

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2696

Chapter 49, Laws of 2018

65th Legislature
2018 Regular Session

COMMERCIAL DRIVERS--MEDICAL CERTIFICATE

EFFECTIVE DATE: April 30, 2019

Passed by the House February 13, 2018
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 2, 2018
Yeas 47 Nays 0

KAREN KEISER

President of the Senate

Approved March 13, 2018 10:57 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2696** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 13, 2018

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2696

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By House Transportation (originally sponsored by Representatives Valdez, Orcutt, Eslick, and Jinkins; by request of Department of Licensing)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to medical certificate requirements for
2 applicants and holders of commercial drivers' licenses and commercial
3 learners' permits; amending RCW 46.25.055, 46.25.057, and 46.25.075;
4 reenacting and amending RCW 46.25.010; prescribing penalties; and
5 providing an effective date.

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

7 **Sec. 1.** RCW 46.25.055 and 2003 c 195 s 3 are each amended to
8 read as follows:

9 Except as provided in 49 C.F.R. Sec. 391.67 as it existed on the
10 effective date of this section, or such subsequent date as may be
11 provided by the department by rule, consistent with the purposes of
12 this section, a person may not drive a commercial motor vehicle
13 unless he or she is physically qualified to do so and~~((, except as~~
14 ~~provided in 49 C.F.R. Sec. 391.67, has on his or her person the~~
15 ~~original, or a photographic copy, of a medical examiner's certificate~~
16 ~~that he or she is physically qualified to drive a commercial motor~~
17 ~~vehiele)) is medically examined and certified in accordance with~~
18 procedures provided in 49 C.F.R. Sec. 391.43 as it existed on the
19 effective date of this section, or such subsequent date as may be
20 provided by the department by rule, consistent with the purposes of
21 this section.

1 **Sec. 2.** RCW 46.25.057 and 2003 c 195 s 4 are each amended to
2 read as follows:

3 (1) It is a traffic infraction for a licensee under this chapter
4 to drive a commercial vehicle (~~((without having on his or her person~~
5 ~~the original, or a photographic copy, of a medical examiner's~~
6 ~~certificate that he or she is physically qualified to drive a~~
7 ~~commercial motor vehicle))~~ while downgraded for not maintaining a
8 current medical certificate with the department.

9 (2) A person who violates this section is subject to a penalty of
10 two hundred fifty dollars. If the person appears in person before the
11 court or submits by mail written proof that he or she had, at the
12 time the infraction took place, the medical examiner's certificate,
13 the court shall reduce the penalty to fifty dollars.

14 **Sec. 3.** RCW 46.25.075 and 2013 c 224 s 8 are each amended to
15 read as follows:

16 (1) Any person applying for a CDL or CLP must certify that he or
17 she is or expects to be engaged in one of the following types of
18 driving:

- 19 (a) Nonexcepted interstate;
- 20 (b) Excepted interstate;
- 21 (c) Nonexcepted intrastate; or
- 22 (d) Excepted intrastate.

23 (2) A CDL or CLP applicant or holder who certifies under
24 subsection (1)(a), (b), or (c) of this section that he or she is or
25 expects to be engaged in nonexcepted interstate, excepted interstate,
26 or nonexcepted intrastate commerce must provide a copy of a medical
27 examiner's certificate prepared by a medical examiner, as defined in
28 49 C.F.R. Sec. 390.5 as it existed on (~~(July 8, 2014))~~ the effective
29 date of this section, or such subsequent date as may be provided by
30 the department by rule, consistent with the purposes of this section.
31 (~~((Upon submission, a copy of the medical examiner's certificate must~~
32 ~~be date stamped by the department.))~~) A CDL or CLP holder who
33 certifies under subsection (1)(a), (b), or (c) of this section must
34 (~~(submit))~~ provide a copy of each subsequently issued medical
35 examiner's certificate.

36 (3) For each operator of a commercial motor vehicle required to
37 have a CDL or CLP, the department must meet the following
38 requirements:

1 (a)(i) The driver's self-certification of type of driving under
2 subsection (1) of this section must be maintained on the driver's
3 record and the CDLIS driver record;

4 (ii) The copy of a medical examiner's certificate, when
5 (~~submitted~~) provided under subsection (2) of this section, must be
6 retained for three years beyond the date the certificate was issued;
7 and

8 (iii) When a medical examiner's certificate is (~~submitted~~)
9 provided under subsection (2) of this section, the information
10 required under 49 C.F.R. Sec. 383.73 as it existed on (~~July 8,~~
11 ~~2014~~) the effective date of this section, or such subsequent date as
12 may be provided by the department by rule, consistent with the
13 purposes of this section must be posted to the CDLIS driver record
14 within ten calendar days from the date (~~submitted~~) provided. The
15 indicator of medical certification status, such as "certified" or
16 "not-certified," must be maintained on the driver's record.

17 (b) Within ten calendar days of the driver's medical
18 certification status expiring or a medical variance expiring or being
19 rescinded, the medical certification status of the driver must be
20 updated to "not-certified."

21 (c) Within ten calendar days of receiving information from the
22 federal motor carrier safety administration or the department
23 regarding issuance or renewal of a medical variance for a driver, the
24 department must update the CDLIS driver record to include the medical
25 variance information.

26 (4) Upon receiving an electronic copy of the medical examiner's
27 certificate from the federal motor carrier safety administration, the
28 department must post a medical qualification status of "certified" on
29 the CDLIS driver record for the driver.

30 (5)(a) If a driver's medical certification or medical variance
31 expires, or the federal motor carrier safety administration or
32 issuing medical examiner notifies the department that a medical
33 variance was removed or rescinded, the department must:

34 (i) Notify the driver of his or her "not-certified" medical
35 certification status and that the privilege of operating a commercial
36 motor vehicle will be removed from the CDL or CLP unless the driver
37 (~~submits~~) provides a current medical certificate or medical
38 variance, or changes his or her self-certification to driving
39 (~~only~~) in excepted (~~or~~) intrastate commerce; and

1 (ii) Initiate procedures for downgrading the CDL or CLP. The CDL
2 or CLP downgrade must be completed and recorded within sixty days of
3 the driver's medical certification status becoming "not-certified" to
4 operate a commercial motor vehicle.

5 (b) If a driver fails to provide the department with the
6 certification required in subsection (1) of this section, or a
7 current medical examiner's certificate if the driver self-certifies
8 under subsection (1)(a), (b), or (c) of this section that he or she
9 is operating in nonexcepted interstate, excepted interstate, or
10 nonexcepted intrastate commerce as required in subsection (2) of this
11 section, the department must mark the CDLIS driver record as "not-
12 certified" and initiate a CDL or CLP downgrade in accordance with
13 (a)(ii) of this subsection.

14 (c) A driver whose CDL or CLP has been downgraded under this
15 subsection may restore the CDL or CLP privilege by providing the
16 necessary certifications or medical variance information to the
17 department.

18 **Sec. 4.** RCW 46.25.010 and 2017 c 334 s 4 and 2017 c 194 s 1 are
19 each reenacted and amended to read as follows:

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

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

25 (2) "Alcohol concentration" means:

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

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

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

34 (4) The "commercial driver's license information system" (CDLIS)
35 is the information system established pursuant to 49 U.S.C. Sec.
36 31309 to serve as a clearinghouse for locating information related to
37 the licensing and identification of commercial motor vehicle drivers.

38 (5) "Commercial learner's permit" (CLP) means a permit issued
39 under RCW 46.25.052 for the purposes of behind-the-wheel training.

1 (6) "Commercial motor vehicle" means a motor vehicle or
2 combination of motor vehicles used in commerce to transport
3 passengers or property if the motor vehicle:

4 (a) Has a gross combination weight rating or gross combination
5 weight of 11,794 kilograms or more (26,001 pounds or more), whichever
6 is greater, inclusive of any towed unit or units with a gross vehicle
7 weight rating or gross vehicle weight of more than 4,536 kilograms
8 (10,000 pounds or more), whichever is greater; or

9 (b) Has a gross vehicle weight rating or gross vehicle weight of
10 11,794 kilograms or more (26,001 pounds or more), whichever is
11 greater; or

12 (c) Is designed to transport sixteen or more passengers,
13 including the driver; or

14 (d) Is of any size and is used in the transportation of hazardous
15 materials as defined in this section; or

16 (e) Is a school bus regardless of weight or size.

17 (7) "Conviction" means an unvacated adjudication of guilt, or a
18 determination that a person has violated or failed to comply with the
19 law in a court of original jurisdiction or by an authorized
20 administrative tribunal, an unvacated forfeiture of bail or
21 collateral deposited to secure the person's appearance in court, a
22 plea of guilty or nolo contendere accepted by the court, the payment
23 of a fine or court cost, entry into a deferred prosecution program
24 under chapter 10.05 RCW, or violation of a condition of release
25 without bail, regardless of whether or not the penalty is rebated,
26 suspended, or probated.

27 (8) "Disqualification" means a prohibition against driving a
28 commercial motor vehicle.

29 (9) "Drive" means to drive, operate, or be in physical control of
30 a motor vehicle in any place open to the general public for purposes
31 of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
32 46.25.120, "drive" includes operation or physical control of a motor
33 vehicle anywhere in the state.

34 (10) "Drugs" are those substances as defined by RCW 69.04.009,
35 including, but not limited to, those substances defined by 49 C.F.R.
36 Sec. 40.3.

37 (11) "Employer" means any person, including the United States, a
38 state, or a political subdivision of a state, who owns or leases a
39 commercial motor vehicle, or assigns a person to drive a commercial
40 motor vehicle.

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

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

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

21 (15)(a) "Nondomiciled CLP or CDL" means a permit or license,
22 respectively, issued under RCW 46.25.054 to a person who meets one of
23 the following criteria:

24 (i) Is domiciled in a foreign country as provided in 49 C.F.R.
25 Sec. 383.23(b)(1) as it existed on October 1, 2017, or such
26 subsequent date as may be provided by the department by rule,
27 consistent with the purposes of this section; or

28 (ii) Is domiciled in another state as provided in 49 C.F.R. Sec.
29 383.23(b)(2) as it existed on October 1, 2017, or such subsequent
30 date as may be provided by the department by rule, consistent with
31 the purposes of this section.

32 (b) The definition in this subsection (15) applies exclusively to
33 the use of the term in this chapter and is not to be applied in any
34 other chapter of the Revised Code of Washington.

35 (16) "Out-of-service order" means a declaration by an authorized
36 enforcement officer of a federal, state, Canadian, Mexican, or local
37 jurisdiction that a driver, a commercial motor vehicle, or a motor
38 carrier operation is out-of-service pursuant to 49 C.F.R. Secs.
39 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North
40 American uniform out-of-service criteria.

1 (17) "Positive alcohol confirmation test" means an alcohol
2 confirmation test that:

3 (a) Has been conducted by a breath alcohol technician under 49
4 C.F.R. Part 40; and

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

6 A report that a person has refused an alcohol test, under
7 circumstances that constitute the refusal of an alcohol test under 49
8 C.F.R. Part 40, will be considered equivalent to a report of a
9 positive alcohol confirmation test for the purposes of this chapter.

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

14 (19) "Serious traffic violation" means:

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

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

18 (c) Driving while using a personal electronic device, defined as
19 a violation of RCW 46.61.672, which includes in the activities it
20 prohibits driving while holding a personal electronic device in
21 either or both hands and using a hand or finger for texting, or an
22 equivalent administrative rule or local law, ordinance, rule, or
23 resolution;

24 (d) A violation of a state or local law relating to motor vehicle
25 traffic control, other than a parking violation, arising in
26 connection with an accident or collision resulting in death to any
27 person;

28 (e) Driving a commercial motor vehicle without obtaining a
29 commercial driver's license;

30 (f) Driving a commercial motor vehicle without a commercial
31 driver's license in the driver's possession; however, any individual
32 who provides proof to the court by the date the individual must
33 appear in court or pay any fine for such a violation, that the
34 individual held a valid CDL on the date the citation was issued, is
35 not guilty of a "serious traffic violation";

36 (g) Driving a commercial motor vehicle without the proper class
37 of commercial driver's license endorsement or endorsements for the
38 specific vehicle group being operated or for the passenger or type of
39 cargo being transported; and

1 (h) Any other violation of a state or local law relating to motor
2 vehicle traffic control, other than a parking violation, that the
3 department determines by rule to be serious.

4 (20) "State" means a state of the United States and the District
5 of Columbia.

6 (21) "Substance abuse professional" means an alcohol and drug
7 specialist meeting the credentials, knowledge, training, and
8 continuing education requirements of 49 C.F.R. Sec. 40.281.

9 (22) "Tank vehicle" means any commercial motor vehicle that is
10 designed to transport any liquid or gaseous materials within a tank
11 or tanks having an individual rated capacity of more than one hundred
12 nineteen gallons and an aggregate rated capacity of one thousand
13 gallons or more that is either permanently or temporarily attached to
14 the vehicle or the chassis. A commercial motor vehicle transporting
15 an empty storage container tank, not designed for transportation,
16 with a rated capacity of one thousand gallons or more that is
17 temporarily attached to a flatbed trailer is not considered a tank
18 vehicle.

19 (23) "Type of driving" means one of the following:

20 (a) "Nonexcepted interstate," which means the CDL or CLP holder
21 or applicant operates or expects to operate in interstate commerce,
22 is both subject to and meets the qualification requirements under 49
23 C.F.R. Part 391 as it existed on (~~July 8, 2014~~) the effective date
24 of this section, or such subsequent date as may be provided by the
25 department by rule, consistent with the purposes of this section, and
26 is required to obtain a medical examiner's certificate under 49
27 C.F.R. Sec. 391.45 as it existed on (~~July 8, 2014~~) the effective
28 date of this section, or such subsequent date as may be provided by
29 the department by rule, consistent with the purposes of this section;

30 (b) "Excepted interstate," which means the CDL or CLP holder or
31 applicant operates or expects to operate in interstate commerce, but
32 engages exclusively in transportation or operations excepted under 49
33 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on
34 (~~July 8, 2014~~) the effective date of this section, or such
35 subsequent date as may be provided by the department by rule,
36 consistent with the purposes of this section, from all or parts of
37 the qualification requirements of 49 C.F.R. Part 391 as it existed on
38 (~~July 8, 2014~~) the effective date of this section, or such
39 subsequent date as may be provided by the department by rule,
40 consistent with the purposes of this section, and is (~~therefore~~

1 ~~not~~) required to obtain a medical examiner's certificate (~~under~~)
2 in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it
3 existed on ((July 8, 2014)) the effective date of this section, or
4 such subsequent date as may be provided by the department by rule,
5 consistent with the purposes of this section;

6 (c) "Nonexcepted intrastate," which means the CDL or CLP holder
7 or applicant operates only in intrastate commerce and is (~~therefore~~
8 ~~subject to state driver qualification requirements~~) required to
9 obtain a medical examiner's certificate in accordance with procedures
10 provided in 49 C.F.R. Sec. 391.45 as it existed on the effective date
11 of this section, or such subsequent date as may be provided by the
12 department by rule, consistent with the purposes of this section; or

13 (d) "Excepted intrastate," which means the CDL or CLP holder (~~or~~
14 ~~applicant operates in intrastate commerce, but engages exclusively in~~
15 ~~transportation or operations excepted from all or parts of the state~~
16 ~~driver qualification requirements~~) wishes to maintain a CDL or CLP
17 but not operate a commercial motor vehicle without changing his or
18 her self-certification type.

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

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

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

27 (b) Has undergone review and final determination by a medical
28 review officer.

29 A report that a person has refused a drug test, under
30 circumstances that constitute the refusal of a federal department of
31 transportation drug test under 49 C.F.R. Part 40, will be considered
32 equivalent to a report of a verified positive drug test for the
33 purposes of this chapter.

34 NEW SECTION. Sec. 5. This act takes effect April 30, 2019.

Passed by the House February 13, 2018.

Passed by the Senate March 2, 2018.

Approved by the Governor March 13, 2018.

Filed in Office of Secretary of State March 13, 2018.

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