

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1304

60th Legislature
2007 Regular Session

Passed by the House April 14, 2007
Yeas 82 Nays 11

Speaker of the House of Representatives

Passed by the Senate April 4, 2007
Yeas 42 Nays 4

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1304** 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**

SUBSTITUTE HOUSE BILL 1304

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Kagi, Clibborn, Jarrett, Flannigan, McCoy, Darneille, Lovick, Campbell, Schual-Berke, Kenney, Morrell and Roberts)

READ FIRST TIME 02/19/07.

1 AN ACT Relating to commercial motor vehicle carriers; amending RCW
2 46.04.480, 46.32.010, 46.32.020, 46.32.040, 46.32.080, 46.32.090,
3 46.32.100, 46.87.294, 46.87.296, and 82.38.100; reenacting and amending
4 RCW 46.16.160 and 46.44.105; adding new sections to chapter 46.16 RCW;
5 adding a new section to chapter 46.32 RCW; creating new sections;
6 prescribing penalties; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds and declares that it
9 is the policy of the state of Washington to prevent the loss of human
10 lives and the loss of property and vehicles, and to protect the
11 traveling environment of the state of Washington through sound and
12 consistent regulatory provisions for interstate and intrastate motor
13 carriers.

14 The legislature further finds and declares that it is a policy of
15 the state of Washington to require commercial motor vehicles operating
16 on state roadways to comply with rigorous federal and state safety
17 regulations. The legislature also finds that intrastate and interstate
18 commercial motor vehicles should comply with consistent state and
19 federal commercial vehicle regulations.

1 NEW SECTION. **Sec. 2.** This act may be known and cited as the Tony
2 Qamar and Daniel Johnson act.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.16 RCW
4 to read as follows:

5 For the purposes of this chapter unless the context clearly
6 requires otherwise:

7 (1) "Commercial motor vehicle," for the purposes of requiring a
8 department of transportation number, means the same as defined in RCW
9 46.25.010(6), or a motor vehicle used in commerce when the motor
10 vehicle: (a) Has a gross vehicle weight rating of 11,794 kilograms or
11 more (26,001 pounds or more) inclusive of a towed unit of a gross
12 vehicle weight rating of more than 4,536 kilograms (10,000 pounds or
13 more); (b) has a gross vehicle weight rating of 11,794 kilograms or
14 more (26,001 pounds or more); or (c) is used in the transportation of
15 hazardous materials, as defined in RCW 46.25.010(13);

16 (2) "Department" means the department of licensing;

17 (3) "Department of transportation number" means a department of
18 transportation number from the federal motor carrier safety
19 administration;

20 (4) "Interstate commercial motor vehicle" means a commercial
21 vehicle that operates in more than one state;

22 (5) "Intrastate commercial motor vehicle" means a commercial
23 vehicle that operates exclusively within the state of Washington;

24 (6) "Motor carrier" means a person or entity who has been issued a
25 department of transportation number and who owns a commercial motor
26 vehicle.

27 **Sec. 4.** RCW 46.04.480 and 1995 c 332 s 10 are each amended to read
28 as follows:

29 "Revoke," in all its forms, means the invalidation for a period of
30 one calendar year and thereafter until reissue(~~(;—PROVIDED, That)~~).
31 However, under the provisions of RCW 46.20.285, 46.20.311, 46.20.265,
32 or 46.61.5055, and chapters 46.32 and 46.65 RCW, the invalidation may
33 last for a period other than one calendar year.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.16 RCW
35 to read as follows:

1 (1) The department shall refuse to register a commercial motor
2 vehicle that is owned by a motor carrier subject to RCW 46.32.080,
3 46.87.294, and 46.87.296 upon notification to the department by the
4 Washington state patrol or the federal motor carrier safety
5 administration that an out-of-service order has been placed on the
6 department of transportation number issued to the motor carrier.

7 (2) The department shall revoke the vehicle registration of all
8 commercial motor vehicles that are owned by a motor carrier subject to
9 RCW 46.32.080, upon notification to the department by the Washington
10 state patrol or the federal motor carrier safety administration that an
11 out-of-service order has been placed on the department of
12 transportation number issued to the motor carrier. The revocation must
13 remain in effect until the department has been notified by the
14 Washington state patrol that the out-of-service order has been
15 rescinded.

16 (3) By June 30, 2009, any original or renewal application for
17 registration of a commercial motor vehicle that is owned by a motor
18 carrier subject to RCW 46.32.080 that is submitted to the department
19 must be accompanied by:

20 (a) The department of transportation number issued to the motor
21 carrier; and

22 (b) The federal taxpayer identification number of the motor
23 carrier.

24 (4) Beginning on June 30, 2012, the requirements of subsection (3)
25 of this section apply to any original or renewal application that is
26 submitted to the department for registration of a commercial motor
27 vehicle that is owned by a motor carrier subject to RCW 46.32.080, and
28 that has a gross vehicle weight rating of 7,258 kilograms (16,001
29 pounds) or more.

30 **Sec. 6.** RCW 46.16.160 and 2002 c 352 s 8 and 2002 c 168 s 5 are
31 each reenacted and amended to read as follows:

32 (1) The owner of a vehicle which under reciprocal relations with
33 another jurisdiction would be required to obtain a license registration
34 in this state or an unlicensed vehicle which would be required to
35 obtain a license registration for operation on public highways of this
36 state may, as an alternative to such license registration, secure and
37 operate such vehicle under authority of a trip permit issued by this

1 state in lieu of a Washington certificate of license registration, and
2 licensed gross weight if applicable. The licensed gross weight may not
3 exceed eighty thousand pounds for a combination of vehicles nor forty
4 thousand pounds for a single unit vehicle with three or more axles.
5 Trip permits are required for movement of mobile homes or park model
6 trailers and may only be issued if property taxes are paid in full.
7 For the purpose of this section, a vehicle is considered unlicensed if
8 the licensed gross weight currently in effect for the vehicle or
9 combination of vehicles is not adequate for the load being carried.
10 Vehicles registered under RCW 46.16.135 shall not be operated under
11 authority of trip permits in lieu of further registration within the
12 same registration year.

13 (2) Each trip permit shall authorize the operation of a single
14 vehicle at the maximum legal weight limit for such vehicle for a period
15 of three consecutive days commencing with the day of first use. No
16 more than three such permits may be used for any one vehicle in any
17 period of thirty consecutive days, except that in the case of a
18 recreational vehicle as defined in RCW 43.22.335, no more than two trip
19 permits may be used for any one vehicle in a one-year period. Every
20 permit shall identify, as the department may require, the vehicle for
21 which it is issued and shall be completed in its entirety and signed by
22 the operator before operation of the vehicle on the public highways of
23 this state. Correction of data on the permit such as dates, license
24 number, or vehicle identification number invalidates the permit. The
25 trip permit shall be displayed on the vehicle to which it is issued as
26 prescribed by the department.

27 (3) Vehicles operating under authority of trip permits are subject
28 to all laws, rules, and regulations affecting the operation of like
29 vehicles in this state.

30 (4) Prorate operators operating commercial vehicles on trip permits
31 in Washington shall retain the customer copy of such permit for four
32 years.

33 (5) Trip permits may be obtained from field offices of the
34 department of transportation, (~~Washington state patrol,~~) department
35 of licensing, or other agents appointed by the department. The fee for
36 each trip permit is (~~fifteen~~) twenty dollars. Five dollars from
37 every twenty-dollar trip permit fee shall be deposited into the state
38 patrol highway account and must be used for commercial motor vehicle

1 inspections. For each permit issued, the fee includes a filing fee as
2 provided by RCW 46.01.140 and an excise tax of one dollar. The
3 remaining portion of the trip permit fee must be deposited to the
4 credit of the motor vehicle fund as an administrative fee. If the
5 filing fee amount of three dollars as prescribed in RCW 46.01.140 is
6 increased or decreased after July 1, 2002, the administrative fee must
7 be increased or decreased by the same amount so that the total trip
8 permit would be adjusted equally to compensate. These fees and taxes
9 are in lieu of all other vehicle license fees and taxes. No exchange,
10 credits, or refunds may be given for trip permits after they have been
11 purchased.

12 (6) The department may appoint county auditors or businesses as
13 agents for the purpose of selling trip permits to the public. County
14 auditors or businesses so appointed may retain the filing fee collected
15 for each trip permit to defray expenses incurred in handling and
16 selling the permits.

17 (7) Commercial motor vehicles that are owned by a motor carrier
18 subject to RCW 46.32.080, must not be operated on trip permits
19 authorized by RCW 46.16.160 or 46.16.162 if the motor carrier's
20 department of transportation number has been placed out of service by
21 the Washington state patrol. A violation of or a failure to comply
22 with this subsection is a gross misdemeanor, subject to a minimum
23 monetary penalty of two thousand five hundred dollars for the first
24 violation and five thousand dollars for each subsequent violation.

25 (8) Except as provided in subsection (7) of this section, a
26 violation of or a failure to comply with any provision of this section
27 is a gross misdemeanor.

28 ((+8)) (9) The department of licensing may adopt rules as it deems
29 necessary to administer this section.

30 ((+9)) (10) A surcharge of five dollars is imposed on the issuance
31 of trip permits. The portion of the surcharge paid by motor carriers
32 must be deposited in the motor vehicle fund for the purpose of
33 supporting vehicle weigh stations, weigh-in-motion programs, and the
34 commercial vehicle information systems and networks program. The
35 remaining portion of the surcharge must be deposited in the motor
36 vehicle fund for the purpose of supporting congestion relief programs.
37 All other administrative fees and excise taxes collected under the
38 provisions of this chapter shall be forwarded by the department with

1 proper identifying detailed report to the state treasurer who shall
2 deposit the administrative fees to the credit of the motor vehicle fund
3 and the excise taxes to the credit of the general fund. Filing fees
4 will be forwarded and reported to the state treasurer by the department
5 as prescribed in RCW 46.01.140.

6 **Sec. 7.** RCW 46.32.010 and 1993 c 403 s 2 are each amended to read
7 as follows:

8 (1) The chief of the Washington state patrol may operate, maintain,
9 or designate, throughout the state of Washington, stations for the
10 inspection of commercial motor vehicles, school buses, and private
11 carrier buses, with respect to vehicle equipment, drivers'
12 qualifications, and hours of service and to set reasonable times when
13 inspection of vehicles shall be performed.

14 (2) The state patrol may inspect a commercial motor vehicle while
15 the vehicle is operating on the public highways of this state with
16 respect to vehicle equipment, hours of service, and driver
17 qualifications.

18 (3) It is unlawful for any vehicle required to be inspected to be
19 operated over the public highways of this state unless and until it has
20 been approved periodically as to equipment.

21 (4) Inspections shall be performed by a responsible employee of the
22 chief of the Washington state patrol, who shall be duly authorized and
23 who shall have authority to secure and withhold, with written notice to
24 the director of licensing, the certificate of license registration and
25 license plates of any vehicle found to be defective in equipment so as
26 to be unsafe or unfit to be operated upon the highways of this state,
27 and it shall be unlawful for any person to operate (~~such~~) a vehicle
28 placed out of service by an officer unless and until it has been placed
29 in a condition satisfactory to pass a subsequent equipment inspection.
30 The (~~police~~) officer in charge of such vehicle equipment inspection
31 shall grant to the operator of such defective vehicle the privilege to
32 move such vehicle to a place for repair under such restrictions as may
33 be reasonably necessary.

34 (5) In the event any insignia, sticker, or other marker is adopted
35 to be displayed upon vehicles in connection with the inspection of
36 vehicle equipment, it shall be displayed as required by the rules of

1 the chief of the Washington state patrol, and it is a traffic
2 infraction for any person to mutilate, destroy, remove, or otherwise
3 interfere with the display thereof.

4 (6) It is a traffic infraction for any person to refuse to have his
5 motor vehicle examined as required by the chief of the Washington state
6 patrol, or, after having had it examined, to refuse to place an
7 insignia, sticker, or other marker, if issued, upon the vehicle, or
8 fraudulently to obtain any such insignia, sticker, or other marker, or
9 to refuse to place his motor vehicle in proper condition after having
10 had it examined, or in any manner, to fail to conform to the provisions
11 of this chapter.

12 (7) It is a traffic infraction for any person to perform false or
13 improvised repairs, or repairs in any manner not in accordance with
14 acceptable and customary repair practices, upon a motor vehicle.

15 **Sec. 8.** RCW 46.32.020 and 1993 c 403 s 3 are each amended to read
16 as follows:

17 (1)(a) The chief of the Washington state patrol may adopt
18 reasonable rules regarding types of vehicles to be inspected,
19 inspection criteria, times for the inspection of vehicle equipment,
20 drivers' qualifications, hours of service, and all other matters with
21 respect to the conduct of vehicle equipment and driver inspections.

22 (b) The chief of the Washington state patrol shall prepare and
23 furnish such stickers, tags, record and report forms, stationery, and
24 other supplies as shall be deemed necessary. The chief of the
25 Washington state patrol is empowered to appoint and employ such
26 assistants as he may consider necessary and to fix hours of employment
27 and compensation.

28 (2) The chief of the Washington state patrol shall use data-driven
29 analysis to prioritize for inspections and compliance reviews those
30 motor carriers whose relative safety fitness identify them as higher
31 risk motor carriers.

32 **Sec. 9.** RCW 46.32.040 and 1986 c 123 s 3 are each amended to read
33 as follows:

34 (1) Except as provided in subsection (2) of this section, vehicle
35 equipment inspection shall be at such intervals as required by the
36 chief of the Washington state patrol and shall be made without charge.

1 (2) When a motor carrier is identified as a high-risk carrier
2 through a data driven analysis due to formerly or recently identified
3 deficiencies or violations, the fee for each motor carrier compliance
4 review follow-up to ensure those deficiencies or violations have been
5 corrected is two hundred fifty dollars. The fee shall be collected by
6 the Washington state patrol and shall be deposited into the state
7 patrol highway account. This fee applies to motor carriers already
8 identified as a high-risk carrier or a motor carrier that has been
9 reclassified as a high-risk carrier due to recently identified
10 deficiencies or violations.

11 **Sec. 10.** RCW 46.32.080 and 1995 c 272 s 1 are each amended to read
12 as follows:

13 (1) The Washington state patrol is responsible for enforcement of
14 safety requirements for commercial motor vehicles~~((7))~~ including, but
15 not limited to ~~((terminal))~~, safety audits and compliance reviews.
16 Those motor carriers that have ~~((terminal))~~ operations in this state
17 are subject to the patrol's ~~((terminal))~~ safety audits and compliance
18 review programs. Compliance reviews may result in the initiation of an
19 enforcement action, which may include monetary penalties.

20 ~~((This section does not apply to:~~
21 ~~(a))~~) Motor vehicles owned and operated by farmers in the
22 transportation of their own farm, orchard, or dairy products, including
23 livestock and plant or animal wastes, from point of production to
24 market or disposal~~((7))~~, or supplies or commodities to be used on the
25 farm, orchard, or dairy~~((7~~

26 ~~(b) Commercial motor carriers subject to economic regulation under~~
27 ~~chapters 81.68 (auto transportation companies), 81.70 (passenger~~
28 ~~charter carriers), 81.77 (solid waste collection companies), 81.80~~
29 ~~(motor freight carriers), and 81.90 (limousine charter carriers) RCW;~~
30 ~~and~~

31 ~~(c) Vehicles exempted from registration by RCW 46.16.020.))~~, must
32 have a department of transportation number, as defined in section 3 of
33 this act, but are exempt from safety audits and compliance reviews.

34 (3) All records and documents required of motor carriers with
35 operations in this state must be available for review and inspection
36 during normal business hours. Duly authorized agents of the state
37 patrol conducting safety audits and compliance reviews may enter the

1 motor carrier's place of business, or any location where records or
2 equipment are located, at reasonable times and without advanced notice.
3 Motor carriers who do not permit duly authorized agents to enter their
4 place of business, or any location where records or equipment are
5 located, for safety audits and compliance reviews are subject to
6 enforcement action, including a monetary penalty.

7 (4)(a) All motor carriers with a commercial motor vehicle, as
8 defined in section 3 of this act, that operate in this state must apply
9 for a department of transportation number, as defined in section 3 of
10 this act, by January 1, 2008.

11 (b) All motor carriers operating in this state who (i) have not
12 applied under (a) of this subsection for a department of transportation
13 number, as defined in section 3 of this act, and (ii) have a commercial
14 motor vehicle that has a gross vehicle weight rating of 7,258 kilograms
15 (16,001 pounds) or more, must apply for a department of transportation
16 number by January 1, 2011.

17 (c) The state patrol may deny an application if the motor carrier
18 does not meet the requirements and standards under this chapter. The
19 state patrol shall not issue a department of transportation number to
20 a motor carrier who at the time of application has been placed out of
21 service by the federal motor carrier safety administration. Commercial
22 motor vehicles must be marked as prescribed by the state patrol. Those
23 motor carriers with a current United States department of
24 transportation number are exempt from applying for a department of
25 transportation number.

26 (d) The state patrol may (i) place a motor carrier out of service
27 or (ii) refuse to issue or recognize as valid a department of
28 transportation number to a motor carrier who: (A) Formerly held a
29 department of transportation number that was placed out of service for
30 cause, and where cause has not been removed; (B) is a subterfuge for
31 the real party in interest whose department of transportation number
32 was placed out of service for cause, and where cause has not been
33 removed; (C) as an individual licensee, or officer, director, owner, or
34 managing employee of a nonindividual licensee, had a department of
35 transportation number and was placed out of service for cause, and
36 where cause has not been removed; or (D) has an unsatisfied debt to the
37 state assessed under this chapter.

1 (e) Upon a finding by the chief of the state patrol or the chief's
2 designee that a motor carrier is an imminent hazard or danger to the
3 public health, safety, or welfare, the state patrol shall notify the
4 department, and the department shall revoke the registrations for all
5 commercial motor vehicles that are owned by the motor carrier subject
6 to RCW 46.32.080. In determining whether a motor carrier is an
7 imminent hazard or danger to the public health, safety, or welfare, the
8 chief or the chief's designee shall consider safety factors.

9 **Sec. 11.** RCW 46.32.090 and 1996 c 86 s 1 are each amended to read
10 as follows:

11 The department shall collect a fee of (~~ten~~) sixteen dollars, in
12 addition to all other fees and taxes, for each motor vehicle base
13 plated in the state of Washington that is subject to highway
14 inspections and (~~terminal audits~~) compliance reviews under RCW
15 46.32.080, at the time of registration and renewal of registration
16 under chapter 46.16 or 46.87 RCW, or the international registration
17 plan if (~~based [base]~~) base plated in a foreign jurisdiction. The
18 (~~ten-dollar~~) fee must be apportioned for those vehicles operating
19 interstate and registered under the international registration plan.
20 This fee does not apply to nonmotor-powered vehicles, including
21 trailers. Refunds will not be provided for fees paid under this
22 section when the vehicle is no longer subject to RCW 46.32.080. The
23 department may deduct an amount equal to the cost of administering the
24 program. All remaining fees shall be deposited with the state
25 treasurer and credited to the state patrol highway account of the motor
26 vehicle fund.

27 **Sec. 12.** RCW 46.32.100 and 2005 c 444 s 1 are each amended to read
28 as follows:

29 (1)(a) In addition to all other penalties provided by law, a
30 commercial motor vehicle that is subject to (~~terminal safety audits~~)
31 compliance reviews under this chapter and an officer, agent, or
32 employee of a company operating a commercial motor vehicle who violates
33 or who procures, aids, or abets in the violation of this title or any
34 order or rule of the state patrol is liable for a penalty of one
35 hundred dollars for each violation, except for each violation of 49
36 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49

1 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec.
2 396.9(c)(2), moving a vehicle placed out of service before the out of
3 service defects have been satisfactorily repaired, for which the person
4 is liable for a penalty of five hundred dollars. The driver of a
5 commercial motor vehicle who violates an out-of-service order is liable
6 for a penalty of at least one thousand one hundred dollars but not more
7 than two thousand seven hundred fifty dollars. An employer who allows
8 a driver to operate a commercial motor vehicle when there is an out-of-
9 service order is liable for a penalty of at least two thousand seven
10 hundred fifty dollars but not more than eleven thousand dollars. Each
11 violation is a separate and distinct offense, and in case of a
12 continuing violation every day's continuance is a separate and distinct
13 violation.

14 (b) In addition to all other penalties provided by law, any motor
15 carrier, company, or any officer or agent of a motor carrier or company
16 operating a commercial motor vehicle subject to compliance reviews
17 under this chapter who refuses entry or to make the required records,
18 documents, and vehicles available to a duly authorized agent of the
19 state patrol is liable for a penalty of at least five thousand dollars
20 as well as an out-of-service order being placed on the department of
21 transportation number, as defined in section 3 of this act, and vehicle
22 registration to operate. Each violation is a separate and distinct
23 offense, and in case of a continuing violation every day's continuance
24 is a separate and distinct violation.

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

31 (2) The Washington state patrol may place an out-of-service order
32 on a department of transportation number, as defined in section 3 of
33 this act, for violations of this chapter or for nonpayment of any
34 monetary penalties assessed by the state patrol or the utilities and
35 transportation commission, as a result of compliance reviews, or for
36 violations of cease and desist orders issued by the utilities and
37 transportation commission. The state patrol shall notify the
38 department of licensing when an out-of-service order has been placed on

1 a motor carrier's department of transportation number. The state
2 patrol shall notify the motor carrier when there has been an out-of-
3 service order placed on the motor carrier's department of
4 transportation number and the vehicle registrations have been revoked
5 by sending a notice by first class mail using the last known address
6 for the registered or legal owner or owners, and recording the
7 transmittal on an affidavit of first class mail. Notices under this
8 section fulfill the requirements of RCW 46.12.160. Motor carriers may
9 not be eligible for a new department of transportation number, vehicle
10 registration, or temporary permits to operate unless the violations
11 that resulted in the out-of-service order have been corrected.

12 ((The)) (3) Any penalty provided in this section is due and payable
13 when the person incurring it receives a notice in writing from the
14 state patrol describing the violation and advising the person that the
15 penalty is due. ~~((The patrol may, upon written application for review,~~
16 ~~received within fifteen days, remit or mitigate a penalty provided for~~
17 ~~in this section or discontinue a prosecution to recover the penalty~~
18 ~~upon such terms it deems proper and may ascertain the facts upon all~~
19 ~~such applications in such manner and under such rules as it deems~~
20 ~~proper.))~~ If the amount of the penalty is not paid to the state patrol
21 within ~~((fifteen))~~ twenty days after the later of (a) receipt of the
22 notice imposing the penalty, or ~~((application for remission or~~
23 ~~mitigation has not been made within fifteen days after the violator has~~
24 ~~received notice of the))~~ (b) disposition of ~~((the application))~~ an
25 adjudicative proceeding regarding the penalty, the state patrol may
26 commence an adjudicative proceeding under chapter 34.05 RCW in the name
27 of the state of Washington to confirm the violation and recover the
28 penalty. In all such proceedings the procedure and rules of evidence
29 are as specified in chapter 34.05 RCW except as otherwise provided in
30 this chapter. All penalties recovered under this section shall be paid
31 into the state treasury and credited to the state patrol highway
32 account of the motor vehicle fund.

33 **Sec. 13.** RCW 46.44.105 and 2006 c 297 s 1 and 2006 c 50 s 4 are
34 each reenacted and amended to read as follows:

35 (1) Violation of any of the provisions of this chapter is a traffic
36 infraction, and upon the first finding thereof shall be assessed a
37 basic penalty of not less than fifty dollars; and upon a second finding

1 thereof shall be assessed a basic penalty of not less than seventy-five
2 dollars; and upon a third or subsequent finding shall be assessed a
3 basic penalty of not less than one hundred dollars.

4 (2) In addition to the penalties imposed in subsection (1) of this
5 section, any person violating RCW 46.44.041, 46.44.042, 46.44.047,
6 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each
7 pound overweight, as follows:

8 (a) One pound through four thousand pounds overweight is three
9 cents for each pound;

10 (b) Four thousand one pounds through ten thousand pounds overweight
11 is one hundred twenty dollars plus twelve cents per pound for each
12 additional pound over four thousand pounds overweight;

13 (c) Ten thousand one pounds through fifteen thousand pounds
14 overweight is eight hundred forty dollars plus sixteen cents per pound
15 for each additional pound over ten thousand pounds overweight;

16 (d) Fifteen thousand one pounds through twenty thousand pounds
17 overweight is one thousand six hundred forty dollars plus twenty cents
18 per pound for each additional pound over fifteen thousand pounds
19 overweight;

20 (e) Twenty thousand one pounds and more is two thousand six hundred
21 forty dollars plus thirty cents per pound for each additional pound
22 over twenty thousand pounds overweight.

23 Upon a first violation in any calendar year, the court may suspend
24 the penalty for five hundred pounds of excess weight for each axle on
25 any vehicle or combination of vehicles, not to exceed a two thousand
26 pound suspension. In no case may the basic penalty assessed in
27 subsection (1) of this section or the additional penalty assessed in
28 subsection (2) of this section, except as provided for the first
29 violation, be suspended.

30 ~~(3) ((Whenever any vehicle or combination of vehicles is involved~~
31 ~~in two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,~~
32 ~~46.44.091, or 46.44.095 during any twelve month period, the court may~~
33 ~~suspend the certificate of license registration of the vehicle or~~
34 ~~combination of vehicles for not less than thirty days. Upon a third or~~
35 ~~succeeding violation of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090,~~
36 ~~46.44.091, or 46.44.095, during any twelve month period or a third or~~
37 ~~succeeding out of service violation, as defined in the code of federal~~
38 ~~regulations as of June 7, 2006, during any twelve month period, the~~

1 ~~court shall suspend the certificate of license registration for not~~
2 ~~less than thirty days. Whenever the certificate of license~~
3 ~~registration is suspended, the court shall secure such certificate and~~
4 ~~immediately forward the same to the director with information~~
5 ~~concerning the suspension.~~

6 (4)) Any person found to have violated any posted limitations of
7 a highway or section of highway shall be assessed a monetary penalty of
8 not less than one hundred and fifty dollars, and the court shall in
9 addition thereto upon second violation within a twelve-month period
10 involving the same power unit, suspend the certificate of license
11 registration for not less than thirty days.

12 ((5)) (4) It is unlawful for the driver of a vehicle to fail or
13 refuse to stop and submit the vehicle and load to a weighing, or to
14 fail or refuse, when directed by an officer upon a weighing of the
15 vehicle to stop the vehicle and otherwise comply with the provisions of
16 this section. It is unlawful for a driver of a commercial motor
17 vehicle as defined in RCW 46.32.005, other than the driver of a bus as
18 defined in RCW 46.32.005(3) or a vehicle with a gross vehicle weight
19 rating or gross combination weight rating of 7,257 kilograms or less
20 (16,000 pounds or less) and not transporting hazardous materials in
21 accordance with RCW 46.32.005(4), to fail or refuse to stop at a
22 weighing station when proper traffic control signs indicate scales are
23 open. However, unladen tow trucks regardless of weight and farm
24 vehicles carrying farm produce with a gross vehicle weight rating or
25 gross combination weight rating of 11,794 kilograms or less (26,000
26 pounds or less) may fail or refuse to stop at a weighing station when
27 proper traffic control signs indicate scales are open.

28 Any police officer is authorized to require the driver of any
29 vehicle or combination of vehicles to stop and submit to a weighing
30 either by means of a portable or stationary scale and may require that
31 the vehicle be driven to the nearest public scale. Whenever a police
32 officer, upon weighing a vehicle and load, determines that the weight
33 is unlawful, the officer may require the driver to stop the vehicle in
34 a suitable location and remain standing until such portion of the load
35 is removed as may be necessary to reduce the gross weight of the
36 vehicle to the limit permitted by law. If the vehicle is loaded with
37 grain or other perishable commodities, the driver shall be permitted to
38 proceed without removing any of the load, unless the gross weight of

1 the vehicle and load exceeds by more than ten percent the limit
2 permitted by this chapter. The owner or operator of the vehicle shall
3 care for all materials unloaded at the risk of the owner or operator.

4 Any vehicle whose driver or owner represents that the vehicle is
5 disabled or otherwise unable to proceed to a weighing location shall
6 have its load sealed or otherwise marked by any police officer. The
7 owner or driver shall be directed that upon completion of repairs, the
8 vehicle shall submit to weighing with the load and markings and/or seal
9 intact and undisturbed. Failure to report for weighing, appearing for
10 weighing with the seal broken or the markings disturbed, or removal of
11 any cargo prior to weighing is unlawful. Any person so convicted shall
12 be fined one thousand dollars, and in addition the certificate of
13 license registration shall be suspended for not less than thirty days.

14 ~~((+6))~~ (5) Any other provision of law to the contrary
15 notwithstanding, district courts having venue have concurrent
16 jurisdiction with the superior courts for the imposition of any
17 penalties authorized under this section.

18 ~~((+7))~~ (6) For the purpose of determining additional penalties as
19 provided by subsection (2) of this section, "overweight" means the
20 poundage in excess of the maximum allowable gross weight or axle/axle
21 grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047,
22 46.44.091, and 46.44.095.

23 ~~((+8))~~ (7) The penalties provided in subsections (1) and (2) of
24 this section shall be remitted as provided in chapter 3.62 RCW or RCW
25 10.82.070. For the purpose of computing the basic penalties and
26 additional penalties to be imposed under subsections (1) and (2) of
27 this section, the convictions shall be on the same vehicle or
28 combination of vehicles within a twelve-month period under the same
29 ownership.

30 ~~((+9))~~ (8) Any state patrol officer or any weight control officer
31 who finds any person operating a vehicle or a combination of vehicles
32 in violation of the conditions of a permit issued under RCW 46.44.047,
33 46.44.090, and 46.44.095 may confiscate the permit and forward it to
34 the state department of transportation which may return it to the
35 permittee or revoke, cancel, or suspend it without refund. The
36 department of transportation shall keep a record of all action taken
37 upon permits so confiscated, and if a permit is returned to the
38 permittee the action taken by the department of transportation shall be

1 endorsed thereon. Any permittee whose permit is suspended or revoked
2 may upon request receive a hearing before the department of
3 transportation or person designated by that department. After the
4 hearing the department of transportation may reinstate any permit or
5 revise its previous action.

6 Every permit issued as provided for in this chapter shall be
7 carried in the vehicle or combination of vehicles to which it refers
8 and shall be open to inspection by any law enforcement officer or
9 authorized agent of any authority granting such a permit.

10 Upon the third finding within a calendar year of a violation of the
11 requirements and conditions of a permit issued under RCW 46.44.095, the
12 permit shall be canceled, and the canceled permit shall be immediately
13 transmitted by the court or the arresting officer to the department of
14 transportation. The vehicle covered by the canceled permit is not
15 eligible for a new permit for a period of thirty days.

16 ~~((+10+))~~ (9) For the purposes of determining gross weights the
17 actual scale weight taken by the arresting officer is prima facie
18 evidence of the total gross weight.

19 ~~((+11+))~~ (10) It is a traffic infraction to direct the loading of
20 a vehicle with knowledge that it violates the requirements in RCW
21 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and
22 that it is to be operated on the public highways of this state.

23 ~~((+12+))~~ (11) The chief of the state patrol, with the advice of the
24 department, may adopt reasonable rules to aid in the enforcement of
25 this section.

26 NEW SECTION. **Sec. 14.** A new section is added to chapter 46.32 RCW
27 to read as follows:

28 The Washington state patrol, in consultation with the department of
29 licensing, shall adopt rules consistent with this chapter to regulate
30 vehicle safety requirements for motor carriers who own, control,
31 manage, or operate a commercial motor vehicle within this state.
32 Except as otherwise provided in this chapter, the rules adopted by the
33 state patrol under this section must be as rigorous as federal
34 regulations governing certain interstate motor carriers at 49 C.F.R.
35 Parts 40 and 380 through 397, which cover the areas of commercial motor
36 carrier driver training, controlled substance and alcohol use and
37 testing, compliance with the federal driver's license requirements and

1 penalties, vehicle equipment and safety standards, hazardous material
2 practices, financial responsibility, driver qualifications, hours of
3 service, vehicle inspection and corrective actions, and assessed
4 penalties for noncompliance. The state patrol shall amend these rules
5 periodically to maintain, to the extent permissible under this chapter,
6 standards as rigorous as the federal regulations governing certain
7 interstate motor carriers. The state patrol shall submit a report to
8 the legislature by December 31st of each year that outlines new rules
9 or rule changes and explains how the state rules compare to the federal
10 regulations.

11 **Sec. 15.** RCW 46.87.294 and 2003 c 85 s 3 are each amended to read
12 as follows:

13 The department shall refuse to register a vehicle under this
14 chapter if the registrant or motor carrier responsible for the safety
15 of the vehicle has been prohibited under federal law from operating by
16 the federal motor carrier safety administration. The department shall
17 not register a vehicle if the Washington state patrol has placed an
18 out-of-service order on the vehicle's department of transportation
19 number, as defined in section 3 of this act.

20 **Sec. 16.** RCW 46.87.296 and 2003 c 85 s 4 are each amended to read
21 as follows:

22 The department shall suspend or revoke the registration of a
23 vehicle registered under this chapter if the registrant or motor
24 carrier responsible for the safety of the vehicle has been prohibited
25 under federal law from operating by the federal motor carrier safety
26 administration. The department shall not register a vehicle if the
27 Washington state patrol has placed an out-of-service order on the
28 vehicle's department of transportation number, as defined in section 3
29 of this act.

30 **Sec. 17.** RCW 82.38.100 and 1999 c 270 s 2 are each amended to read
31 as follows:

32 (1) Any special fuel user operating a motor vehicle into this state
33 for commercial purposes may make application for a trip permit that
34 shall be good for a period of three consecutive days beginning and

1 ending on the dates specified on the face of the permit issued, and
2 only for the vehicle for which it is issued.

3 (2) Every permit shall identify, as the department may require, the
4 vehicle for which it is issued and shall be completed in its entirety,
5 signed, and dated by the operator before operation of the vehicle on
6 the public highways of this state. Correction of data on the permit
7 such as dates, vehicle license number, or vehicle identification number
8 invalidates the permit. A violation of, or a failure to comply with,
9 this subsection is a gross misdemeanor.

10 (3) For each permit issued, there shall be collected a filing fee
11 of one dollar, an administrative fee of (~~ten~~) fifteen dollars, and an
12 excise tax of nine dollars. Such fees and tax shall be in lieu of the
13 special fuel tax otherwise assessable against the permit holder for
14 importing and using special fuel in a motor vehicle on the public
15 highways of this state, and no report of mileage shall be required with
16 respect to such vehicle. Trip permits will not be issued if the
17 applicant has outstanding fuel taxes, penalties, or interest owing to
18 the state or has had a special fuel license revoked for cause and the
19 cause has not been removed. Five dollars from every fifteen-dollar
20 administration fee shall be deposited into the state patrol highway
21 account and must be used for commercial motor vehicle inspections.

22 (4) Blank permits may be obtained from field offices of the
23 department of transportation, Washington state patrol, department of
24 licensing, or other agents appointed by the department. The department
25 may appoint county auditors or businesses as agents for the purpose of
26 selling trip permits to the public. County auditors or businesses so
27 appointed may retain the filing fee collected for each trip permit to
28 defray expenses incurred in handling and selling the permits.

29 (5) A surcharge of five dollars is imposed on the issuance of trip
30 permits. The portion of the surcharge paid by motor carriers must be
31 deposited in the motor vehicle fund for the purpose of supporting
32 vehicle weigh stations, weigh-in-motion programs, and the commercial
33 vehicle information systems and networks program. The remaining
34 portion of the surcharge must be deposited in the motor vehicle fund
35 for the purpose of supporting congestion relief programs. All other
36 fees and excise taxes collected by the department for trip permits
37 shall be credited and deposited in the same manner as the special fuel

1 tax collected under this chapter and shall not be subject to exchange,
2 refund, or credit.

3 NEW SECTION. **Sec. 18.** This act does not apply to:

4 (1) Commercial motor vehicles that are operated under a permit and
5 subject to economic regulation under chapters 81.68, 81.70, 81.77, and
6 81.80 RCW; and

7 (2) Vehicles exempted from registration by RCW 46.16.020.

8 NEW SECTION. **Sec. 19.** Section 10 of this act is necessary for the
9 immediate preservation of the public peace, health, or safety, or
10 support of the state government and its existing public institutions,
11 and takes effect immediately.

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