

Chapter 308-104 WAC

DRIVERS' LICENSES

WAC

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 308-104-060 Implied consent—Revocation terms. [Order MV-222, § 308-104-060, filed 10/29/74; Order MV-172, § 308-104-060, filed 7/16/73.] Repealed by 00-18-069, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110.
 308-104-109 Extension of driver's license. [Statutory Authority: RCW 43.24.140. 99-05-032, § 308-104-109, filed 2/10/99, effective 3/13/99.] Repealed by 00-18-070, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110.
 308-104-110 Occupational license—Eligibility—Driving while suspended. [Order MV 349, § 308-104-110, filed 1/28/76.] Repealed by 93-22-071, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.01.110.
 308-104-120 Extra-territorial convictions—Hearing. [Order MV 349, § 308-104-120, filed 1/28/76.] Repealed by 00-18-069, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110.
 308-104-140 Driving record abstracts—Firefighters and law enforcement officers. [Order 469-DOL, § 308-104-140, filed 12/30/77.] Repealed by 93-22-071, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.01.110.
 308-104-180 Stay of habitual traffic offender revocation. [Statutory Authority: RCW 46.01.110. 82-03-046 (Order 668 DOL), § 308-104-180, filed 1/19/82.] Repealed by 91-01-063, filed 12/14/90, effective 1/14/91. Statutory Authority: RCW 46.01.110.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-104-015 Identicards. [Statutory Authority: RCW 46.01.110. 93-22-071, § 308-104-015, filed 11/1/93, effective 12/2/93; 82-03-046 (Order 668 DOL), § 308-104-015, filed 1/19/82.] Repealed by 00-18-070, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110.
 308-104-020 Point system. [Order 2, § 308-104-020, filed 6/26/68.] Repealed by 82-03-046 (Order 668 DOL), filed 1/19/82. Statutory Authority: RCW 46.01.110.
 308-104-030 Effect of point accumulation. [Order 2, § 308-104-030, filed 6/26/68.] Repealed by 82-03-046 (Order 668 DOL), filed 1/19/82. Statutory Authority: RCW 46.01.110.
 308-104-045 Identicards. [Statutory Authority: RCW 46.20.117 and 46.20.119. 78-04-041 (Order 488-DOL), § 308-104-045, filed 3/20/78; Order MV 303, § 308-104-045, filed 2/13/75.] Repealed by 91-01-063, filed 12/14/90, effective 1/14/91. Statutory Authority: RCW 46.01.110.
 308-104-055 Convictions—Suspension terms. [Order MV-172, § 308-104-055, filed 7/16/73.] Repealed by Order MV-222, filed 10/29/74.
 308-104-057 Convictions—Driving while revoked—Terms. [Order MV-222, § 308-104-057, filed 10/29/74.] Repealed by 93-22-071, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.01.110.

WAC 308-104-004 Definitions. As used in this chapter, unless the context requires otherwise, the term:

- (1) "Examination," for purposes of RCW 46.20.305, means any one or combination of the following:
 - (a) A medical certificate to be completed by a competent medical authority;
 - (b) A vision certificate to be completed by a competent vision authority such as an optometrist or ophthalmologist;
 - (c) A psychiatric evaluation by a competent authority;
 - (d) An alcohol or drug evaluation or report of progress in alcohol or drug treatment from an alcohol or drug treatment agency approved by the department of social and health services;
 - (e) A reexamination of knowledge and driving ability conducted by a licensing services representative;
 - (f) A special examination of knowledge and driving ability conducted by a licensing services representative;
- (2) "Jurisdiction" means a state, territory, or possession of the United States; the District of Columbia; or a province of Canada;
- (3) "Military personnel" means active members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned officers of the Public Health Service, and members of foreign military organizations assigned to this state on official duty. For purposes of this section, a person in the reserves will not be considered an "active member" unless he or she has been called to active duty for a period exceeding the full period specified for license expiration in RCW 46.20.181;

(4) "State" means a state of the United States, the District of Columbia, or a United States territory or possession.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-004, filed 9/1/00, effective 10/2/00; 87-19-129 (Order DS 3), § 308-104-004, filed 9/22/87.]

WAC 308-104-006 Driver's license required. No person, except as expressly exempted by chapter 46.20 RCW or by this chapter, may drive any motor vehicle upon a highway in this state unless the person has in his or her possession a valid driver's license issued under the provisions of chapter 46.20 RCW.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-006, filed 9/1/00, effective 10/2/00; 93-22-071, § 308-104-006, filed 11/1/93, effective 12/2/93; 87-19-129 (Order DS 3), § 308-104-006, filed 9/22/87.]

WAC 308-104-008 Persons exempt from driver's license requirement. In addition to persons exempt from driver license requirement pursuant to RCW 46.20.025, the following persons are exempt from the requirement to obtain a valid driver's license issued to Washington residents under chapter 46.20 RCW:

(1) A student who maintains his or her legal home of record at a location outside Washington state, or the spouse or dependent of the student, who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to him or her in his or her home jurisdiction. The student must be enrolled as a full-time nonresident student at an institution of higher learning in Washington accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the higher education board, or at a private vocational school as that term is defined by RCW 28C.10.020(7). The student must carry documentation issued by the institution that readily establishes his or her status as a nonresident student. A spouse or dependent of a nonresident student must carry a copy of the documentation issued to the student by the institution and documentation establishing the relationship with the student;

(2) Military personnel who are at least sixteen years of age who have in their immediate possession a valid driver's license issued by the jurisdiction designated as their home of record. A spouse or dependent of a person who meets the criteria of this subsection is also exempt from the driver's license requirement, provided that the spouse or dependent has in his or her immediate possession a valid driver's license issued by the jurisdiction designated as his or her home of record.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-008, filed 9/1/00, effective 10/2/00; 87-19-129 (Order DS 3), § 308-104-008, filed 9/22/87.]

WAC 308-104-010 Vision test. (1) A person applying for a driver's license or instruction permit shall be required to take a vision test administered by the department.

(a) Any person with visual acuity worse than 20/40 Snellen with both eyes combined either corrected or uncorrected, or with some apparent significant visual limitation, must have an eye examination by a competent vision authority.

(b) If an applicant's vision cannot be corrected so it will be 20/40 Snellen for visual acuity and if the applicant's vision

is between 20/50 Snellen and 20/100 Snellen, or if an applicant's other vision problems cannot be corrected, he or she must submit to a reexamination.

(c) An applicant whose vision cannot be corrected to at least 20/100 Snellen range will be deemed to have failed the portion of the driver's license examination specified by RCW 46.20.130 (1)(a) pertaining to eyesight and ability to see, and will be deemed to have failed to demonstrate that he or she is qualified to drive.

(d) An applicant whose vision cannot be corrected to at least 20/70 Snellen range will be deemed to have failed to demonstrate that he or she is qualified to drive at night.

(2) The department may waive the requirement for a vision test for any person applying to renew his or her driver's license by mail or electronic commerce if the person certifies on the application that his or her vision acuity is no less than 20/40 Snellen for visual acuity, either corrected or uncorrected, and that there are no other vision problems.

(3) The department shall refer for reexamination any person who uses bioptic or telescopic lenses to meet licensing standards for the issuance of any driver's license or instruction permit.

[Statutory Authority: RCW 46.61.110, 46.20.041, 46.20.091, 46.20.120, and 46.20.130. 09-16-012, § 308-104-010, filed 7/23/09, effective 8/23/09. Statutory Authority: RCW 46.20.130, 46.20.041. 07-02-104, § 308-104-010, filed 1/3/07, effective 2/3/07. Statutory Authority: RCW 46.01.110. 04-20-012, § 308-104-010, filed 9/24/04, effective 10/25/04; Order 2, § 308-104-010, filed 6/26/68.]

WAC 308-104-012 Suspension or denial for refusing or neglecting to submit to an examination. A person's failure to complete an examination as required by RCW 46.20.305 may result in the suspension or denial of the person's driving privilege. A person dissatisfied with the departmental action which follows an examination he or she has taken under RCW 46.20.305 may appeal the department's action by requesting a formal hearing as provided in RCW 46.20.329. A request for a hearing under this section must be made in writing within fifteen calendar days from the date notice of the departmental action was given. If no request is made within the prescribed time the right to a hearing is waived.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-012, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-012, filed 3/12/86.]

WAC 308-104-014 Application for driver's license or identicard. A person applying for a driver's license, instruction permit, or identification card must provide the following information:

(1) The person's full name, current mailing and Washington residential address, and telephone number;

(2) The person's physical description, including sex, height, weight, and eye color;

(3) The person's date and place of birth;

(4)(a) The person's Social Security number, if the Social Security number is required by state or federal law. If the person's Social Security number is not required by state or federal law, the person may voluntarily provide his or her Social Security number in order to assist the department in verifying identity;

(b) If the Social Security number is required by state or federal law and the person has not been issued a Social Security number, the person must submit a sworn affidavit, under penalty of perjury, stating that he or she does not have a Social Security number. The department may require that a person who is applying for a license and who has signed an affidavit under this subsection provide additional documentation satisfactory to the department establishing the person's Washington residence address;

(5) The person's mother's maiden name and whether the person is one of multiple siblings born at the same time;

(6) If the application is for a driver's license or instruction permit, whether the person has been previously licensed, where such license was issued, and under what name;

(7) If the application is for a driver's license or instruction permit, whether the person has ever had his or her driver's license or driving privilege suspended, revoked, cancelled, disqualified, withheld, or denied, and if so, where and when such driving sanction was imposed and the reason for such action;

(8) If the application is for a driver's license or instruction permit, whether the person has had a mental or physical condition or is taking any medication which could impair his or her ability to operate a motor vehicle;

(9) If the application is for a driver's license and the person is under the age of eighteen, a declaration by the person's parent, guardian, or employer that he or she has read and understands the intermediate license restrictions, and a declaration by the person that he or she has read and understands the intermediate license restrictions;

(10) The person's signature and, if the application is for a driver's license or instruction permit and the person is under the age of eighteen, the signature of the person's custodial parent or legal guardian; and

(11) Any supplementary documentation as may be necessary to verify any of the information required by this section.

[Statutory Authority: RCW 46.01.110, 46.20.091, 46.20.119, 11-14-067, § 308-104-014, filed 6/30/11, effective 7/31/11. Statutory Authority: RCW 46.61.110, 46.20.041, 46.20.091, 46.20.120, and 46.20.130, 09-16-012, § 308-104-014, filed 7/23/09, effective 8/23/09. Statutory Authority: RCW 46.20.091 (1)(g) and 46.01.110, 05-15-064, § 308-104-014, filed 7/12/05, effective 8/12/05. Statutory Authority: RCW 46.01.110, 00-18-070, § 308-104-014, filed 9/1/00, effective 10/2/00; 91-01-063, § 308-104-014, filed 12/14/90, effective 1/14/91.]

WAC 308-104-016 Motorcycle endorsement fees.

The endorsement fee for the initial motorcycle endorsement shall be ten dollars, and the subsequent renewal endorsement fee shall be twenty-five dollars, unless the endorsement is renewed or extended for a period other than five years, in which case the subsequent renewal endorsement fee shall be five dollars for each year that the endorsement is renewed or extended.

[Statutory Authority: RCW 46.01.110, 46.20.470 and 46.20.505, 00-02-017, § 308-104-016, filed 12/27/99, effective 7/1/00.]

WAC 308-104-018 Changing the address of record.

(1) In addition to the form identified in RCW 46.20.205, the department may change a driver's or identicard holder's address of record upon:

(a) The verbal request of the driver or identicard holder, where the department has satisfied itself as to the identity of the person making the request; or

(b) Receipt of written documentation or electronic communication concerning the driver or identicard holder, where such documentation or communication includes an address that differs from the one maintained by department and is:

(i) Signed by the driver or identicard holder;

(ii) Filed at the request of the driver or identicard holder;

(iii) Filed by a public official or governmental agency; or

(iv) Filed by a contractor who verifies or supplies correct addresses obtained from a public official or governmental agency.

(2) This section shall not be construed as relieving the driver or identicard holder of the responsibility to notify the department of a change of address as required by RCW 46.20.205. Failure by the department to change a driver's or identicard holder's address of record, where the driver or identicard holder has not notified the department of the change of address with the form identified in RCW 46.20.205, shall not limit the effectiveness of any notice mailed to the driver or identicard holder at the address of record as previously established by the department.

[Statutory Authority: RCW 46.01.110 and 46.20.202, 07-22-031, § 308-104-018, filed 10/29/07, effective 11/29/07. Statutory Authority: RCW 46.01.110 and 46.20.205, 96-20-089, § 308-104-018, filed 10/1/96, effective 11/1/96.]

WAC 308-104-019 Renewal of driver's license or identicard by electronic commerce—Eligibility. An applicant for a driver's license renewal or identicard renewal may apply by electronic commerce if permitted under this section.

(1) A person whose valid driver's license is about to expire may be allowed to renew by electronic commerce if the person:

(a) Is eligible to renew his or her driver's license by electronic commerce under the provisions of RCW 46.20.120 (3)(b) or (4)(b);

(b) Has previously been issued a digital driver's license;

(c) Is at least twenty-four and not more than seventy years of age;

(d) Has a valid Social Security number on file with the department;

(e) Has a valid mailing address on his or her driving record as maintained by the department;

(f) Does not have a commercial driver's license, enhanced driver's license or identicard, instruction permit, or agricultural permit;

(g) Has not paid a fee owed to the department with a check that has been dishonored;

(h) Has not failed to appear, respond, or comply with the terms of or in response to a traffic citation or notice of traffic infraction; and

(i) Does not have any actions pending against his or her driver's license or driving privileges.

(2) A person applying for driver's license renewal by electronic commerce must:

(a) Certify that he or she has had no mental or physical condition or is not taking any medication which could impair his or her ability to operate a motor vehicle safely;

(b) Make the necessary certification under WAC 308-104-010(2); and

(c) Complete the required application and pay all applicable fees.

(3) A person whose valid identicard is about to expire may renew by electronic commerce if the person:

(a) Is eligible to renew his or her identicard by electronic commerce under the provisions of RCW 46.20.117 (3)(b);

(b) Is at least twenty-four years of age; and

(c) Has previously been issued a digital identicard.

(4) A person applying for identicard renewal by electronic commerce must complete the required application and pay all applicable fees.

(5) The department may specify the means and establish procedures by which a person may make an application under this section.

[Statutory Authority: RCW 46.01.110, 46.20.117, and 46.20.120. 10-15-019, § 308-104-019, filed 7/9/10, effective 8/9/10. Statutory Authority: RCW 46.61.110, 46.20.041, 46.20.091, 46.20.120, and 46.20.130. 09-16-012, § 308-104-019, filed 7/23/09, effective 8/23/09. Statutory Authority: RCW 46.01.110 and 46.20.202. 07-22-031, § 308-104-019, filed 10/29/07, effective 11/29/07. Statutory Authority: RCW 46.01.110. 04-20-012, § 308-104-019, filed 9/24/04, effective 10/25/04.]

WAC 308-104-022 Warning letters for drivers age eighteen through twenty-one. The department may mail a letter to drivers age eighteen through twenty-one who have been convicted of or found to have committed a moving traffic violation as listed in WAC 308-104-160 warning them of the risk of crash involvement.

[Statutory Authority: RCW 46.01.110, 46.52.120. 10-22-045, § 308-104-022, filed 10/28/10, effective 11/28/10.]

WAC 308-104-025 Effect of accumulation of traffic offenses. Whenever the official records of the department show that a person has committed at least four traffic offenses within a twelve-month period, or at least five traffic offenses within a twenty-four-month period, the department may require the person to appear for a driver improvement interview, as provided in chapter 46.20 RCW: Provided, That when a person has committed fewer traffic offenses than set forth in this section, the department may require the person to appear for a driver improvement interview or suspend or deny the person's driving privilege when such action appears to be in the interest of the safety of other persons on the highways. For purposes of this section, the driver improvement interview may be conducted in a group setting.

Failure to appear at the interview may result in a suspension or denial of the driving privilege. For purposes of this section "traffic offense" means a conviction as defined in RCW 46.20.270(4), or a finding that a traffic infraction has been committed as defined in RCW 46.20.270(5), of a moving violation as defined in WAC 308-104-160. A traffic offense committed under the provisions of chapter 46.37 RCW by a commercial driver with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-025, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110 and 1989 c 178 §§ 3, 5, 8 and 16. 89-18-003, § 308-104-025, filed 8/24/89, effective 9/24/89. Statutory Authority: RCW 46.01.110. 82-03-046 (Order 668 DOL), § 308-104-025, filed 1/19/82.]

WAC 308-104-035 Interest of safety. For purposes of RCW 46.20.291(3), whenever the records of the department show that a person has committed at least four traffic offenses within a twelve month period, or at least five traffic offenses within a twenty-four month period, this shall be considered prima facie evidence of violations of such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways. A traffic offense committed under the provisions of chapter 46.37 RCW by a commercial driver with respect to equipment required on commercial motor vehicles shall not be considered for the purposes of this section.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-035, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110 and 1989 c 178 §§ 3, 5, 8 and 16. 89-18-003, § 308-104-035, filed 8/24/89, effective 9/24/89.]

WAC 308-104-040 Driver's licenses for identification and identicards. As provided by RCW 46.20.035, no identicard shall be issued, nor shall any Washington state driver's license be issued, other than as provided in RCW 46.20-035(5), unless the applicant has satisfied the department regarding his or her identity.

(1)(a) Except as provided in subsections (2) and (3) of this section, an applicant has not satisfied the identity requirements of RCW 46.20.035 unless he or she displays or provides the department with at least one of the following pieces of valid identifying documentation:

(i) A valid or recently expired driver's license or instruction permit that contains the signature, date of birth, and a photograph of the applicant;

(ii) A Washington state identicard or an identification card issued by another state that contains the signature and a photograph of the applicant;

(iii) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members or employees of the government agency, that contains the signature and a photograph of the applicant;

(iv) A military identification card that contains the signature and a photograph of the applicant;

(v) A United States passport that contains the signature and a photograph of the applicant;

(vi) An Immigration and Naturalization Service form that contains the signature and photograph of the applicant; or

(vii) If the applicant is a minor, an affidavit of the applicant's parent or guardian where the parent or guardian displays or provides at least one piece of identifying documentation as specified in this subsection along with additional documentation establishing the relationship between the parent or guardian and the applicant.

(b) In addition to the valid identifying documentation listed in subsection (1)(a), the department may request supplemental identifying documentation, or may undertake an investigation to verify the validity of any documentation presented, in order to ascertain identity.

(2) An applicant unable to present a piece of identifying documentation listed in RCW 46.20.035 (1) or (2) may request that other identifying documentation be considered by the department in order to ascertain identity, as provided

by RCW 46.20.035(3). The department may waive the requirement for a piece of valid identifying documentation listed in RCW 46.20.035 (1) or (2) if the applicant presents sufficient valid supporting documents found by the department to clearly establish the identity of the applicant. For purposes of this subsection, the department has found the following pieces of documentation to be sufficient to clearly establish identity:

(a) A foreign country's passport, containing the signature and a photograph of the individual, that has with it a valid United States Immigration and Naturalization entry form (I-94);

(b) An enrollment card issued by a federally recognized Indian tribe, containing the signature and a photograph of the individual, with one other supporting document;

(c) An identification card issued by the United States Bureau of Indian Affairs, containing the signature and a photograph of the individual, with one other supporting document;

(d) A written identification verification document completed by the Washington department of corrections; and

(e) A Washington city or county police employee identification card, containing the signature and a photograph of the individual, with one other supporting document;

(3) If an applicant is unable to satisfy the department regarding his or her identity under subsections (1) or (2) of this section, he or she may request that the department review other documentation in order to ascertain identity, as provided by RCW 46.20.035(3).

(a) If the licensing services representative assisting the applicant is unable to ascertain identity from the documents presented, the applicant shall be referred to an in-office document reviewer for further assistance. The in-office document reviewer will evaluate the applicant's documentation in order to determine whether identity can be clearly established.

(b) If the in-office document review cannot clearly establish an applicant's identity, and if requested by an applicant, a senior technician for the region in which the applicant is making application will evaluate the applicant's documentation in order to determine whether identity can be clearly established.

(c) If requested by the applicant, the senior technician shall refer the applicant to driver licensing headquarters staff for final determination whether identity can be clearly established.

[Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-040, filed 9/1/00, effective 10/2/00; 93-22-071, § 308-104-040, filed 11/1/93, effective 12/2/93; 82-03-046 (Order 668 DOL), § 308-104-040, filed 1/19/82; Order 468-DOL, § 308-104-040, filed 12/30/77; Order 691101, § 308-104-040, filed 11/26/69.]

WAC 308-104-046 Instruction permit—Verification of enrollment in a traffic safety education program. For purposes of RCW 46.20.055, an applicant for a driver's instruction permit may demonstrate enrollment in a traffic safety education course offered by a licensed driver training school, or by a public or private school recognized by the superintendent of public instruction, by submitting written proof of enrollment indicating that the driver training course has already begun or will begin within ten calendar days of

the date of the application. The proof of enrollment must be in a form that is approved by the department and bear the signature of a licensed driver training instructor or driver training school owner, or that of a public or private school instructor certified to teach a driver training course by the superintendent of public instruction.

[Statutory Authority: RCW 46.01.110. 04-18-060, § 308-104-046, filed 8/27/04, effective 9/27/04.]

WAC 308-104-047 Driving test—Waiver. For purposes of issuance of an original driver's license, the department may waive the actual demonstration of the ability to operate a motor vehicle where the applicant meets all other licensing requirements, has successfully completed the appropriate Washington knowledge test or tests, and:

(1) If the application is for a basic driver's license, the applicant has:

(a) Surrendered a valid driver's license issued by the applicant's previous home state, or presented a letter of clearance from the previous home state showing a valid license record on file;

(b) Not taken a Washington driving test on which the applicant has been disqualified; and

(c) Not taken a Washington knowledge test on which the applicant has been disqualified three or more times;

(2) If the application is for a driver's license with a motorcycle endorsement, the applicant, along with the requirements listed in subsection (1) of this section, has:

(a) Surrendered a valid motorcycle license or driver's license with motorcycle endorsement issued by the applicant's previous home state, or presented a letter of clearance from the previous home state showing a valid motorcycle license record on file. In order for a surrendered license or letter of clearance to be valid under this subsection, the applicant's previous home state's motorcycle licensing standards must meet or exceed Washington state motorcycle licensing standards, as determined by the department;

(b) Completed a motorcycle skill test waiver certificate; and

(c) If the applicant is under eighteen years of age, presented a certificate verifying completion of an approved motorcycle safety education course;

(3) If the application is for a commercial driver's license, the applicant, along with the requirements listed in subsection (1) of this section, has:

(a) Surrendered a valid commercial driver's license issued by the applicant's previous home state, or presented a letter of clearance from the previous home state showing a valid commercial driver's license record on file; or

(b) Met the requirements for waiver of the commercial driver's license skill test as provided by RCW 46.25.060(2).

Notwithstanding the above provisions, the department may require the applicant to complete the appropriate driving test or tests if the department determines that it is in the interest of safety for the applicant to demonstrate his or her ability to operate a motor vehicle.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-047, filed 9/1/00, effective 10/2/00; 91-01-063, § 308-104-047, filed 12/14/90, effective 1/14/91.]

WAC 308-104-050 Waiver of driver education requirement—When granted. No waiver of the traffic safety education course requirement for applicants under the age of 18 years shall be issued unless:

(1) The parent, guardian, or other person having the care, custody and control of the applicant certifies that the applicant is:

(a) Unable to take or successfully complete a traffic safety education course and the reasons therefor, and

(b) That there exists an immediate need to operate a motor vehicle. The immediate need shall be set forth in as much detail as possible. For the purpose of meeting this requirement, "an immediate need exists" shall be construed to mean that the capability to drive will reduce or help eliminate the negative consequences of the situation that created the immediate need to drive. If operating a motor vehicle does not reduce the hardship which was created by the situation, "an immediate need" does not exist; and

(2) The waiver is approved by a majority of a three member committee consisting of two department of licensing members which shall include any two of the following: The assistant director for driver services, the administrator of hearings, the administrator of driver responsibility, the administrator or assistant administrator(s) for driver operations, and one member who shall be the supervisor of driver and safety education in the office of the superintendent of public instruction or his/her designee. The committee shall have the power to set definite restrictions as to hours of the day and routes or areas of travel permitted under the waiver until the applicant has completed a driver education course or has reached the age of 18 years.

[Statutory Authority: RCW 46.01.110 and 46.25.140. 90-17-028, § 308-104-050, filed 8/8/90, effective 9/8/90. Statutory Authority: RCW 46.01.110. 87-19-129 (Order DS 3), § 308-104-050, filed 9/22/87; 82-03-046 (Order 668 DOL), § 308-104-050, filed 1/19/82; Order 468-DOL, § 308-104-050, filed 12/30/77; Order MV-131, § 308-104-050, filed 4/26/72.]

WAC 308-104-056 Convictions—Suspension, revocation, and denial terms. The department shall suspend, revoke, or deny the driver's license or nonresident driving privilege of every person who is convicted of a violation requiring such suspension, revocation, or denial, the term of which, except where otherwise required by law, shall commence on the date of conviction.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-056, filed 9/1/00, effective 10/2/00; 93-22-071, § 308-104-056, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-056, filed 3/12/86; Order MV-222, § 308-104-056, filed 10/29/74.]

WAC 308-104-070 Concurrent suspension, revocation, and denial terms. Except as otherwise required by law, the department shall suspend, revoke or deny the driver's license or nonresident driving privilege of every person who is convicted of more than one offense requiring such suspension, revocation, or denial arising from the same incident for one term which will be the longest of the terms of suspension, revocation, or denial.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-070, filed 9/1/00, effective 10/2/00; Order MV-172, § 308-104-070, filed 7/16/73.]

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WAC 308-104-075 Driver's licenses—Prohibited practices—Suspension, cancellation, or denial period. The department shall suspend, cancel, or deny all driving privileges of a person who has been convicted of or determined by the department to have committed one of the prohibited practices relating to drivers' licenses listed in RCW 46.20.0921 for a period of not less than sixty consecutive days and not more than three hundred sixty-four consecutive days. For purposes of RCW 46.20.0921 (1)(e), an application for a commercial driver's license includes the application for a driver's license under RCW 46.20.091 and the application for a commercial driver's license under RCW 46.25.070.

[Statutory Authority: RCW 46.01.110, 46.20.207, 46.20.291. 06-16-087, § 308-104-075, filed 7/31/06, effective 8/31/06.]

WAC 308-104-080 Reissue fee—When required. The driver's license of any person that has been suspended, revoked or denied for any reason shall not be reissued until such person shall pay the required reissue fee; except, that such reissue fee shall not be required when the imposition of the suspension, revocation, or denial was invalid or void or when the suspension, revocation, or denial was imposed because the subject was incompetent to operate a vehicle due to a physical or mental disability, because the subject had failed to attend a driver improvement interview, because the person's filing of proof of financial responsibility for the future had been canceled or terminated, because the person defaulted on an agreement to pay damages resulting from a vehicle accident, or because the person was refused a license due to a suspension, revocation, or denial in another jurisdiction.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-080, filed 9/1/00, effective 10/2/00; 93-22-071, § 308-104-080, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-080, filed 3/12/86; Order MV-172, § 308-104-080, filed 7/16/73.]

WAC 308-104-090 Reissue fee—Where paid and accepted. Reissue fees may be paid at any licensing services office or at the department's central state office at any time during normal operating hours.

[Statutory Authority: RCW 46.01.110. 00-18-069, § 308-104-090, filed 9/1/00, effective 10/2/00; 93-22-071, § 308-104-090, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-090, filed 3/12/86; Order MV-172, § 308-104-090, filed 7/16/73.]

WAC 308-104-100 Occupational/temporary restricted driver's license—Person eligible. (1) Upon proper application, the department shall issue an occupational/temporary restricted driver's license to any person who has had his or her driver's license suspended or revoked who meets the requirements of RCW 46.20.380 and 46.20.391, provided that:

(a) The person had previously been issued a valid driver's license; and

(b) The person had not been required to surrender his or her Washington driver's license to the department for failure to maintain proof of financial responsibility for the future.

(2) Notwithstanding the provisions of this section, an occupational/temporary restricted driver's license shall not be issued for the operation of a commercial motor vehicle when

the commercial driver has had his or her license suspended, revoked, or denied, or has been disqualified from operating a commercial motor vehicle.

[Statutory Authority: RCW 46.01.110, 46.20.385, 46.20.391, and 46.20.745. 08-24-059, § 308-104-100, filed 11/26/08, effective 1/1/09. Statutory Authority: RCW 46.01.110 and 46.20.391 (1)(c). 04-18-059, § 308-104-100, filed 8/27/04, effective 9/27/04. Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-100, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110 and 1989 c 178 §§ 3, 5, 8 and 16. 89-18-003, § 308-104-100, filed 8/24/89, effective 9/24/89. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-100, filed 3/12/86. Statutory Authority: RCW 46.01.110. 82-03-046 (Order 668 DOL), § 308-104-100, filed 1/19/82; Order MV 349, § 308-104-100, filed 1/28/76.]

WAC 308-104-105 Occupational/temporary restricted license denial hearings. (1) Upon notification by the department that an occupational/temporary restricted driver's license has been denied under RCW 46.20.391 the aggrieved person may request a formal hearing to contest the department's decision. No hearing need be granted where the department is prevented from issuing an occupational/temporary restricted driver's license by rule or law. A request for a hearing must be submitted in writing.

(2) Within ten days of receipt of a request for a hearing, the department shall notify the requester in writing of the time and location of the hearing. The hearing may be held either in the person's county of residence or in any county adjoining the person's county of residence, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means.

(3) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(4) The scope of the hearing shall be limited to the following issues:

(a) Whether the person had previously been issued a valid license.

(b) Whether the suspension or revocation giving rise to the application for an occupational/temporary restricted driver's license is one for which an occupational/temporary restricted driver's license may be issued under RCW 46.20-391.

(c) Whether the person has committed an offense of vehicular assault or vehicular homicide within the seven years immediately preceding the conviction or incident for which the occupational/temporary restricted driver's license is requested or, if there are multiple suspensions or revocations in effect, within the seven years immediately preceding the latest conviction or incident for which the occupational/temporary restricted driver's license is requested.

(d) Whether the person is currently suspended or revoked for any reason for which an occupational/temporary restricted driver's license is not available.

(e) Whether it is necessary that the person operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that the person operate a motor vehicle. For purposes of this section, occupation or trade means being self-employed, or in the employ of another, for monetary compensation;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the person;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings in a twelve-step group such as Alcoholics Anonymous that requires the person to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program.

(5) The person's official driving record provided to the hearing officer by the department shall be prima facie evidence of the issues contained in subsection (4)(a) through (d) of this section unless the person presents clear and convincing evidence to the contrary.

(6) The person shall have the burden of proving that he or she meets one or more of the qualifying circumstances described in subsection (4)(e) of this section that makes it essential to operate a motor vehicle.

(7) In the event that the person fails to appear for the hearing, no hearing shall be held. The case shall be remanded to the department and the department's previous decision denying the occupational/temporary restricted driver's license shall be affirmed.

[Statutory Authority: RCW 46.01.110, 46.20.385, 46.20.391, and 46.20.745. 08-24-059, § 308-104-105, filed 11/26/08, effective 1/1/09. Statutory Authority: RCW 46.01.110 and 46.20.391 (1)(c). 04-18-059, § 308-104-105, filed 8/27/04, effective 9/27/04. Statutory Authority: RCW 46.01-110. 00-18-070, § 308-104-105, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110 and 1989 c 178 §§ 3, 5, 8 and 16. 89-18-003, § 308-104-105, filed 8/24/89, effective 9/24/89. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-105, filed 3/12/86.]

WAC 308-104-130 Convictions—Driving records.

(1) The department shall consider the information transmitted on the abstract of conviction as being accurate for the purposes of recording information on the defendant's driving record and initiating suspension/revocation action. The defendant shall be deemed to have been convicted of the traffic law violation(s) if any of the following appears on the abstract:

(a) The payment of a fine.

(b) An unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court.

(c) A plea of guilty by the defendant.

(d) A finding of guilt.

(2) For the purposes of maintaining the driving record, initiating a driver's license or driving privilege suspension, revocation, or denial, and requiring the filing of proof of financial responsibility, the conviction shall be deemed final if any one or more of the elements listed in subsection (1) is

present regardless of whether the imposition of sentence is deferred or penalty suspended. The department will not amend or modify the driving record of any driver's license or driving privilege suspension, revocation, or denial if the court subsequently dismisses the charge at the conclusion of a successful deferral or probation period.

(3) For purposes of Title 46 RCW:

(a) The forfeiture of bail shall be considered a conviction unless the court vacates that forfeiture.

(b) The payment of a fine on a traffic violation charge shall be considered a conviction unless the court subsequently reimburses the defendant for all fines, costs, and other penalties imposed.

(c) A plea of guilty shall be considered a conviction unless the defendant withdraws the plea of guilty during the proceedings, the defendant appeals the judgment and there has been a perfection of notice of appeal, or the court sets aside the judgment and orders a new trial.

(d) A finding of guilt shall be considered a conviction unless the court approves a motion for a new trial or the defendant appeals the conviction to a higher court and there has been a perfection of notice of appeal.

(4) If a court defers a finding after hearing the evidence, the department shall not consider the defendant as having been convicted until a final disposition is entered by that court, except when the defendant entered a guilty plea which was not withdrawn, or when the court imposed a penalty or sanction, including the payment of court costs, which could only be imposed upon a determination that the defendant was guilty.

(5) A reporting error by the court that materially alters the original record of a conviction for a mandatory offense must be reported to the department in writing accompanied by a copy of the docket, or other permanent court record.

[Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-130, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-130, filed 3/12/86; Order MV 349, § 308-104-130, filed 1/28/76.]

WAC 308-104-135 Open container law infractions—Placement on driving records. A traffic infraction under RCW 46.61.519 (1) or (2) shall not be placed on the driving record of the person found to have committed the infraction if the department determines to its satisfaction that the person was a passenger in the vehicle at the time the notice of infraction was issued.

[Statutory Authority: RCW 46.20.391, 46.01.110 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-135, filed 3/12/86.]

WAC 308-104-145 Driving record abstracts—Release to insurance companies. For purposes of RCW 46.52.130, an abstract of driving record provided to an insurance company that has insurance in effect covering a person's employer or a prospective employer shall exclude any information pertaining to the person's operation of a noncommercial motor vehicle. The abstract provided to the insurance company that has insurance in effect covering the person, or the insurance company to which the person has applied, shall exclude any information pertaining to the person's operation of a commercial motor vehicle. The abstract provided to the insurance company shall also exclude any information except

that related to the commission of misdemeanors or felonies by the individual pertaining to law enforcement officers or firefighters as defined in RCW 41.26.020, or any member of the Washington state patrol, while driving official vehicles in the performance of occupational duty. As used in this section, "commercial motor vehicle" shall have the meaning defined in RCW 46.25.010(6).

[Statutory Authority: RCW 46.01.110. 93-22-071, § 308-104-145, filed 11/1/93, effective 12/2/93. Statutory Authority: RCW 46.01.110 and 46.25.140. 90-17-028, § 308-104-145, filed 8/8/90, effective 9/8/90.]

WAC 308-104-150 Address requests—Terms and fees. Where not otherwise prohibited by law or rule, the department may make available the address of a person whose driving record or identicard record is maintained by the department. A request for an address must be in writing, and must include the full name and the driver's license number or date of birth of the person whose address is requested.

The department shall collect in advance a fee of two dollars for each address requested in a single listing up to and including ten addresses, and fifteen cents for each additional address on that single listing: Provided, That the addresses will be provided to all governmental agencies without charge.

[Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-150, filed 9/1/00, effective 10/2/00; 82-03-046 (Order 668 DOL), § 308-104-150, filed 1/19/82.]

WAC 308-104-155 Driving records—Designation of persons other than employees of the department as agents for certification. For purposes of Title 46 RCW, the director of the department of licensing may designate persons other than employees of the department as agents to furnish certified abstracts of driving records under seal of the director. This section shall only apply when the driving record has been obtained by the designated agent through electronic data transmission from the department's computer records.

[Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-155, filed 9/1/00, effective 10/2/00; 91-01-063, § 308-104-155, filed 12/14/90, effective 1/14/91.]

WAC 308-104-160 Nonmoving violation defined. A "nonmoving violation" as used in RCW 46.65.020 and this chapter shall mean any violation or traffic infraction in Title 46 RCW, other than those moving violations included in the following list or violations of substantially similar laws, administrative regulations, local laws, ordinances, regulations, or resolutions of a political subdivision of this state, the federal government, or any other state:

- (1) Driving while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502;
- (2) Physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.504;
- (3) Vehicular homicide, as defined by RCW 46.61.520;
- (4) Vehicular assault, as defined by RCW 46.61.522;
- (5) Reckless driving, as defined by RCW 46.61.500;
- (6) Racing, as defined by RCW 46.61.530;
- (7) Embracing, as defined by RCW 46.61.665;
- (8) Hit and run (injury, death, or occupied vehicle), as defined by RCW 46.52.020;

- (9) Attempting to elude a police vehicle, as defined by RCW 46.61.024;
- (10) Driving while driving privilege suspended or revoked, as defined by RCW 46.20.342, 46.20.394, or 46.20.-420;
- (11) Reckless endangerment of roadway workers, as defined in RCW 46.61.527;
- (12) Driver under twenty-one driving or being in physical control of a motor vehicle after consuming alcohol, as defined in RCW 46.61.503;
- (13) Driving or in physical control of commercial motor vehicle while having alcohol in system, as defined in RCW 46.25.110;
- (14) Open container violation (driver), as defined by RCW 46.61.519;
- (15) Negligent driving in the first degree, as defined by RCW 46.61.5249;
- (16) Negligent driving in the second degree, as defined by RCW 46.61.525;
- (17) Hit and run (unattended vehicle or property), as defined by RCW 46.52.010;
- (18) Disobey road sign, as defined by RCW 46.61.050 and 46.61.070;
- (19) Disobey signalman, officer, or firefighter, as defined by RCW 46.61.015, 46.61.020, 46.61.021, or 46.61.-022;
- (20) Disobey school patrol, as defined by RCW 46.61.385;
- (21) Speed too fast for conditions, as defined by RCW 46.61.400;
- (22) Speed in excess of maximum limit, as defined by RCW 46.61.400 or 46.61.460;
- (23) Speeding in a school zone, as defined by RCW 46.61.440;
- (24) Failure to stop, as defined by RCW 46.61.055, 46.61.065, 46.61.195, 46.61.200, 46.61.340, 46.61.345, 46.61.350, 46.61.365, 46.61.370, or 46.61.375;
- (25) Failure to yield right of way, as defined by RCW 46.61.180, 46.61.185, 46.61.190, 46.61.202, 46.61.205, 46.61.210, 46.61.215, 46.61.220, 46.61.235, 46.61.245, 46.61.261, 46.61.300, or 46.61.427;
- (26) Failure to keep to the right, as defined by RCW 46.61.100 or 46.61.105;
- (27) Wrong way on a one-way street or rotary traffic island, as defined by RCW 46.61.135;
- (28) Improper lane change or travel, as defined by RCW 46.61.140;
- (29) Straddling or driving over centerline, as defined by RCW 46.61.140;
- (30) Driving on the wrong side of the road, as defined by RCW 46.61.150;
- (31) Crossing divider, as defined by RCW 46.61.150;
- (32) Improper entrance to or exit from freeway, as defined by RCW 46.61.155;
- (33) High occupancy vehicle lane violation, as defined by RCW 46.61.165;
- (34) Improper overtaking or passing, as defined by RCW 46.61.110, 46.61.115, 46.61.120, 46.61.125, or 46.61.130;
- (35) Passing stopped school bus, as defined by RCW 46.61.370;
- (36) Passing stopped private carrier bus, as defined by RCW 46.61.375;
- (37) Following too closely, as defined by RCW 46.61.-145;
- (38) Following fire apparatus, as defined by RCW 46.61.635;
- (39) Crossing fire hose, as defined by RCW 46.61.640;
- (40) Driving on sidewalk, as defined by RCW 46.61.-606;
- (41) Driving through safety zone, as defined by RCW 46.61.260;
- (42) Driving with wheels off roadway, as defined by RCW 46.61.670;
- (43) Impeding traffic, as defined by RCW 46.61.100, 46.61.425, or 46.20.427;
- (44) Improper turn, as defined by RCW 46.61.290;
- (45) Prohibited turn, as defined by RCW 46.61.295;
- (46) Failure to signal or improper signal, as defined by RCW 46.61.305;
- (47) Improper backing, as defined by RCW 46.61.605;
- (48) Unlawful operation of motorcycle on roadway, as defined by RCW 46.61.608;
- (49) Reckless endangerment, as defined by RCW 9A.36.050;
- (50) Failure to maintain control, as defined by RCW 46.61.445;
- (51) Violation of license restriction(s), as defined by RCW 46.20.041 or 46.20.740;
- (52) Violation of instruction permit restrictions, as defined by RCW 46.20.055;
- (53) Violation of out-of-service order, as defined by RCW 46.25.090;
- (54) Obstructed vision or control, as defined by RCW 46.61.615;
- (55) Carrying persons or animals outside of vehicle, as defined by RCW 46.61.660;
- (56) Carrying passenger in towed vehicle, as defined by RCW 46.61.625;
- (57) Coasting on downgrade, as defined by RCW 46.61.630;
- (58) Violation of child restraint requirements, as defined by RCW 46.61.687;
- (59) Carrying child under the age of five years old on motorcycle, as defined by RCW 46.37.530;
- (60) Carrying passenger improperly on motorcycle, as defined by RCW 46.61.610;
- (61) No helmet, goggles, mirrors, windshield or face shield, as defined by RCW 46.37.530;
- (62) Motorcycle handlebars above maximum height, as defined by RCW 46.61.611;
- (63) Operating moped on freeway or sidewalk, as defined by RCW 46.61.710;
- (64) Illegal, improper, defective, or missing vehicle equipment, as defined by RCW 46.37.010;
- (65) Driving without lights, as defined by RCW 46.37.020;
- (66) Failure to dim lights, as defined by RCW 46.37.230;
- (67) Operating motorcycle without lights, as defined by RCW 46.37.522;
- (68) No lamp, reflector, or flag on extended load, as defined by RCW 46.37.140;

- (69) Unnecessary noise, as defined by RCW 46.37.380;
- (70) Wearing earphones or viewing television in vehicle, as defined by RCW 46.37.480;
- (71) Permitting illegal vehicle operation, as defined by RCW 46.20.343 or 46.61.675;
- (72) Failure to secure load, as defined by RCW 46.37.-490;
- (73) Spilling load, as defined by RCW 46.61.655; and
- (74) Improper towing, as defined by RCW 46.44.070.

[Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-160, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.10.110. 92-08-045, § 308-104-160, filed 3/25/92, effective 4/25/92. Statutory Authority: RCW 46.20.391, 46.01.100 and 46.65.020. 86-07-018 (Order DS 2), § 308-104-160, filed 3/12/86. Statutory Authority: RCW 46.01.110. 82-21-002 (Order 697-DOL), § 308-104-160, filed 10/7/82; 82-03-046 (Order 668 DOL), § 308-104-160, filed 1/19/82.]

WAC 308-104-170 Alcohol or drug abuse treatment program. (1) For the purposes of Title 46 RCW, a person shall be deemed to have undertaken and followed a course of treatment for alcohol or drug abuse on a program approved by the department of social and health services if he or she has been under said program for at least sixty days: Provided, That the department may accept a shorter treatment term upon a showing that the full sixty days of treatment would not be in the best interests of the person's recovery progress.

(2) The term "program approved by the department of social and health services," as used in Title 46 RCW, shall mean an alcohol or drug abuse treatment program meeting the requirements of chapter 388-305 WAC.

[Statutory Authority: RCW 46.01.110. 00-18-070, § 308-104-170, filed 9/1/00, effective 10/2/00; 93-22-071, § 308-104-170, filed 11/1/93, effective 12/2/93; 82-03-046 (Order 668 DOL), § 308-104-170, filed 1/19/82.]

WAC 308-104-340 Formal hearings—Habitual traffic offenders. At the formal hearing held by the department to determine whether the driver is a habitual offender, the certified abstract of convictions of traffic offenses or determinations that the indicated traffic infractions occurred shall be prima facie evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made of each offense or infraction shown by such transcript or abstract.

A person may bring a collateral attack on the constitutional validity of the convictions for the traffic offenses giving rise to the proposed license revocation, pursuant to RCW 46.65.020(1): Provided, however, That the person collaterally attacking the constitutional validity of any conviction for a traffic offense must prove by clear, cogent and convincing evidence both of the following:

- (1) That the person pleaded guilty to a traffic offense for which imprisonment was authorized without having been advised of his or her right to be represented by counsel and or his or her right to have counsel appointed if indigent; and
- (2) As the result of the guilty plea, the driver was sentenced to jail and actually served time in jail.

The department may, in addition, consider any records in its possession with respect to any conviction(s) which is (are) being collaterally attacked.

[Statutory Authority: RCW 46.01.110. 92-08-045, § 308-104-340, filed 3/25/92, effective 4/25/92.]