
SENATE BILL 5815

State of Washington 61st Legislature 2009 Regular Session

By Senators Jarrett and Delvin; by request of Washington State Patrol

Read first time 02/03/09. Referred to Committee on Transportation.

1 AN ACT Relating to motor carrier compliance review; amending RCW
2 46.32.100; and prescribing penalties.

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

4 **Sec. 1.** RCW 46.32.100 and 2007 c 419 s 12 are each amended to read
5 as follows:

6 (1)(a) In addition to all other penalties provided by law, and
7 except as provided otherwise in (a)(i), (ii), or (iii) of this
8 subsection, a commercial motor vehicle that is subject to compliance
9 reviews under this chapter and an officer, agent, or employee of a
10 company operating a commercial motor vehicle who violates or who
11 procures, aids, or abets in the violation of this title or any order or
12 rule of the state patrol is liable for a penalty of one hundred dollars
13 for each violation(~~, except for each violation~~).

14 (i) It is a violation of this chapter for a person operating a
15 commercial motor vehicle to fail to comply with the requirements of 49
16 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49
17 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec.
18 396.9(c)(2), moving a vehicle placed out of service before the out of

1 service defects have been satisfactorily repaired(~~(, for which)~~). For
2 each violation the person is liable for a penalty of five hundred
3 dollars.

4 (ii) The driver of a commercial motor vehicle who violates an out-
5 of-service order is liable for a penalty of at least one thousand one
6 hundred dollars but not more than two thousand seven hundred fifty
7 dollars for each violation.

8 (iii) An employer who allows a driver to operate a commercial motor
9 vehicle when there is an out-of-service order is liable for a penalty
10 of at least two thousand seven hundred fifty dollars but not more than
11 eleven thousand dollars for each violation.

12 (iv) Each violation under this subsection (1)(a) is a separate and
13 distinct offense, and in case of a continuing violation every day's
14 continuance is a separate and distinct violation.

15 (b) In addition to all other penalties provided by law, any motor
16 carrier, company, or any officer or agent of a motor carrier or company
17 operating a commercial motor vehicle subject to compliance reviews
18 under this chapter who refuses entry or to make the required records,
19 documents, and vehicles available to a duly authorized agent of the
20 state patrol is liable for a penalty of at least five thousand dollars
21 as well as an out-of-service order being placed on the department of
22 transportation number, as defined in RCW 46.16.004, and vehicle
23 registration to operate. Each violation is a separate and distinct
24 offense, and in case of a continuing violation every day's continuance
25 is a separate and distinct violation.

26 (c) A motor carrier operating a commercial motor vehicle after
27 receiving a final unsatisfactory rating or being placed out of service
28 is liable for a penalty of not more than eleven thousand dollars for
29 each violation. Each violation is a separate and distinct offense, and
30 in case of a continuing violation every day's continuance is a separate
31 and distinct violation.

32 (d) A high-risk carrier is liable for double the amount of the
33 penalty of a prior violation if the high-risk carrier repeats the same
34 violation during a follow-up compliance review. Each repeat violation
35 is a separate and distinct offense, and in case of a repeat continuing
36 violation every day's continuance is a separate and distinct violation.

37 (2) The Washington state patrol may place an out-of-service order
38 on a department of transportation number, as defined in RCW 46.16.004,

1 for violations of this chapter or for nonpayment of any monetary
2 penalties assessed by the state patrol or the utilities and
3 transportation commission, as a result of compliance reviews, or for
4 violations of cease and desist orders issued by the utilities and
5 transportation commission. The state patrol shall notify the
6 department of licensing when an out-of-service order has been placed on
7 a motor carrier's department of transportation number. The state
8 patrol shall notify the motor carrier when there has been an out-of-
9 service order placed on the motor carrier's department of
10 transportation number and the vehicle registrations have been revoked
11 by sending a notice by first-class mail using the last known address
12 for the registered or legal owner or owners, and recording the
13 transmittal on an affidavit of first-class mail. Notices under this
14 section fulfill the requirements of RCW 46.12.160. Motor carriers may
15 not be eligible for a new department of transportation number, vehicle
16 registration, or temporary permits to operate unless the violations
17 that resulted in the out-of-service order have been corrected.

18 (3) Any penalty provided in this section is due and payable when
19 the person incurring it receives a notice in writing from the state
20 patrol describing the violation and advising the person that the
21 penalty is due. ~~((If the amount of the penalty is not paid to the
22 state patrol within twenty days after the later of (a) receipt of the
23 notice imposing the penalty, or (b) disposition of an adjudicative
24 proceeding regarding the penalty, the state patrol may commence an
25 adjudicative proceeding under chapter 34.05 RCW in the name of the
26 state of Washington to confirm the violation and recover the penalty.))~~

27 (a)(i) Any motor carrier who incurs a penalty as provided in this
28 section, except for a high-risk carrier that incurs a penalty for a
29 repeat violation during a follow-up compliance review, may, upon
30 written application, request that the state patrol mitigate the
31 penalty. An application for mitigation must be received by the state
32 patrol within twenty days of the receipt of notice.

33 (ii) The state patrol may decline to consider any application for
34 mitigation.

35 (b) Any motor carrier who incurs a penalty as provided in this
36 section has a right to an administrative hearing under chapter 34.05
37 RCW to contest the violation or the penalty imposed, or both. In all
38 such ~~((proceedings))~~ hearings, the procedure and rules of evidence are

1 as specified in chapter 34.05 RCW except as otherwise provided in this
2 chapter. Any request for an administrative hearing must be made in
3 writing and must be received by the state patrol within twenty days
4 after the later of (i) receipt of the notice imposing the penalty, or
5 (ii) disposition of a request for mitigation, or the right to a hearing
6 is waived.

7 (c) All penalties recovered under this section shall be paid into
8 the state treasury and credited to the state patrol highway account of
9 the motor vehicle fund.

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