

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6552

59th Legislature
2006 Regular Session

Passed by the Senate March 7, 2006
YEAS 44 NAYS 0

President of the Senate

Passed by the House February 28, 2006
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6552** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6552

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Benson, Haugen, Mulliken, Berkey and Sheldon; by request of Department of Licensing)

READ FIRST TIME 02/07/06.

1 AN ACT Relating to commercial driver's licenses; and amending RCW
2 46.20.270, 46.25.010, 46.25.050, 46.25.090, 46.25.120, 46.52.101, and
3 46.63.070.

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

5 **Sec. 1.** RCW 46.20.270 and 2005 c 288 s 3 are each amended to read
6 as follows:

7 (1) Whenever any person is convicted of any offense for which this
8 title makes mandatory the withholding of the driving privilege of such
9 person by the department, the court in which such conviction is had
10 shall forthwith mark the person's Washington state driver's license or
11 permit to drive, if any, in a manner authorized by the department. A
12 valid driver's license or permit to drive marked under this subsection
13 shall remain in effect until the person's driving privilege is withheld
14 by the department pursuant to notice given under RCW 46.20.245, unless
15 the license or permit expires or otherwise becomes invalid prior to the
16 effective date of this action. Perfection of notice of appeal shall
17 stay the execution of sentence including the withholding of the driving
18 privilege.

1 (2) Every court having jurisdiction over offenses committed under
2 this chapter, or any other act of this state or municipal ordinance
3 adopted by a local authority regulating the operation of motor vehicles
4 on highways, or any federal authority having jurisdiction over offenses
5 substantially the same as those set forth in Title 46 RCW which occur
6 on federal installations within this state, shall immediately forward
7 to the department (~~within ten days of~~) a forfeiture of bail or
8 collateral deposited to secure the defendant's appearance in court, a
9 payment of a fine (~~(or)~~), penalty, or court cost, a plea of guilty or
10 nolo contendere or a finding of guilt, or a finding that any person has
11 committed a traffic infraction an abstract of the court record in the
12 form prescribed by rule of the supreme court, showing the conviction of
13 any person or the finding that any person has committed a traffic
14 infraction in said court for a violation of any said laws other than
15 regulations governing standing, stopping, parking, and pedestrian
16 offenses.

17 (3) Every state agency or municipality having jurisdiction over
18 offenses committed under this chapter, or under any other act of this
19 state or municipal ordinance adopted by a state or local authority
20 regulating the operation of motor vehicles on highways, may forward to
21 the department within ten days of failure to respond, failure to pay a
22 penalty, failure to appear at a hearing to contest the determination
23 that a violation of any statute, ordinance, or regulation relating to
24 standing, stopping, parking, or other infraction issued under RCW
25 46.63.030(1)(d) has been committed, or failure to appear at a hearing
26 to explain mitigating circumstances, an abstract of the citation record
27 in the form prescribed by rule of the department, showing the finding
28 by such municipality that two or more violations of laws governing
29 standing, stopping, and parking or one or more other infractions issued
30 under RCW 46.63.030(1)(d) have been committed and indicating the nature
31 of the defendant's failure to act. Such violations or infractions may
32 not have occurred while the vehicle is stolen from the registered owner
33 or is leased or rented under a bona fide commercial vehicle lease or
34 rental agreement between a lessor engaged in the business of leasing
35 vehicles and a lessee who is not the vehicle's registered owner. The
36 department may enter into agreements of reciprocity with the duly
37 authorized representatives of the states for reporting to each other
38 violations of laws governing standing, stopping, and parking.

1 (4) For the purposes of Title 46 RCW the term "conviction" means a
2 final conviction in a state or municipal court or by any federal
3 authority having jurisdiction over offenses substantially the same as
4 those set forth in Title 46 RCW which occur on federal installations in
5 this state, an unvacated forfeiture of bail or collateral deposited to
6 secure a defendant's appearance in court, the payment of a fine or
7 court cost, a plea of guilty or nolo contendere, or a finding of guilt
8 on a traffic law violation charge, regardless of whether the imposition
9 of sentence or sanctions are deferred or the penalty is suspended, but
10 not including entry into a deferred prosecution agreement under chapter
11 10.05 RCW.

12 (5) For the purposes of Title 46 RCW the term "finding that a
13 traffic infraction has been committed" means a failure to respond to a
14 notice of infraction or a determination made by a court pursuant to
15 this chapter. Payment of a monetary penalty made pursuant to RCW
16 46.63.070(2) is deemed equivalent to such a finding.

17 **Sec. 2.** RCW 46.25.010 and 2005 c 325 s 2 are each amended to read
18 as follows:

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

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

24 (2) "Alcohol concentration" means:

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

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

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

34 (4) The "commercial driver's license information system" (CDLIS) is
35 the information system established pursuant to the CMVSA to serve as a
36 clearinghouse for locating information related to the licensing and
37 identification of commercial motor vehicle drivers.

1 (5) "Commercial driver's instruction permit" means a permit issued
2 under RCW 46.25.060(5).

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

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

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

9 (c) If the vehicle is transporting hazardous materials as defined
10 in this section; or

11 (d) If the vehicle is a school bus regardless of weight or size.

12 (7) "Conviction" (~~has the definition set forth in RCW 46.20.270~~)
13 means an unvacated adjudication of guilt, or a determination that a
14 person has violated or failed to comply with the law in a court of
15 original jurisdiction or by an authorized administrative tribunal, an
16 unvacated forfeiture of bail or collateral deposited to secure the
17 person's appearance in court, a plea of guilty or nolo contendere
18 accepted by the court, the payment of a fine or court cost, or
19 violation of a condition of release without bail, regardless of whether
20 or not the penalty is rebated, suspended, or probated.

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

23 (9) "Drive" means to drive, operate, or be in physical control of
24 a motor vehicle in any place open to the general public for purposes of
25 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
26 46.25.120, "drive" includes operation or physical control of a motor
27 vehicle anywhere in the state.

28 (10) "Drugs" are those substances as defined by RCW 69.04.009,
29 including, but not limited to, those substances defined by 49 C.F.R.
30 40.3.

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

35 (12) "Gross vehicle weight rating" (GVWR) means the value specified
36 by the manufacturer as the maximum loaded weight of a single (~~or a~~
37 ~~combination or articulated~~) vehicle(~~(, or the registered gross weight,~~
38 ~~where this value cannot be determined)~~). The GVWR of a combination or

1 articulated vehicle, commonly referred to as the "gross combined weight
2 rating" or GCWR, is the GVWR of the power unit plus the GVWR of the
3 towed unit or units. If the GVWR of any unit cannot be determined, the
4 actual gross weight will be used. If a vehicle with a GVWR of less
5 than 11,794 kilograms (26,001 pounds or less) has been structurally
6 modified to carry a heavier load, then the actual gross weight capacity
7 of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042,
8 will be used as the GVWR.

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

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

18 (15) "Out-of-service order" means a (~~temporary prohibition against~~
19 ~~driving a commercial motor vehicle~~) declaration by an authorized
20 enforcement officer of a federal, state, Canadian, Mexican, or local
21 jurisdiction that a driver, a commercial motor vehicle, or a motor
22 carrier operation is out-of-service pursuant to 49 C.F.R. 386.72,
23 392.5, 395.13, 396.9, or compatible laws, or the North American uniform
24 out-of-service criteria.

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

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

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

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

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

38 (18) "Serious traffic violation" means:

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

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

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

7 (d) Driving a commercial motor vehicle without obtaining a
8 commercial driver's license;

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

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

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

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

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

27 (21) "Tank vehicle" means a vehicle that is designed to transport
28 a liquid or gaseous material within a tank that is either permanently
29 or temporarily attached to the vehicle or the chassis. Tank vehicles
30 include, but are not limited to cargo tanks and portable tanks.
31 However, this definition does not include portable tanks having a rated
32 capacity under one thousand gallons.

33 (22) "United States" means the fifty states and the District of
34 Columbia.

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

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

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

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

9 **Sec. 3.** RCW 46.25.050 and 1995 c 393 s 1 are each amended to read
10 as follows:

11 (1) Drivers of commercial motor vehicles shall obtain a commercial
12 driver's license as required under this chapter (~~((by April 1, 1992.~~
13 ~~The director shall establish a program to convert all qualified~~
14 ~~commercial motor vehicle drivers by that date. After April 1, 1992,))~~ .
15 Except when driving under a commercial driver's instruction permit and
16 a valid automobile or classified license and accompanied by the holder
17 of a commercial driver's license valid for the vehicle being driven, no
18 person may drive a commercial motor vehicle unless the person holds and
19 is in immediate possession of a commercial driver's license and
20 applicable endorsements valid for the vehicle they are driving.
21 However, this requirement does not apply to any person:

22 (a) Who is the operator of a farm vehicle, and the vehicle is:

23 (i) Controlled and operated by a farmer;

24 (ii) Used to transport either agricultural products, which in this
25 section include Christmas trees and wood products harvested from
26 private tree farms and transported by vehicles weighing no more than
27 forty thousand pounds licensed gross vehicle weight, farm machinery,
28 farm supplies, or any combination of those materials to or from a farm;

29 (iii) Not used in the operations of a common or contract motor
30 carrier; and

31 (iv) Used within one hundred fifty miles of the person's farm; or

32 (b) Who is a fire fighter or law enforcement officer operating
33 emergency equipment, and:

34 (i) The fire fighter or law enforcement officer has successfully
35 completed a driver training course approved by the director; and

36 (ii) The fire fighter or law enforcement officer carries a

1 certificate attesting to the successful completion of the approved
2 training course; or

3 (c) Who is operating a recreational vehicle for noncommercial
4 purposes. As used in this section, "recreational vehicle" includes a
5 vehicle towing a horse trailer for a noncommercial purpose; or

6 (d) Who is operating a commercial motor vehicle for military
7 purposes. This exemption is applicable to active duty military
8 personnel; members of the military reserves; members of the national
9 guard on active duty, including personnel on full-time national guard
10 duty, personnel on part-time national guard training, and national
11 guard military technicians (civilians who are required to wear military
12 uniforms); and active duty United States coast guard personnel. This
13 exception is not applicable to United States reserve technicians.

14 (2) No person may drive a commercial motor vehicle while his or her
15 driving privilege is suspended, revoked, or canceled, while subject to
16 disqualification, or in violation of an out-of-service order.
17 Violations of this subsection shall be punished in the same way as
18 violations of RCW 46.20.342(1).

19 (3) The department shall to the extent possible enter into
20 reciprocity agreements with adjoining states to allow the waivers
21 described in subsection (1) of this section to apply to drivers holding
22 commercial driver's licenses from those adjoining states.

23 **Sec. 4.** RCW 46.25.090 and 2005 c 325 s 5 are each amended to read
24 as follows:

25 (1) A person is disqualified from driving a commercial motor
26 vehicle for a period of not less than one year if a report has been
27 received by the department pursuant to RCW 46.20.308 or 46.25.120, or
28 if the person has been convicted of a first violation, within this or
29 any other jurisdiction, of:

30 (a) Driving a motor vehicle under the influence of alcohol or any
31 drug;

32 (b) Driving a commercial motor vehicle while the alcohol
33 concentration in the person's system is 0.04 or more, or driving a
34 noncommercial motor vehicle while the alcohol concentration in the
35 person's system is 0.08 or more, or is 0.02 or more if the person is
36 under age twenty-one, as determined by any testing methods approved by
37 law in this state or any other state or jurisdiction;

1 (c) Leaving the scene of an accident involving a motor vehicle
2 driven by the person;

3 (d) Using a motor vehicle in the commission of a felony;

4 (e) Refusing to submit to a test or tests to determine the driver's
5 alcohol concentration or the presence of any drug while driving a motor
6 vehicle;

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

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

15 If any of the violations set forth in this subsection occurred
16 while transporting hazardous material, the person is disqualified for
17 a period of not less than three years.

18 (2) A person is disqualified for life if it has been determined
19 that the person has committed or has been convicted of two or more
20 violations of any of the offenses specified in subsection (1) of this
21 section, or any combination of those offenses, arising from two or more
22 separate incidents.

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

27 (4) A person is disqualified from driving a commercial motor
28 vehicle for life who uses a motor vehicle in the commission of a felony
29 involving the manufacture, distribution, or dispensing of a controlled
30 substance, as defined by chapter 69.50 RCW, or possession with intent
31 to manufacture, distribute, or dispense a controlled substance, as
32 defined by chapter 69.50 RCW.

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

35 (~~(a)~~) (i) Not less than sixty days if:

36 (~~(i)~~) (A) Convicted of or found to have committed a second
37 serious traffic violation while driving a commercial motor vehicle; or

1 ~~((+ii+))~~ (B) Convicted of reckless driving, where there has been a
2 prior serious traffic violation; or

3 ~~((+b+))~~ (ii) Not less than one hundred twenty days if:

4 ~~((+i+))~~ (A) Convicted of or found to have committed a third or
5 subsequent serious traffic violation while driving a commercial motor
6 vehicle; or

7 ~~((+ii+))~~ (B) Convicted of reckless driving, where there has been
8 two or more prior serious traffic violations.

9 (b) The disqualification period under (a)(ii) of this subsection
10 must be in addition to any other previous period of disqualification.

11 (c) For purposes of determining prior serious traffic violations
12 under this subsection, each conviction of or finding that a driver has
13 committed a serious traffic violation while driving a commercial motor
14 vehicle or noncommercial motor vehicle, arising from a separate
15 incident occurring within a three-year period, must be counted.

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

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

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

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

29 (d) Not less than one hundred eighty days nor more than two years
30 if the person is convicted of or is found to have committed a first
31 violation of an out-of-service order while transporting hazardous
32 materials, or while operating motor vehicles designed to transport
33 sixteen or more passengers, including the driver. A person is
34 disqualified for a period of not less than three years nor more than
35 five years if, during a ten-year period, the person is convicted of or
36 is found to have committed subsequent violations of out-of-service
37 orders, in separate incidents, while transporting hazardous materials,

1 or while operating motor vehicles designed to transport sixteen or more
2 passengers, including the driver.

3 (7) A person is disqualified from driving a commercial motor
4 vehicle if a report has been received by the department under RCW
5 46.25.125 that the person has received a verified positive drug test or
6 positive alcohol confirmation test as part of the testing program
7 conducted under 49 C.F.R. 40. A disqualification under this subsection
8 remains in effect until the person undergoes a drug and alcohol
9 assessment by a substance abuse professional meeting the requirements
10 of 49 C.F.R. 40, and the person presents evidence of satisfactory
11 participation in or successful completion of a drug or alcohol
12 treatment and/or education program as recommended by the substance
13 abuse professional, and until the person has met the requirements of
14 RCW 46.25.100. The substance abuse professional shall forward a
15 diagnostic evaluation and treatment recommendation to the department of
16 licensing for use in determining the person's eligibility for driving
17 a commercial motor vehicle. Persons who are disqualified under this
18 subsection more than twice in a five-year period are disqualified for
19 life.

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

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

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

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

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

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

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

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

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

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

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

13 (9) A person is disqualified from driving a commercial motor
14 vehicle for not more than one year if a report has been received by the
15 department from the federal motor carrier safety administration that
16 the person's driving has been determined to constitute an imminent
17 hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously
18 disqualified from driving a commercial motor vehicle under this
19 subsection and under other provisions of this chapter, or under 49
20 C.F.R. 383.52, shall serve those disqualification periods concurrently.

21 (10) Within ten days after suspending, revoking, or canceling a
22 commercial driver's license or disqualifying a driver from operating a
23 commercial motor vehicle, the department shall update its records to
24 reflect that action.

25 **Sec. 5.** RCW 46.25.120 and 2002 c 272 s 5 are each amended to read
26 as follows:

27 (1) A person who drives a commercial motor vehicle within this
28 state is deemed to have given consent, subject to RCW 46.61.506, to
29 take a test or tests of that person's blood or breath for the purpose
30 of determining that person's alcohol concentration or the presence of
31 other drugs.

32 (2) A test or tests may be administered at the direction of a law
33 enforcement officer, who after stopping or detaining the commercial
34 motor vehicle driver, has probable cause to believe that driver was
35 driving a commercial motor vehicle while having alcohol in his or her
36 system or while under the influence of any drug.

1 (3) The law enforcement officer requesting the test under
2 subsection (1) of this section shall warn the person requested to
3 submit to the test that a refusal to submit will result in that person
4 being disqualified from operating a commercial motor vehicle under RCW
5 46.25.090.

6 (4) If the person refuses testing, or submits to a test that
7 discloses an alcohol concentration of 0.04 or more, the law enforcement
8 officer shall submit a sworn report to the department certifying that
9 the test was requested pursuant to subsection (1) of this section and
10 that the person refused to submit to testing, or submitted to a test
11 that disclosed an alcohol concentration of 0.04 or more.

12 (5) Upon receipt of the sworn report of a law enforcement officer
13 under subsection (4) of this section, the department shall disqualify
14 the driver from driving a commercial motor vehicle under RCW 46.25.090,
15 subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The
16 hearing shall be conducted in the county of the arrest. For the
17 purposes of this section, the hearing shall cover the issues of whether
18 a law enforcement officer had reasonable grounds to believe the person
19 had been driving or was in actual physical control of a commercial
20 motor vehicle within this state while having alcohol in the person's
21 system or while under the influence of any drug, whether the person
22 refused to submit to the test or tests upon request of the officer
23 after having been informed that the refusal would result in the
24 disqualification of the person from driving a commercial motor vehicle,
25 and, if the test was administered, whether the results indicated an
26 alcohol concentration of 0.04 percent or more. The department shall
27 order that the disqualification of the person either be rescinded or
28 sustained. Any decision by the department disqualifying a person from
29 driving a commercial motor vehicle is stayed and does not take effect
30 while a formal hearing is pending under this section or during the
31 pendency of a subsequent appeal to superior court so long as there is
32 no conviction for a moving violation or no finding that the person has
33 committed a traffic infraction that is a moving violation during the
34 pendency of the hearing and appeal. If the disqualification of the
35 person is sustained after the hearing, the person who is disqualified
36 may file a petition in the superior court of the county of arrest to
37 review the final order of disqualification by the department in the
38 manner provided in RCW 46.20.334.

1 (6) If a motor carrier or employer who is required to have a
2 testing program under 49 C.F.R. 382 knows that a commercial driver in
3 his or her employ has refused to submit to testing under this section
4 and has not been disqualified from driving a commercial motor vehicle,
5 the employer may notify law enforcement or his or her medical review
6 officer or breath alcohol technician that the driver has refused to
7 submit to the required testing.

8 (7) The hearing provisions of this section do not apply to those
9 persons disqualified from driving a commercial motor vehicle under RCW
10 46.25.090(7).

11 **Sec. 6.** RCW 46.52.101 and 1999 c 86 s 4 are each amended to read
12 as follows:

13 (1) Every district court, municipal court, and clerk of a superior
14 court shall keep or cause to be kept a record of every traffic
15 complaint, traffic citation, notice of infraction, or other legal form
16 of traffic charge deposited with or presented to the court or a traffic
17 violations bureau, and shall keep a record of every official action by
18 the court or its traffic violations bureau regarding the charge,
19 including but not limited to a record of every conviction, forfeiture
20 of bail, judgment of acquittal, finding that a traffic infraction has
21 been committed, dismissal of a notice of infraction, and the amount of
22 fine, forfeiture, or penalty resulting from every traffic charge
23 deposited with or presented to the court or traffic violations bureau.
24 In the case of a record of a conviction for a violation of RCW
25 46.61.502 or 46.61.504, and notwithstanding any other provision of law,
26 the court shall maintain the record permanently.

27 (2) (~~Within fourteen days~~) After the conviction, forfeiture of
28 bail, or finding that a traffic infraction was committed for a
29 violation of any provisions of this chapter or other law regulating the
30 operating of vehicles on highways, the clerk of the court in which the
31 conviction was had, bail was forfeited, or the finding of commission
32 was made shall prepare and immediately forward to the director of
33 licensing at Olympia an abstract of the court record covering the case.
34 Report need not be made of a finding involving the illegal parking or
35 standing of a vehicle.

36 (3) The abstract must be made upon a form or forms furnished by the
37 director and must include the name and address of the party charged,

1 the number, if any, of the party's driver's or chauffeur's license, the
2 registration number of the vehicle involved if required by the
3 director, the nature of the offense, the date of hearing, the plea, the
4 judgment, whether the offense was an alcohol-related offense as defined
5 in RCW 46.01.260(2), whether the incident that gave rise to the offense
6 charged resulted in a fatality, whether bail was forfeited, whether the
7 determination that a traffic infraction was committed was contested,
8 and the amount of the fine, forfeiture, or penalty, as the case may be.

9 (4) In courts where the judicial information system or other secure
10 method of electronic transfer of information has been implemented
11 between the court and the department of licensing, the court may
12 electronically provide the information required in subsections (2),
13 (3), and (5) of this section.

14 (5) The superior court clerk shall also forward a like report to
15 the director upon the conviction of a person of a felony in the
16 commission of which a vehicle was used.

17 (6) The director shall keep all abstracts received under this
18 section at the director's office in Olympia. The abstracts must be
19 open to public inspection during reasonable business hours.

20 (7) The officer, prosecuting attorney, or city attorney signing the
21 charge or information in a case involving a charge of driving under the
22 influence of intoxicating liquor or any drug shall immediately request
23 from the director an abstract of convictions and forfeitures. The
24 director shall furnish the requested abstract.

25 **Sec. 7.** RCW 46.63.070 and 2004 c 187 s 10 are each amended to read
26 as follows:

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

30 (2) If the person determined to have committed the infraction does
31 not contest the determination the person shall respond by completing
32 the appropriate portion of the notice of infraction and submitting it,
33 either by mail or in person, to the court specified on the notice. A
34 check or money order in the amount of the penalty prescribed for the
35 infraction must be submitted with the response. When a response which
36 does not contest the determination is received, an appropriate order

1 shall be entered in the court's records, and a record of the response
2 and order shall be furnished to the department in accordance with RCW
3 46.20.270.

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

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

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

28 (b) A person may not receive more than one deferral within a seven-
29 year period for traffic infractions for moving violations and more than
30 one deferral within a seven-year period for traffic infractions for
31 nonmoving violations.

32 (c) A person who is the holder of a commercial driver's license or
33 who was operating a commercial motor vehicle at the time of the
34 violation may not receive a deferral under this section.

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

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

1 (b) Fails to appear at a hearing requested pursuant to subsection
2 (3) or (4) of this section;
3 the court shall enter an appropriate order assessing the monetary
4 penalty prescribed for the traffic infraction and any other penalty
5 authorized by this chapter and shall notify the department in
6 accordance with RCW 46.20.270, of the failure to respond to the notice
7 of infraction or to appear at a requested hearing.

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