Z-0329.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1273**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Ryu, Farrell, Fey, and Ortiz-Self; by request of Department of Licensing

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

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

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

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

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

(2) "Alcohol concentration" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) "Serious traffic violation" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Date of birth;

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

(e) The person's signature;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  Section 4 of this act takes effect January 1, 2019.

**--- END ---**