

2 **SHB 1209 - H AMD 207 ADOPTED 3/9/95**

3 By Representatives K. Schmidt and Mielke

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5 Strike everything after the enacting clause and insert the
6 following:

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

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

14 (2) This section does not apply to:

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

20 (b) Commercial motor vehicles regulated under chapters 81.68 (auto
21 transportation companies), 81.70 (passenger charter carriers), 81.77
22 (solid waste collection companies), 81.80 (motor freight carriers), and
23 81.90 (limousine charter carriers) RCW; and

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

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

27 The department shall collect a fee of ten dollars, in addition to
28 all other fees and taxes, for each motor vehicle base plated in the
29 state of Washington that is subject to highway inspections and terminal
30 audits under section 1 of this act, at the time of registration and
31 renewal of registration under chapter 46.16 or 46.87 RCW. Refunds will
32 not be provided for fees paid under this section when the vehicle is no
33 longer subject to section 1 of this act. The department may deduct an
34 amount equal to the cost of administering the program. All remaining
35 fees shall be deposited with the state treasurer and credited to the

1 state patrol highway account of the motor vehicle fund.

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

4 In addition to all other penalties provided by law, a commercial
5 motor vehicle that is subject to terminal safety audits under this
6 chapter and an officer, agent, or employee of a company operating a
7 commercial motor vehicle who violates or who procures, aids, or abets
8 in the violation of this title or any order or rule of the state patrol
9 is liable for a penalty of one hundred dollars for each violation.
10 Each violation is a separate and distinct offense, and in case of a
11 continuing violation every day's continuance is a separate and distinct
12 violation.

13 The penalty provided in this section is due and payable when the
14 person incurring it receives a notice in writing from the patrol
15 describing the violation and advising the person that the penalty is
16 due. The patrol may, upon written application for review, received
17 within fifteen days, remit or mitigate a penalty provided for in this
18 section or discontinue a prosecution to recover the penalty upon such
19 terms it deems proper and may ascertain the facts upon all such
20 applications in such manner and under such rules as it deems proper.
21 If the amount of the penalty is not paid to the patrol within fifteen
22 days after receipt of the notice imposing the penalty, or application
23 for remission or mitigation has not been made within fifteen days after
24 the violator has received notice of the disposition of the application,
25 the attorney general shall bring an action in the name of the state of
26 Washington in the superior court of Thurston county or of some other
27 county in which the violator does business, to recover the penalty. In
28 all such actions the procedure and rules of evidence are the same as an
29 ordinary civil action except as otherwise provided in this chapter.
30 All penalties recovered under this section shall be paid into the state
31 treasury and credited to the state patrol highway account of the motor
32 vehicle fund.

33 NEW SECTION. **Sec. 4.** (1) All powers, duties, and functions of the
34 utilities and transportation commission pertaining to safety
35 inspections of commercial vehicles, including but not limited to
36 terminal safety audits, except for those carriers subject to the
37 economic regulation of the commission, are transferred to the

1 Washington state patrol.

2 (2)(a) All reports, documents, surveys, books, records, files,
3 papers, or written material in the possession of the utilities and
4 transportation commission pertaining to the powers, functions, and
5 duties transferred shall be delivered to the custody of the Washington
6 state patrol. All cabinets, furniture, office equipment, motor
7 vehicles, and other tangible property employed by the utilities and
8 transportation commission in carrying out the powers, functions, and
9 duties transferred shall be made available to the Washington state
10 patrol. All funds, credits, or other assets held in connection with
11 the powers, functions, and duties transferred shall be assigned to the
12 Washington state patrol.

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

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

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

27 (4) All rules and all pending business before the utilities and
28 transportation commission pertaining to the powers, functions, and
29 duties transferred shall be continued and acted upon by the Washington
30 state patrol. All existing contracts and obligations remain in full
31 force and shall be performed by the Washington state patrol.

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

35 (6) If apportionments of budgeted funds are required because of the
36 transfers directed by this section, the director of financial
37 management shall certify the apportionments to the agencies affected,
38 the state auditor, and the state treasurer. Each of these shall make
39 the appropriate transfer and adjustments in funds and appropriation

1 accounts and equipment records in accordance with the certification.

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

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

8 The commission is hereby empowered to administer and enforce all
9 provisions of this chapter and to inspect the vehicles, books, and
10 documents of all "motor carriers" and the books, documents, and records
11 of those using the service of the carriers for the purpose of
12 discovering all discriminations and rebates and other information
13 pertaining to the enforcement of this chapter and shall prosecute
14 violations thereof. The commission shall employ such auditors,
15 inspectors, clerks, and assistants as it may deem necessary for the
16 enforcement of this chapter(~~(, and it shall be the duty of)~~). The
17 Washington state patrol (~~(to assist in the enforcement of)~~) shall
18 perform all motor carrier safety inspections required by this chapter,
19 (~~and the duty of~~) including terminal safety audits, except for (1)
20 those carriers subject to the economic regulation of the commission, or
21 (2) a vehicle owned or operated by a carrier affiliated with a solid
22 waste company subject to economic regulation by the commission. The
23 attorney general (~~(to)~~) shall assign at least one assistant to the
24 exclusive duty of assisting the commission in the enforcement of this
25 chapter, and the prosecution of persons charged with the violation
26 thereof. It shall be the duty of the Washington state patrol and the
27 sheriffs of the counties to make arrests and the county attorneys to
28 prosecute violations of this chapter.

29 NEW SECTION. **Sec. 6.** RCW 81.80.145 and 1993 c 359 s 1 are each
30 repealed.

31 NEW SECTION. **Sec. 7.** This act takes effect January 1, 1996."

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2 By Representative K. Schmidt

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4 In line 2 of the title, after "patrol;" strike the remainder of the
5 title and insert "amending RCW 81.80.330; adding new sections to
6 chapter 46.32 RCW; creating a new section; repealing RCW 81.80.145;
7 prescribing penalties; and providing an effective date."

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