not less than ninety days nor more than one year if convicted  
11 of or found to have committed a first violation of an out-of-service  
12 order while driving a commercial vehicle;

13       (b) Not less than one year nor more than five years if, during a  
14 ten-year period, the person is convicted of or is found to have  
15 committed two violations of out-of-service orders while driving a  
16 commercial motor vehicle in separate incidents;

17       (c) Not less than three years nor more than five years if, during  
18 a ten-year period, the person is convicted of or is found to have  
19 committed three or more violations of out-of-service orders while  
20 driving commercial motor vehicles in separate incidents;

21       (d) Not less than one hundred eighty days nor more than two years  
22 if the person is convicted of or is found to have committed a first  
23 violation of an out-of-service order while transporting hazardous  
24 materials, or while operating motor vehicles designed to transport  
25 sixteen or more passengers, including the driver. A person is  
26 disqualified for a period of not less than three years nor more than  
27 five years if, during a ten-year period, the person is convicted of or  
28 is found to have committed subsequent violations of out-of-service  
29 orders, in separate incidents, while transporting hazardous materials,  
30 or while operating motor vehicles designed to transport sixteen or more  
31 passengers, including the driver.

32       (7) A person is disqualified from driving a commercial motor  
33 vehicle if a report has been received by the department under RCW  
34 46.25.125 that the person has received a verified positive drug test or  
35 positive alcohol confirmation test as part of the testing program  
36 conducted under 49 C.F.R. 40. A disqualification under this subsection  
37 remains in effect until the person undergoes a drug and alcohol  
38 assessment by a substance abuse professional meeting the requirements

1 of 49 C.F.R. 40, and the person presents evidence of satisfactory  
2 participation in or successful completion of a drug or alcohol  
3 treatment and/or education program as recommended by the substance  
4 abuse professional, and until the person has met the requirements of  
5 RCW 46.25.100. The substance abuse professional shall forward a  
6 diagnostic evaluation and treatment recommendation to the department of  
7 licensing for use in determining the person's eligibility for driving  
8 a commercial motor vehicle. Persons who are disqualified under this  
9 subsection more than twice in a five-year period are disqualified for  
10 life.

11 (8)(a) A person is disqualified from driving a commercial motor  
12 vehicle for the period of time specified in (b) of this subsection if  
13 he or she is convicted of or is found to have committed one of the  
14 following six offenses at a railroad-highway grade crossing while  
15 operating a commercial motor vehicle in violation of a federal, state,  
16 or local law or regulation:

17 (i) For drivers who are not required to always stop, failing to  
18 slow down and check that the tracks are clear of an approaching train;

19 (ii) For drivers who are not required to always stop, failing to  
20 stop before reaching the crossing, if the tracks are not clear;

21 (iii) For drivers who are always required to stop, failing to stop  
22 before driving onto the crossing;

23 (iv) For all drivers, failing to have sufficient space to drive  
24 completely through the crossing without stopping;

25 (v) For all drivers, failing to obey a traffic control device or  
26 the directions of an enforcement officer at the crossing;

27 (vi) For all drivers, failing to negotiate a crossing because of  
28 insufficient undercarriage clearance.

29 (b) A person is disqualified from driving a commercial motor  
30 vehicle for a period of:

31 (i) Not less than sixty days if the driver is convicted of or is  
32 found to have committed a first violation of a railroad-highway grade  
33 crossing violation;

34 (ii) Not less than one hundred twenty days if the driver is  
35 convicted of or is found to have committed a second railroad-highway  
36 grade crossing violation in separate incidents within a three-year  
37 period;

1 (iii) Not less than one year if the driver is convicted of or is  
2 found to have committed a third or subsequent railroad-highway grade  
3 crossing violation in separate incidents within a three-year period.

4 (9) A person is disqualified from driving a commercial motor  
5 vehicle for not more than one year if a report has been received by the  
6 department from the federal motor carrier safety administration that  
7 the person's driving has been determined to constitute an imminent  
8 hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously  
9 disqualified from driving a commercial motor vehicle under this  
10 subsection and under other provisions of this chapter, or under 49  
11 C.F.R. 383.52, shall serve those disqualification periods concurrently.

12 (10) Within ten days after suspending, revoking, or canceling a  
13 commercial driver's license or disqualifying a driver from operating a  
14 commercial motor vehicle, the department shall update its records to  
15 reflect that action.

16 **Sec. 5.** RCW 46.25.120 and 2002 c 272 s 5 are each amended to read  
17 as follows:

18 (1) A person who drives a commercial motor vehicle within this  
19 state is deemed to have given consent, subject to RCW 46.61.506, to  
20 take a test or tests of that person's blood or breath for the purpose  
21 of determining that person's alcohol concentration or the presence of  
22 other drugs.

23 (2) A test or tests may be administered at the direction of a law  
24 enforcement officer, who after stopping or detaining the commercial  
25 motor vehicle driver, has probable cause to believe that driver was  
26 driving a commercial motor vehicle while having alcohol in his or her  
27 system or while under the influence of any drug.

28 (3) The law enforcement officer requesting the test under  
29 subsection (1) of this section shall warn the person requested to  
30 submit to the test that a refusal to submit will result in that person  
31 being disqualified from operating a commercial motor vehicle under RCW  
32 46.25.090.

33 (4) If the person refuses testing, or submits to a test that  
34 discloses an alcohol concentration of 0.04 or more, the law enforcement  
35 officer shall submit a sworn report to the department certifying that  
36 the test was requested pursuant to subsection (1) of this section and

1 that the person refused to submit to testing, or submitted to a test  
2 that disclosed an alcohol concentration of 0.04 or more.

3 (5) Upon receipt of the sworn report of a law enforcement officer  
4 under subsection (4) of this section, the department shall disqualify  
5 the driver from driving a commercial motor vehicle under RCW 46.25.090,  
6 subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The  
7 hearing shall be conducted in the county of the arrest. For the  
8 purposes of this section, the hearing shall cover the issues of whether  
9 a law enforcement officer had reasonable grounds to believe the person  
10 had been driving or was in actual physical control of a commercial  
11 motor vehicle within this state while having alcohol in the person's  
12 system or while under the influence of any drug, whether the person  
13 refused to submit to the test or tests upon request of the officer  
14 after having been informed that the refusal would result in the  
15 disqualification of the person from driving a commercial motor vehicle,  
16 and, if the test was administered, whether the results indicated an  
17 alcohol concentration of 0.04 percent or more. The department shall  
18 order that the disqualification of the person either be rescinded or  
19 sustained. Any decision by the department disqualifying a person from  
20 driving a commercial motor vehicle is stayed and does not take effect  
21 while a formal hearing is pending under this section or during the  
22 pendency of a subsequent appeal to superior court so long as there is  
23 no conviction for a moving violation or no finding that the person has  
24 committed a traffic infraction that is a moving violation during the  
25 pendency of the hearing and appeal. If the disqualification of the  
26 person is sustained after the hearing, the person who is disqualified  
27 may file a petition in the superior court of the county of arrest to  
28 review the final order of disqualification by the department in the  
29 manner provided in RCW 46.20.334.

30 (6) If a motor carrier or employer who is required to have a  
31 testing program under 49 C.F.R. 382 knows that a commercial driver in  
32 his or her employ has refused to submit to testing under this section  
33 and has not been disqualified from driving a commercial motor vehicle,  
34 the employer may notify law enforcement or his or her medical review  
35 officer or breath alcohol technician that the driver has refused to  
36 submit to the required testing.

37 (7) The hearing provisions of this section do not apply to those

1 persons disqualified from driving a commercial motor vehicle under RCW  
2 46.25.090(7).

3 **Sec. 6.** RCW 46.52.101 and 1999 c 86 s 4 are each amended to read  
4 as follows:

5 (1) Every district court, municipal court, and clerk of a superior  
6 court shall keep or cause to be kept a record of every traffic  
7 complaint, traffic citation, notice of infraction, or other legal form  
8 of traffic charge deposited with or presented to the court or a traffic  
9 violations bureau, and shall keep a record of every official action by  
10 the court or its traffic violations bureau regarding the charge,  
11 including but not limited to a record of every conviction, forfeiture  
12 of bail, judgment of acquittal, finding that a traffic infraction has  
13 been committed, dismissal of a notice of infraction, and the amount of  
14 fine, forfeiture, or penalty resulting from every traffic charge  
15 deposited with or presented to the court or traffic violations bureau.  
16 In the case of a record of a conviction for a violation of RCW  
17 46.61.502 or 46.61.504, and notwithstanding any other provision of law,  
18 the court shall maintain the record permanently.

19 (2) (~~Within fourteen days~~) After the conviction, forfeiture of  
20 bail, or finding that a traffic infraction was committed for a  
21 violation of any provisions of this chapter or other law regulating the  
22 operating of vehicles on highways, the clerk of the court in which the  
23 conviction was had, bail was forfeited, or the finding of commission  
24 was made shall prepare and immediately forward to the director of  
25 licensing at Olympia an abstract of the court record covering the case.  
26 Report need not be made of a finding involving the illegal parking or  
27 standing of a vehicle.

28 (3) The abstract must be made upon a form or forms furnished by the  
29 director and must include the name and address of the party charged,  
30 the number, if any, of the party's driver's or chauffeur's license, the  
31 registration number of the vehicle involved if required by the  
32 director, the nature of the offense, the date of hearing, the plea, the  
33 judgment, whether the offense was an alcohol-related offense as defined  
34 in RCW 46.01.260(2), whether the incident that gave rise to the offense  
35 charged resulted in a fatality, whether bail was forfeited, whether the  
36 determination that a traffic infraction was committed was contested,  
37 and the amount of the fine, forfeiture, or penalty, as the case may be.

1 (4) In courts where the judicial information system or other secure  
2 method of electronic transfer of information has been implemented  
3 between the court and the department of licensing, the court may  
4 electronically provide the information required in subsections (2),  
5 (3), and (5) of this section.

6 (5) The superior court clerk shall also forward a like report to  
7 the director upon the conviction of a person of a felony in the  
8 commission of which a vehicle was used.

9 (6) The director shall keep all abstracts received under this  
10 section at the director's office in Olympia. The abstracts must be  
11 open to public inspection during reasonable business hours.

12 (7) The officer, prosecuting attorney, or city attorney signing the  
13 charge or information in a case involving a charge of driving under the  
14 influence of intoxicating liquor or any drug shall immediately request  
15 from the director an abstract of convictions and forfeitures. The  
16 director shall furnish the requested abstract.

17 **Sec. 7.** RCW 46.63.070 and 2004 c 187 s 10 are each amended to read  
18 as follows:

19 (1) Any person who receives a notice of traffic infraction shall  
20 respond to such notice as provided in this section within fifteen days  
21 of the date of the notice.

22 (2) If the person determined to have committed the infraction does  
23 not contest the determination the person shall respond by completing  
24 the appropriate portion of the notice of infraction and submitting it,  
25 either by mail or in person, to the court specified on the notice. A  
26 check or money order in the amount of the penalty prescribed for the  
27 infraction must be submitted with the response. When a response which  
28 does not contest the determination is received, an appropriate order  
29 shall be entered in the court's records, and a record of the response  
30 and order shall be furnished to the department in accordance with RCW  
31 46.20.270.

32 (3) If the person determined to have committed the infraction  
33 wishes to contest the determination the person shall respond by  
34 completing the portion of the notice of infraction requesting a hearing  
35 and submitting it, either by mail or in person, to the court specified  
36 on the notice. The court shall notify the person in writing of the

1 time, place, and date of the hearing, and that date shall not be sooner  
2 than seven days from the date of the notice, except by agreement.

3 (4) If the person determined to have committed the infraction does  
4 not contest the determination but wishes to explain mitigating  
5 circumstances surrounding the infraction the person shall respond by  
6 completing the portion of the notice of infraction requesting a hearing  
7 for that purpose and submitting it, either by mail or in person, to the  
8 court specified on the notice. The court shall notify the person in  
9 writing of the time, place, and date of the hearing.

10 (5)(a) Except as provided in (b) and (c) of this subsection, in  
11 hearings conducted pursuant to subsections (3) and (4) of this section,  
12 the court may defer findings, or in a hearing to explain mitigating  
13 circumstances may defer entry of its order, for up to one year and  
14 impose conditions upon the defendant the court deems appropriate. Upon  
15 deferring findings, the court may assess costs as the court deems  
16 appropriate for administrative processing. If at the end of the  
17 deferral period the defendant has met all conditions and has not been  
18 determined to have committed another traffic infraction, the court may  
19 dismiss the infraction.

20 (b) A person may not receive more than one deferral within a seven-  
21 year period for traffic infractions for moving violations and more than  
22 one deferral within a seven-year period for traffic infractions for  
23 nonmoving violations.

24 (c) A person who is the holder of a commercial driver's license or  
25 who was operating a commercial motor vehicle at the time of the  
26 violation may not receive a deferral under this section.

27 (6) If any person issued a notice of traffic infraction:

28 (a) Fails to respond to the notice of traffic infraction as  
29 provided in subsection (2) of this section; or

30 (b) Fails to appear at a hearing requested pursuant to subsection  
31 (3) or (4) of this section;

32 the court shall enter an appropriate order assessing the monetary  
33 penalty prescribed for the traffic infraction and any other penalty  
34 authorized by this chapter and shall notify the department in  
35 accordance with RCW 46.20.270, of the failure to respond to the notice  
36 of infraction or to appear at a requested hearing.

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