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**SUBSTITUTE SENATE BILL 6483**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Highways & Transportation (originally sponsored by Senators Swecker, Haugen and Oke; by request of Department of Licensing)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to commercial driver's licenses; amending RCW  
2 46.25.010, 46.25.060, 46.25.070, 46.25.080, 46.25.130, 46.25.160, and  
3 46.63.070; reenacting and amending RCW 46.20.308 and 46.25.090; adding  
4 a new section to chapter 46.25 RCW; and providing an effective date.

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

6 **Sec. 1.** RCW 46.20.308 and 1999 c 331 s 2 and 1999 c 274 s 2 are  
7 each reenacted and amended to read as follows:

8 (1) Any person who operates a motor vehicle within this state is  
9 deemed to have given consent, subject to the provisions of RCW  
10 46.61.506, to a test or tests of his or her breath or blood for the  
11 purpose of determining the alcohol concentration or presence of any  
12 drug in his or her breath or blood if arrested for any offense where,  
13 at the time of the arrest, the arresting officer has reasonable grounds  
14 to believe the person had been driving or was in actual physical  
15 control of a motor vehicle while under the influence of intoxicating  
16 liquor or any drug or was in violation of RCW 46.61.503.

17 (2) The test or tests of breath shall be administered at the  
18 direction of a law enforcement officer having reasonable grounds to  
19 believe the person to have been driving or in actual physical control

1 of a motor vehicle within this state while under the influence of  
2 intoxicating liquor or any drug or the person to have been driving or  
3 in actual physical control of a motor vehicle while having alcohol in  
4 a concentration in violation of RCW 46.61.503 in his or her system and  
5 being under the age of twenty-one. However, in those instances where  
6 the person is incapable due to physical injury, physical incapacity, or  
7 other physical limitation, of providing a breath sample or where the  
8 person is being treated in a hospital, clinic, doctor's office,  
9 emergency medical vehicle, ambulance, or other similar facility in  
10 which a breath testing instrument is not present or where the officer  
11 has reasonable grounds to believe that the person is under the  
12 influence of a drug, a blood test shall be administered by a qualified  
13 person as provided in RCW 46.61.506(4). The officer shall inform the  
14 person of his or her right to refuse the breath or blood test, and of  
15 his or her right to have additional tests administered by any qualified  
16 person of his or her choosing as provided in RCW 46.61.506. The  
17 officer shall warn the driver that:

18 (a) His or her license, permit, or privilege to drive will be  
19 revoked or denied if he or she refuses to submit to the test;

20 (b) His or her license, permit, or privilege to drive will be  
21 suspended, revoked, or denied if the test is administered and the test  
22 indicates the alcohol concentration of the person's breath or blood is  
23 0.08 or more, in the case of a person age twenty-one or over, or in  
24 violation of RCW 46.61.502, 46.61.503, or 46.61.504 in the case of a  
25 person under age twenty-one; and

26 (c) His or her refusal to take the test may be used in a criminal  
27 trial.

28 (3) Except as provided in this section, the test administered shall  
29 be of the breath only. If an individual is unconscious or is under  
30 arrest for the crime of vehicular homicide as provided in RCW 46.61.520  
31 or vehicular assault as provided in RCW 46.61.522, or if an individual  
32 is under arrest for the crime of driving while under the influence of  
33 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest  
34 results from an accident in which there has been serious bodily injury  
35 to another person, a breath or blood test may be administered without  
36 the consent of the individual so arrested.

37 (4) Any person who is dead, unconscious, or who is otherwise in a  
38 condition rendering him or her incapable of refusal, shall be deemed

1 not to have withdrawn the consent provided by subsection (1) of this  
2 section and the test or tests may be administered, subject to the  
3 provisions of RCW 46.61.506, and the person shall be deemed to have  
4 received the warnings required under subsection (2) of this section.

5 (5) If, following his or her arrest and receipt of warnings under  
6 subsection (2) of this section, the person arrested refuses upon the  
7 request of a law enforcement officer to submit to a test or tests of  
8 his or her breath or blood, no test shall be given except as authorized  
9 under subsection (3) or (4) of this section.

10 (6) If, after arrest and after the other applicable conditions and  
11 requirements of this section have been satisfied, a test or tests of  
12 the person's blood or breath is administered and the test results  
13 indicate that the alcohol concentration of the person's breath or blood  
14 is 0.08 or more if the person is age twenty-one or over, or is in  
15 violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is  
16 under the age of twenty-one, or the person refuses to submit to a test,  
17 the arresting officer or other law enforcement officer at whose  
18 direction any test has been given, or the department, where applicable,  
19 if the arrest results in a test of the person's blood, shall:

20 (a) Serve notice in writing on the person on behalf of the  
21 department of its intention to suspend, revoke, or deny the person's  
22 license, permit, or privilege to drive as required by subsection (7) of  
23 this section;

24 (b) Serve notice in writing on the person on behalf of the  
25 department of his or her right to a hearing, specifying the steps he or  
26 she must take to obtain a hearing as provided by subsection (8) of this  
27 section;

28 (c) Mark the person's Washington state driver's license or permit  
29 to drive, if any, in a manner authorized by the department;

30 (d) Serve notice in writing that the marked license or permit, if  
31 any, is a temporary license that is valid for sixty days from the date  
32 of arrest or from the date notice has been given in the event notice is  
33 given by the department following a blood test, or until the  
34 suspension, revocation, or denial of the person's license, permit, or  
35 privilege to drive is sustained at a hearing pursuant to subsection (8)  
36 of this section, whichever occurs first. No temporary license is valid  
37 to any greater degree than the license or permit that it replaces; and

1 (e) Immediately notify the department of the arrest and transmit to  
2 the department within seventy-two hours, except as delayed as the  
3 result of a blood test, a sworn report or report under a declaration  
4 authorized by RCW 9A.72.085 that states:

5 (i) That the officer had reasonable grounds to believe the arrested  
6 person had been driving or was in actual physical control of a motor  
7 vehicle within this state while under the influence of intoxicating  
8 liquor or drugs, or both, or was under the age of twenty-one years and  
9 had been driving or was in actual physical control of a motor vehicle  
10 while having an alcohol concentration in violation of RCW 46.61.503;

11 (ii) That after receipt of the warnings required by subsection (2)  
12 of this section the person refused to submit to a test of his or her  
13 blood or breath, or a test was administered and the results indicated  
14 that the alcohol concentration of the person's breath or blood was 0.08  
15 or more if the person is age twenty-one or over, or was in violation of  
16 RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age  
17 of twenty-one; and

18 (iii) Any other information that the director may require by rule.

19 (7) The department of licensing, upon the receipt of a sworn report  
20 or report under a declaration authorized by RCW 9A.72.085 under  
21 subsection (6)(e) of this section, shall suspend, revoke, or deny the  
22 person's license, permit, or privilege to drive or any nonresident  
23 operating privilege, as provided in RCW 46.20.3101, such suspension,  
24 revocation, or denial to be effective beginning sixty days from the  
25 date of arrest or from the date notice has been given in the event  
26 notice is given by the department following a blood test, or when  
27 sustained at a hearing pursuant to subsection (8) of this section,  
28 whichever occurs first.

29 (8) A person receiving notification under subsection (6)(b) of this  
30 section may, within thirty days after the notice has been given,  
31 request in writing a formal hearing before the department. The person  
32 shall pay a fee of one hundred dollars as part of the request. If the  
33 request is mailed, it must be postmarked within thirty days after  
34 receipt of the notification. Upon timely receipt of such a request for  
35 a formal hearing, including receipt of the required one hundred dollar  
36 fee, the department shall afford the person an opportunity for a  
37 hearing. The department may waive the required one hundred dollar fee  
38 if the person is an indigent as defined in RCW 10.101.010. Except as

1 otherwise provided in this section, the hearing is subject to and shall  
2 be scheduled and conducted in accordance with RCW 46.20.329 and  
3 46.20.332. The hearing shall be conducted in the county of the arrest,  
4 except that all or part of the hearing may, at the discretion of the  
5 department, be conducted by telephone or other electronic means. The  
6 hearing shall be held within sixty days following the arrest or  
7 following the date notice has been given in the event notice is given  
8 by the department following a blood test, unless otherwise agreed to by  
9 the department and the person, in which case the action by the  
10 department shall be stayed, and any valid temporary license marked  
11 under subsection (6)(c) of this section extended, if the person is  
12 otherwise eligible for licensing. For the purposes of this section,  
13 the scope of the hearing shall cover the issues of whether a law  
14 enforcement officer had reasonable grounds to believe the person had  
15 been driving or was in actual physical control of a motor vehicle  
16 within this state while under the influence of intoxicating liquor or  
17 any drug or had been driving or was in actual physical control of a  
18 motor vehicle within this state while having alcohol in his or her  
19 system in a concentration in violation of RCW 46.61.503 and was under  
20 the age of twenty-one, whether the person was placed under arrest, and  
21 (a) whether the person refused to submit to the test or tests upon  
22 request of the officer after having been informed that such refusal  
23 would result in the revocation of the person's license, permit, or  
24 privilege to drive, or (b) if a test or tests were administered,  
25 whether the applicable requirements of this section were satisfied  
26 before the administration of the test or tests, whether the person  
27 submitted to the test or tests, or whether a test was administered  
28 without express consent as permitted under this section, and whether  
29 the test or tests indicated that the alcohol concentration of the  
30 person's breath or blood was 0.08 or more if the person was age twenty-  
31 one or over at the time of the arrest, or was in violation of RCW  
32 46.61.502, 46.61.503, or 46.61.504 if the person was under the age of  
33 twenty-one at the time of the arrest. The sworn report or report under  
34 a declaration authorized by RCW 9A.72.085 submitted by a law  
35 enforcement officer is prima facie evidence that the officer had  
36 reasonable grounds to believe the person had been driving or was in  
37 actual physical control of a motor vehicle within this state while  
38 under the influence of intoxicating liquor or drugs, or both, or the

1 person had been driving or was in actual physical control of a motor  
2 vehicle within this state while having alcohol in his or her system in  
3 a concentration in violation of RCW 46.61.503 and was under the age of  
4 twenty-one and that the officer complied with the requirements of this  
5 section.

6 A hearing officer shall conduct the hearing, may issue subpoenas  
7 for the attendance of witnesses and the production of documents, and  
8 shall administer oaths to witnesses. The hearing officer shall not  
9 issue a subpoena for the attendance of a witness at the request of the  
10 person unless the request is accompanied by the fee required by RCW  
11 5.56.010 for a witness in district court. The sworn report or report  
12 under a declaration authorized by RCW 9A.72.085 of the law enforcement  
13 officer and any other evidence accompanying the report shall be  
14 admissible without further evidentiary foundation and the  
15 certifications authorized by the criminal rules for courts of limited  
16 jurisdiction shall be admissible without further evidentiary  
17 foundation. The person may be represented by counsel, may question  
18 witnesses, may present evidence, and may testify. The department shall  
19 order that the suspension, revocation, or denial either be rescinded or  
20 sustained.

21 (9) If the suspension, revocation, or denial is sustained after  
22 such a hearing, the person whose license, privilege, or permit is  
23 suspended, revoked, or denied has the right to file a petition in the  
24 superior court of the county of arrest to review the final order of  
25 revocation by the department in the same manner as an appeal from a  
26 decision of a court of limited jurisdiction. Notice of appeal must be  
27 filed within thirty days after the date the final order is served or  
28 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ  
29 1.1, or other statutes or rules referencing de novo review, the appeal  
30 shall be limited to a review of the record of the administrative  
31 hearing. The appellant must pay the costs associated with obtaining  
32 the record of the hearing before the hearing officer. The filing of  
33 the appeal does not stay the effective date of the suspension,  
34 revocation, or denial. A petition filed under this subsection must  
35 include the petitioner's grounds for requesting review. Upon granting  
36 petitioner's request for review, the court shall review the  
37 department's final order of suspension, revocation, or denial as  
38 expeditiously as possible. The review must be limited to a

1 determination of whether the department has committed any errors of  
2 law. The superior court shall accept those factual determinations  
3 supported by substantial evidence in the record: (a) That were  
4 expressly made by the department; or (b) that may reasonably be  
5 inferred from the final order of the department. The superior court  
6 may reverse, affirm, or modify the decision of the department or remand  
7 the case back to the department for further proceedings. The decision  
8 of the superior court must be in writing and filed in the clerk's  
9 office with the other papers in the case. The court shall state the  
10 reasons for the decision. If judicial relief is sought for a stay or  
11 other temporary remedy from the department's action, the court shall  
12 not grant such relief unless the court finds that the appellant is  
13 likely to prevail in the appeal and that without a stay the appellant  
14 will suffer irreparable injury. If the court stays the suspension,  
15 revocation, or denial it may impose conditions on such stay.

16 (10)(a) If a person whose driver's license, permit, or privilege to  
17 drive has been or will be suspended, revoked, or denied under  
18 subsection (7) of this section, other than as a result of a breath or  
19 blood test refusal, and who has not committed an offense for which he  
20 or she was granted a deferred prosecution under chapter 10.05 RCW,  
21 petitions a court for a deferred prosecution on criminal charges  
22 arising out of the arrest for which action has been or will be taken  
23 under subsection (7) of this section, the court may direct the  
24 department to stay any actual or proposed suspension, revocation, or  
25 denial for at least forty-five days but not more than ninety days. If  
26 the court stays the suspension, revocation, or denial, it may impose  
27 conditions on such stay. If the person is otherwise eligible for  
28 licensing, the department shall issue a temporary license, or extend  
29 any valid temporary license marked under subsection (6) of this  
30 section, for the period of the stay. If a deferred prosecution  
31 treatment plan is not recommended in the report made under RCW  
32 10.05.050, or if treatment is rejected by the court, or if the person  
33 declines to accept an offered treatment plan, or if the person violates  
34 any condition imposed by the court, then the court shall immediately  
35 direct the department to cancel the stay and any temporary marked  
36 license or extension of a temporary license issued under this  
37 subsection.

1       **(b)** A suspension, revocation, or denial imposed under this section,  
2 other than as a result of a breath or blood test refusal, shall be  
3 stayed if the person is accepted for deferred prosecution as provided  
4 in chapter 10.05 RCW for the incident upon which the suspension,  
5 revocation, or denial is based. If the deferred prosecution is  
6 terminated, the stay shall be lifted and the suspension, revocation, or  
7 denial reinstated. If the deferred prosecution is completed, the stay  
8 shall be lifted and the suspension, revocation, or denial canceled.

9       **(c)** The provisions of (b) of this subsection relating to a stay of  
10 a suspension, revocation, or denial and the cancellation of any  
11 suspension, revocation, or denial do not apply to the suspension,  
12 revocation, denial, or disqualification of a person's commercial  
13 driver's license or privilege to operate a commercial motor vehicle.

14       (11) When it has been finally determined under the procedures of  
15 this section that a nonresident's privilege to operate a motor vehicle  
16 in this state has been suspended, revoked, or denied, the department  
17 shall give information in writing of the action taken to the motor  
18 vehicle administrator of the state of the person's residence and of any  
19 state in which he or she has a license.

20       **Sec. 2.** RCW 46.25.010 and 1996 c 30 s 1 are each amended to read  
21 as follows:

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

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

27       (2) "Alcohol concentration" means:

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

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

32       (3) "Commercial driver's license" (CDL) means a license issued in  
33 accordance with the requirements of this chapter to an individual that  
34 authorizes the individual to drive a class of commercial motor vehicle.

35       (4) The "commercial driver's license information system" (CDLIS) is  
36 the information system established pursuant to the CMVSA to serve as a



1 clearinghouse for locating information related to the licensing and  
2 identification of commercial motor vehicle drivers.

3 (5) "Commercial driver's instruction permit" means a permit issued  
4 under RCW 46.25.060(~~(+4)~~) (5).

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

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

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

11 (c) If the vehicle is transporting hazardous materials (~~and is~~  
12 ~~required to be identified by a placard in accordance with 49 C.F.R.~~  
13 ~~part 172, subpart F~~) as defined in this section; or

14 (d) If the vehicle is a school bus (~~as defined in RCW 46.04.521~~)  
15 regardless of weight or size.

16 (7) "Conviction" has the definition set forth in RCW 46.20.270.

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

19 (9) "Drive" means to drive, operate, or be in physical control of  
20 a motor vehicle in any place open to the general public for purposes of  
21 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and  
22 46.25.120, "drive" includes operation or physical control of a motor  
23 vehicle anywhere in the state.

24 (10) "Drugs" are those substances as defined by RCW 69.04.009.

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

29 (12) "Gross vehicle weight rating" (GVWR) means the value specified  
30 by the manufacturer as the maximum loaded weight of a single or a  
31 combination or articulated vehicle, or the registered gross weight,  
32 where this value cannot be determined. The GVWR of a combination or  
33 articulated vehicle, commonly referred to as the "gross combined weight  
34 rating" or GCWR, is the GVWR of the power unit plus the GVWR of the  
35 towed unit or units.

36 (13) "Hazardous materials" (~~has the same meaning found in Section~~  
37 ~~103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801~~  
38 ~~et seq.)~~) means any material that has been designated as hazardous

1 under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart  
2 F of 49 C.F.R. part 172 or any quantity of a material listed as a  
3 select agent or toxin in 42 C.F.R. part 73.

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

9 (15) "Out-of-service order" means a temporary prohibition against  
10 driving a commercial motor vehicle.

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

15 (17) "Serious traffic violation" means:

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

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

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

22 (d) Driving a commercial motor vehicle without obtaining a  
23 commercial driver's license;

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

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

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

37 ~~((17))~~ (18) "State" means a state of the United States and the  
38 District of Columbia.

1       (~~(18)~~) (19) "Tank vehicle" means a vehicle that is designed to  
2 transport a liquid or gaseous material within a tank that is either  
3 permanently or temporarily attached to the vehicle or the chassis.  
4 Tank vehicles include, but are not limited to cargo tanks and portable  
5 tanks. However, this definition does not include portable tanks having  
6 a rated capacity under one thousand gallons.

7       (~~(19)~~) (20) "United States" means the fifty states and the  
8 District of Columbia.

9       **Sec. 3.** RCW 46.25.060 and 2002 c 352 s 18 are each amended to read  
10 as follows:

11       (1)(a) No person may be issued a commercial driver's license unless  
12 that person is a resident of this state and has passed a knowledge and  
13 skills test for driving a commercial motor vehicle that complies with  
14 minimum federal standards established by federal regulation enumerated  
15 in 49 C.F.R. part 383, subparts G and H, and has satisfied all other  
16 requirements of the CMVSA in addition to other requirements imposed by  
17 state law or federal regulation. The tests must be prescribed and  
18 conducted by the department. In addition to the fee charged for  
19 issuance or renewal of any license, the applicant shall pay a fee of no  
20 more than ten dollars for each classified knowledge examination,  
21 classified endorsement knowledge examination, or any combination of  
22 classified license and endorsement knowledge examinations. The  
23 applicant shall pay a fee of no more than fifty dollars for each  
24 classified skill examination or combination of classified skill  
25 examinations conducted by the department.

26       (b) The department may authorize a person, including an agency of  
27 this or another state, an employer, a private driver training facility,  
28 or other private institution, or a department, agency, or  
29 instrumentality of local government, to administer the skills test  
30 specified by this section under the following conditions:

31       (i) The test is the same which would otherwise be administered by  
32 the state;

33       (ii) The third party has entered into an agreement with the state  
34 that complies with the requirements of 49 C.F.R. part 383.75; and

35       (iii) The director has adopted rules as to the third party testing  
36 program and the development and justification for fees charged by any  
37 third party.

1       (2) The department shall work with the office of the superintendent  
2 of public instruction to develop modified P1 and P2 skill examinations  
3 that also include the skill examination components required to obtain  
4 an "S" endorsement. In no event may a new applicant for an "S"  
5 endorsement be required to take two separate examinations to obtain an  
6 "S" endorsement and either a P1 or P2 endorsement, unless that  
7 applicant is upgrading his or her existing commercial driver license to  
8 include an "S" endorsement. The combined P1/S or P2/S skill  
9 examination must be offered to the applicant at the same cost as a  
10 regular P1 or P2 skill examination.

11       (3) The department may waive the skills test specified in this  
12 section for a commercial driver's license applicant who meets the  
13 requirements of 49 C.F.R. part 383.77.

14       ~~((+3))~~ (4) A commercial driver's license or commercial driver's  
15 instruction permit may not be issued to a person while the person is  
16 subject to a disqualification from driving a commercial motor vehicle,  
17 or while the person's driver's license is suspended, revoked, or  
18 canceled in any state, nor may a commercial driver's license be issued  
19 to a person who has a commercial driver's license issued by any other  
20 state unless the person first surrenders all such licenses, which must  
21 be returned to the issuing state for cancellation.

22       ~~((+4))~~ (5)(a) The department may issue a commercial driver's  
23 instruction permit (~~may be issued~~) to an (~~individual~~) applicant who  
24 is at least eighteen years of age and holds a valid (~~automobile or~~  
25 classified) Washington state driver's license and who has submitted a  
26 proper application, passed the general knowledge examination required  
27 for issuance of a commercial driver's license under subsection (1) of  
28 this section, and paid the appropriate fee for the knowledge  
29 examination and an application fee of ten dollars.

30       (b) A commercial driver's instruction permit may not be issued for  
31 a period to exceed six months. Only one renewal or reissuance may be  
32 granted within a two-year period.

33       (c) The holder of a commercial driver's instruction permit may  
34 drive a commercial motor vehicle on a highway only when accompanied by  
35 the holder of a commercial driver's license valid for the type of  
36 vehicle driven who occupies a seat beside the individual for the  
37 purpose of giving instruction in driving the commercial motor vehicle.

38       ~~((An application for a commercial driver's instruction permit shall be~~

1 ~~accompanied by a fee of ten dollars.)~~ The holder of a commercial  
2 driver's instruction permit is not authorized to operate a commercial  
3 motor vehicle transporting hazardous materials.

4 (d) The department shall ~~((forthwith))~~ transmit the fees collected  
5 for commercial driver's instruction permits to the state treasurer.

6 **Sec. 4.** RCW 46.25.070 and 2003 c 195 s 2 are each amended to read  
7 as follows:

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

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

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

14 (c) Date of birth;

15 (d) The applicant's Social Security number;

16 (e) The person's signature;

17 (f) Certifications including those required by 49 C.F.R. part  
18 383.71(a);

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

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

23 ~~((+h))~~ (i) A consent to release driving record information to  
24 parties identified in chapter 46.52 RCW and this chapter.

25 (2) An applicant for a hazardous materials endorsement must submit  
26 an application and comply with federal transportation security  
27 administration requirements as specified in 49 C.F.R. part 1572, and  
28 meet the requirements specified in 49 C.F.R. 383.71(a)(9).

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

32 ~~((+3))~~ (4) No person who has been a resident of this state for  
33 thirty days may drive a commercial motor vehicle under the authority of  
34 a commercial driver's license issued by another jurisdiction.

35 **Sec. 5.** RCW 46.25.080 and 1996 c 30 s 2 are each amended to read  
36 as follows:

1 (1) The commercial driver's license must be marked "commercial  
2 driver's license" or "CDL," and must be, to the maximum extent  
3 practicable, tamperproof. It must include, but not be limited to, the  
4 following information:

5 (a) The name and residence address of the person;

6 (b) The person's color photograph;

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

9 (d) Date of birth;

10 (e) The person's Social Security number or any number or identifier  
11 deemed appropriate by the department;

12 (f) The person's signature;

13 (g) The class or type of commercial motor vehicle or vehicles that  
14 the person is authorized to drive, together with any endorsements or  
15 restrictions;

16 (h) The name of the state; and

17 (i) The dates between which the license is valid.

18 (2) Commercial driver's licenses may be issued with the  
19 classifications, endorsements, and restrictions set forth in this  
20 subsection. The holder of a valid commercial driver's license may  
21 drive all vehicles in the class for which that license is issued and  
22 all lesser classes of vehicles except motorcycles and vehicles that  
23 require an endorsement, unless the proper endorsement appears on the  
24 license.

25 (a) Licenses may be classified as follows:

26 (i) Class A is a combination of vehicles with a gross combined  
27 weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the  
28 vehicle or vehicles being towed is in excess of 10,000 pounds.

29 (ii) Class B is a single vehicle with a GVWR of 26,001 pounds or  
30 more, and any such vehicle towing a vehicle not in excess of 10,000  
31 pounds.

32 (iii) Class C is a single vehicle with a GVWR of less than 26,001  
33 pounds or any such vehicle towing a vehicle with a GVWR not in excess  
34 of 10,000 pounds consisting of:

35 (A) Vehicles designed to transport sixteen or more passengers,  
36 including the driver; or

37 (B) Vehicles used in the transportation of hazardous materials

1 (~~that requires the vehicle to be identified with a placard under 49~~  
2 ~~C.F.R., part 172, subpart F~~)).

3 (b) The following endorsements and restrictions may be placed on a  
4 license:

5 (i) "H" authorizes the driver to drive a vehicle transporting  
6 hazardous materials.

7 (ii) "K" restricts the driver to vehicles not equipped with air  
8 brakes.

9 (iii) "T" authorizes driving double and triple trailers.

10 (iv) "P1" authorizes driving all vehicles, other than school buses,  
11 carrying passengers.

12 (v) "P2" authorizes driving vehicles with a GVWR of less than  
13 26,001 pounds, other than school buses, carrying sixteen or more  
14 passengers, including the driver.

15 (vi) "N" authorizes driving tank vehicles.

16 (vii) "X" represents a combination of hazardous materials and tank  
17 vehicle endorsements.

18 (viii) "S" authorizes driving school buses.

19 The license may be issued with additional endorsements and  
20 restrictions as established by rule of the director.

21 (3) All school bus drivers must have either a "P1" or "P2"  
22 endorsement depending on the GVWR of the school bus being driven.

23 (4) Before issuing a commercial driver's license, the department  
24 shall obtain driving record information:

25 (a) Through the commercial driver's license information  
26 system((~~7~~));

27 (b) Through the national driver register((~~7~~ and));

28 (c) From the current state of record; and

29 (d) From all states where the applicant was previously licensed  
30 over the last ten years to drive any type of motor vehicle.

31 A check under (d) of this subsection need be done only once, either  
32 at the time of application for a new commercial driver's license, or  
33 upon application for a renewal of a commercial driver's license for the  
34 first time after the effective date of this section, provided a  
35 notation is made on the driver's record confirming that the driving  
36 record check has been made and noting the date it was completed.

37 (5) Within ten days after issuing a commercial driver's license,

1 the department must notify the commercial driver's license information  
2 system of that fact, and provide all information required to ensure  
3 identification of the person.

4 (6) A commercial driver's license shall expire in the same manner  
5 as provided in RCW 46.20.181.

6 (7) When applying for renewal of a commercial driver's license, the  
7 applicant shall complete the application form required by RCW  
8 46.25.070(1), providing updated information and required  
9 certifications. If the applicant wishes to retain a hazardous  
10 materials endorsement, the applicant shall take and pass the written  
11 test for a hazardous materials endorsement.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.25 RCW  
13 to read as follows:

14 (1) The department may not issue, renew, upgrade, or transfer a  
15 hazardous materials endorsement for a commercial driver's license to  
16 any individual authorizing that individual to operate a commercial  
17 motor vehicle transporting a hazardous material in commerce unless the  
18 federal transportation security administration has determined that the  
19 individual does not pose a security risk warranting denial of the  
20 endorsement.

21 (2) An individual who is prohibited from holding a commercial  
22 driver's license with a hazardous materials endorsement under 49 C.F.R.  
23 1572.5 must surrender any hazardous materials endorsement in his or her  
24 possession to the department.

25 (3) The department may adopt such rules as may be necessary to  
26 comply with the provisions of 49 C.F.R. part 1572.

27 **Sec. 7.** RCW 46.25.090 and 2002 c 272 s 3 and 2002 c 193 s 1 are  
28 each reenacted and amended to read as follows:

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

34 (a) Driving a (~~commercial~~) motor vehicle under the influence of  
35 alcohol or any drug;



1 (b) Driving a commercial motor vehicle while the alcohol  
2 concentration in the person's system is 0.04 or more as determined by  
3 any testing methods approved by law in this state or any other state or  
4 jurisdiction;

5 (c) Leaving the scene of an accident involving a (~~commercial~~)  
6 motor vehicle driven by the person;

7 (d) Using a (~~commercial~~) motor vehicle in the commission of a  
8 felony;

9 (e) Refusing to submit to a test to determine the driver's alcohol  
10 concentration while driving a motor vehicle;

11 (f) Driving a commercial motor vehicle when, as a result of prior  
12 violations committed while operating a commercial motor vehicle, the  
13 driver's commercial driver's license is revoked, suspended, or  
14 canceled, or the driver is disqualified from operating a commercial  
15 motor vehicle;

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

19 If any of the violations set forth in this subsection occurred  
20 while transporting ((a)) hazardous material (~~required to be identified~~  
21 ~~by a placard~~)), the person is disqualified for a period of not less  
22 than three years.

23 (2) A person is disqualified for life if it has been determined  
24 that the person has committed or has been convicted of two or more  
25 violations of any of the offenses specified in subsection (1) of this  
26 section, or any combination of those offenses, arising from two or more  
27 separate incidents. (~~Only offenses committed after October 1, 1989,~~  
28 ~~may be considered in applying this subsection.))~~

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

33 (4) A person is disqualified from driving a commercial motor  
34 vehicle for life who uses a (~~commercial~~) motor vehicle in the  
35 commission of a felony involving the manufacture, distribution, or  
36 dispensing of a controlled substance, as defined by chapter 69.50 RCW,  
37 or possession with intent to manufacture, distribute, or dispense a  
38 controlled substance, as defined by chapter 69.50 RCW.

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

3 (a) Not less than sixty days if:

4 (i) Convicted of or found to have committed (~~two~~) a second  
5 serious traffic (~~violations,~~) violation while driving a commercial  
6 motor vehicle; or

7 (ii) Convicted of reckless driving, where there has been a prior  
8 serious traffic violation; or

9 (b) Not less than one hundred twenty days if:

10 (i) Convicted of or found to have committed (~~three~~) a third or  
11 subsequent serious traffic (~~violations, committed in~~) violation while  
12 driving a commercial motor vehicle (~~arising from separate incidents~~  
13 occurring within a three-year period)); or

14 (ii) Convicted of reckless driving, where there has been two or  
15 more prior serious traffic violations.

16 For purposes of determining prior serious traffic violations under  
17 this subsection, each conviction of or finding that a driver has  
18 committed a serious traffic violation while driving a commercial motor  
19 vehicle or noncommercial motor vehicle, arising from a separate  
20 incident occurring within a three-year period, must be counted.

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

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

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

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

34 (d) Not less than one hundred eighty days nor more than two years  
35 if the person is convicted of or is found to have committed a first  
36 violation of an out-of-service order while transporting hazardous  
37 materials (~~required to be placarded under the Hazardous Materials~~  
38 ~~Transportation Act (46 U.S.C. Sec. 1801-1813)), or while operating~~

1 motor vehicles designed to transport sixteen or more passengers,  
2 including the driver. A person is disqualified for a period of not  
3 less than three years nor more than five years if, during a ten-year  
4 period, the person is convicted of or is found to have committed  
5 subsequent violations of out-of-service orders, in separate incidents,  
6 while transporting hazardous materials (~~required to be placarded under~~  
7 ~~the Hazardous Materials Transportation Act~~), or while operating motor  
8 vehicles designed to transport sixteen or more passengers, including  
9 the driver.

10 (7) A person is disqualified from driving a commercial motor  
11 vehicle if a report has been received by the department under RCW  
12 46.25.125 that the person has received a confirmed positive drug or  
13 alcohol test either as part of the testing program required by 49  
14 C.F.R. 382 or 49 C.F.R. 40 or as part of a preemployment drug test. A  
15 disqualification under this subsection remains in effect until the  
16 person undergoes a drug and alcohol assessment by an agency certified  
17 by the department of social and health services and, if the person is  
18 classified as an alcoholic, drug addict, alcohol abuser, or drug  
19 abuser, until the person presents evidence of satisfactory  
20 participation in or successful completion of a drug or alcohol  
21 treatment program that has been certified by the department of social  
22 and health services under chapter 70.96A RCW and until the person has  
23 met the requirements of RCW 46.25.100. The agency making a drug and  
24 alcohol assessment under this section shall forward a diagnostic  
25 evaluation and treatment recommendation to the department of licensing  
26 for use in determining the person's eligibility for driving a  
27 commercial motor vehicle. Persons who are disqualified under this  
28 subsection more than twice in a five-year period are disqualified for  
29 life.

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

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

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

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

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

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

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

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

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

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

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

23 (9) A person is disqualified from driving a commercial motor  
24 vehicle for not more than one year if a report has been received by the  
25 department from the federal motor carrier safety administration that  
26 the person's driving has been determined to constitute an imminent  
27 hazard as defined by 49 C.F.R. 383.5.

28 (10) Within ten days after suspending, revoking, or canceling a  
29 commercial driver's license or disqualifying a driver from operating a  
30 commercial motor vehicle, the department shall update its records to  
31 reflect that action. ((After suspending, revoking, or canceling a  
32 nonresident commercial driver's privileges, the department shall notify  
33 the licensing authority of the state that issued the commercial  
34 driver's license.))

35 **Sec. 8.** RCW 46.25.130 and 1989 c 178 s 15 are each amended to read  
36 as follows:

37 (1) Within ten days after receiving a report of the conviction of

1 or finding that a traffic infraction has been committed by any  
2 nonresident holder of a commercial driver's license, or any nonresident  
3 operating a commercial motor vehicle, for any violation of state law or  
4 local ordinance relating to motor vehicle traffic control, other than  
5 parking violations, (~~committed in a commercial motor vehicle,~~) the  
6 department shall notify the driver licensing authority in the licensing  
7 state of the conviction.

8 (2)(a) No later than ten days after disqualifying any nonresident  
9 holder of a commercial driver's license from operating a commercial  
10 motor vehicle, or revoking, suspending, or canceling the nonresident  
11 driving privileges of the nonresident holder of a commercial driver's  
12 license for at least sixty days, the department must notify the state  
13 that issued the license of the disqualification, revocation,  
14 suspension, or cancellation.

15 (b) The notification must include both the disqualification and the  
16 violation that resulted in the disqualification, revocation,  
17 suspension, or cancellation. The notification and the information it  
18 provides must be recorded on the driver's record.

19 **Sec. 9.** RCW 46.25.160 and 1989 c 178 s 18 are each amended to read  
20 as follows:

21 Notwithstanding any law to the contrary, a person may drive a  
22 commercial motor vehicle if the person has a commercial driver's  
23 license or commercial driver's instruction permit issued by any state  
24 or jurisdiction in accordance with the minimum federal standards for  
25 the issuance of commercial motor vehicle driver's licenses or permits,  
26 if the person's license or permit is not suspended, revoked, or  
27 canceled, and if the person is not disqualified from driving a  
28 commercial motor vehicle or is subject to an out-of-service order.

29 **Sec. 10.** RCW 46.63.070 and 2000 c 110 s 1 are each amended to read  
30 as follows:

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

34 (2) If the person determined to have committed the infraction does  
35 not contest the determination the person shall respond by completing  
36 the appropriate portion of the notice of infraction and submitting it,

1 either by mail or in person, to the court specified on the notice. A  
2 check or money order in the amount of the penalty prescribed for the  
3 infraction must be submitted with the response. When a response which  
4 does not contest the determination is received, an appropriate order  
5 shall be entered in the court's records, and a record of the response  
6 and order shall be furnished to the department in accordance with RCW  
7 46.20.270.

8 (3) If the person determined to have committed the infraction  
9 wishes to contest the determination the person shall respond by  
10 completing the portion of the notice of infraction requesting a hearing  
11 and submitting it, either by mail or in person, to the court specified  
12 on the notice. The court shall notify the person in writing of the  
13 time, place, and date of the hearing, and that date shall not be sooner  
14 than seven days from the date of the notice, except by agreement.

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

22 (5)(a) Except as provided in (b) and (c) of this subsection, in  
23 hearings conducted pursuant to subsections (3) and (4) of this section,  
24 the court may defer findings, or in a hearing to explain mitigating  
25 circumstances may defer entry of its order, for up to one year and  
26 impose conditions upon the defendant the court deems appropriate. Upon  
27 deferring findings, the court may assess costs as the court deems  
28 appropriate for administrative processing. If at the end of the  
29 deferral period the defendant has met all conditions and has not been  
30 determined to have committed another traffic infraction, the court may  
31 dismiss the infraction.

32 (b) A person may not receive more than one deferral within a seven-  
33 year period for traffic infractions for moving violations and more than  
34 one deferral within a seven-year period for traffic infractions for  
35 nonmoving violations.

36 (c) A person who is the holder of a commercial driver's license may  
37 not receive a deferral under this section.

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

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

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

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

10 NEW SECTION. **Sec. 11.** Sections 1, 5, 7, 8, and 10 of this act  
11 take effect July 1, 2005.

--- END ---