CERTIFICATION OF ENROLLMENT

**SENATE BILL 5041**

Chapter 35, Laws of 2023

68th Legislature

2023 Regular Session

COMMERCIAL DRIVERS—DRUG AND ALCOHOL CLEARINGHOUSE

EFFECTIVE DATE: November 18, 2024

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| Passed by the Senate February 15, 2023Yeas 48 Nays 0DENNY HECK**President of the Senate**Passed by the House March 24, 2023Yeas 96 Nays 0LAURIE JINKINS**Speaker of the House of Representatives** | CERTIFICATEI, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5041** as passed by the Senate and the House of Representatives on the dates hereon set forth.SARAH BANNISTERSecretary |
| Approved April 6, 2023 9:39 AM | April 6, 2023 |
| JAY INSLEE**Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**SENATE BILL 5041**

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Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Lovick, King, and Liias; by request of Department of Licensing

AN ACT Relating to compliance with federal motor carrier safety administration requirements for the drug and alcohol clearinghouse; amending RCW 46.25.052, 46.25.060, 46.25.088, 46.25.100, 46.25.090, 46.25.120, and 46.20.324; reenacting and amending RCW 46.25.010; adding a new section to chapter 46.25 RCW; repealing RCW 46.25.123 and 46.25.125; and providing an effective date.

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

**Sec.**  RCW 46.25.010 and 2019 c 195 s 1 and 2019 c 44 s 3 are each reenacted and amended to read as follows:

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

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

(2) "Alcohol concentration" means:

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

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

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

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

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

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

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

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

(c) Is designed to transport ((~~sixteen~~)) 16 or more passengers, including the driver; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(19) "Serious traffic violation" means:

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

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

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

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

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

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

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

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

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

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

(22) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than ((~~one hundred nineteen~~)) 119 gallons and an aggregate rated capacity of ((~~one thousand~~)) 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of ((~~one thousand~~)) 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

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

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(d) "Excepted intrastate," which means the CDL or CLP holder wishes to maintain a CDL or CLP but not operate a commercial motor vehicle without changing his or her self-certification type.

(24) "United States" means the ((~~fifty~~)) 50 states and the District of Columbia.

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

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

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

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

~~(26)~~)) "Collector truck" means a vehicle that:

(a) Has current registration;

(b) Is older than ((~~thirty~~)) 30 years old;

(c) Is a vehicle that meets the weight criteria of subsection (6) of this section;

(d) Is capable of safely operating on the highway;

(e) Is used for occasional use to and from truck conventions, auto shows, circuses, parades, displays, special excursions, and antique vehicle club meetings;

(f) Is used for the pleasure of others without compensation; and

(g) Is not used in the operations of a common or contract motor carrier and not used for commercial purposes.

((~~(27)~~)) (26) "Collector truck operator" means an operator of a noncommercial vehicle that is being exclusively owned and operated as a collector truck.

**Sec.**  RCW 46.25.052 and 2021 c 317 s 22 are each amended to read as follows:

(1) The department may issue a CLP to an applicant who is at least ((~~eighteen~~)) 18 years of age and holds a valid Washington state driver's license and who has:

(a) Submitted an application on a form or in a format provided by the department;

(b) Passed the general knowledge examination required for issuance of a CDL under RCW 46.25.060 for the commercial motor vehicle classification in which the applicant operates or expects to operate; ((~~and~~))

(c) Paid the appropriate examination fee or fees and an application fee of ((~~ten dollars~~)) $10 until June 30, 2016, and ((~~forty dollars~~)) $40 beginning July 1, 2016; and

(d) Not been prohibited from operating a commercial motor vehicle based on the department's query of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec. 383.73.

(2) A CLP must be marked "commercial learner's permit" or "CLP," and must be, to the maximum extent practicable, tamperproof. Other than a photograph of the applicant, it must include, but not be limited to, the information required on a CDL under RCW 46.25.080(1).

(3) The holder of a CLP may drive a commercial motor vehicle on a highway only when in possession of a valid driver's license and accompanied by the holder of a valid CDL who has the proper CDL classification and endorsement or endorsements necessary to operate the commercial motor vehicle. The CDL holder must at all times be physically present in the front seat of the vehicle next to the CLP holder or, in the case of a passenger vehicle, directly behind or in the first row behind the driver and must have the CLP holder under observation and direct supervision.

(4) A CLP may be classified in the same manner as a CDL under RCW 46.25.080(2)(a).

(5) CLPs may be issued with only P, S, or N endorsements as described in RCW 46.25.080(2)(b).

(a) The holder of a CLP with a P endorsement must have taken and passed the P endorsement knowledge examination. The holder of a CLP with a P endorsement is prohibited from operating a commercial motor vehicle carrying passengers other than authorized employees or representatives of the department and the federal motor carrier safety administration, examiners, other trainees, and the CDL holder accompanying the CLP holder as required under subsection (2) of this section. The P endorsement must be class specific.

(b) The holder of a CLP with an S endorsement must have taken and passed the S endorsement knowledge examination. The holder of a CLP with an S endorsement is prohibited from operating a school bus with passengers other than authorized employees or representatives of the department and the federal motor carrier safety administration, examiners, other trainees, and the CDL holder accompanying the CLP holder as required under subsection (2) of this section.

(c) The holder of a CLP with an N endorsement must have taken and passed the N endorsement knowledge examination. The holder of a CLP with an N endorsement may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials and has not been purged of any residue.

(6) A CLP may be issued with appropriate restrictions as described in RCW 46.25.080(2)(c). In addition, a CLP may be issued with the following restrictions:

(a) "P" restricts the driver from operating a bus with passengers;

(b) "X" restricts the driver from operating a tank vehicle that contains cargo; and

(c) Any restriction as established by rule of the department.

(7) The holder of a CLP is not authorized to operate a commercial motor vehicle transporting hazardous materials.

(8) A CLP may not be issued for a period to exceed ((~~one hundred eighty~~)) 180 days. The department may renew the CLP for one additional ((~~one hundred eighty-day~~)) 180-day period without requiring the CLP holder to retake the general and endorsement knowledge examinations.

(9) The department must transmit the fees collected for CLPs to the state treasurer for deposit in the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 206, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

**Sec.**  RCW 46.25.060 and 2021 c 317 s 23 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person:

(i) Is a resident of this state;

(ii) Has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely;

(iii) If he or she does not hold a valid commercial driver's license of the appropriate classification, has been issued a commercial learner's permit under RCW 46.25.052; ((~~and~~))

(iv) Has passed a knowledge and skills examination for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, in addition to other requirements imposed by state law or federal regulation. The department may not allow the person to take the skills examination during the first ((~~fourteen~~)) 14 days after initial issuance of the person's commercial learner's permit. The examinations must be prescribed and conducted by the department; and

(v) Is not prohibited from operating a commercial motor vehicle based on the department's query of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec. 383.73.

(b) In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ((~~ten dollars~~)) $10 until June 30, 2016, and ((~~thirty-five dollars~~)) $35 beginning July 1, 2016, for the classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than ((~~one hundred dollars~~)) $100 until June 30, 2016, and ((~~two hundred fifty dollars~~)) $250 beginning July 1, 2016, for each classified skill examination or combination of classified skill examinations conducted by the department.

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

(i) The examination is the same which would otherwise be administered by the state;

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

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

(d) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than ((~~seventy-five dollars~~)) $75 until June 30, 2016, and ((~~two hundred twenty-five dollars~~)) $225 beginning July 1, 2016, for the classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.216.505.

(e) Beginning July 1, 2016, if the applicant's primary use of a commercial driver's license is to drive a school bus, the applicant shall pay a fee of no more than ((~~one hundred dollars~~)) $100 for the classified skill examination or combination of classified skill examinations conducted by the department.

(f) Beginning July 1, 2016, payment of the examination fees under this subsection entitles the applicant to take the examination up to two times in order to pass.

(2)(a) The department may waive the skills examination and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. Sec. 383.77. For current or former military service members that meet the requirements of 49 C.F.R. Sec. 383.77, the department may also waive the requirements for a knowledge test for commercial driver's license applicants. Beginning December 1, 2021, the department shall provide an annual report to the house and senate transportation committees and the joint committee on veterans' and military affairs of the legislature on the number and types of waivers granted pursuant to this subsection.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (2)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (2)(b).

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

(4) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 207, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

**Sec.**  RCW 46.25.088 and 2013 c 224 s 11 are each amended to read as follows:

(1) A CDL expires in the same manner as provided in RCW 46.20.181.

(2) When applying for renewal of a CDL, the applicant must:

(a) Complete the application form required under RCW 46.25.070(1), providing updated information and required certifications, and meet all the requirements of RCW 46.25.070 and 49 C.F.R. Sec. 383.71;

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement.

(3) The department must not renew a CDL if the CDL holder is prohibited from operating a commercial motor vehicle based on a query of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec. 383.73.

**Sec.**  RCW 46.25.100 and 2021 c 317 s 20 are each amended to read as follows:

(1) When a person has been disqualified from operating a commercial motor vehicle, the person is not entitled to have the commercial driver's license or commercial learner's permit restored until after the expiration of the appropriate disqualification period required under RCW 46.25.090 ((~~or until the department has received a drug and alcohol assessment and evidence is presented of satisfactory participation in or completion of any required drug or alcohol treatment program for ending the disqualification under RCW 46.25.090(7)~~)). After expiration of the appropriate period and upon payment of a requalification fee of ((~~twenty dollars~~)) $20 until June 30, 2016, and ((~~thirty-five dollars~~)) $35 beginning July 1, 2016, ((~~or one hundred fifty dollars if the person has been disqualified under RCW 46.25.090(7),~~)) the person may apply for a new, duplicate, or renewal commercial driver's license or commercial learner's permit as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license or commercial learner's permit qualification standards specified in RCW 46.25.060.

(2) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 208, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

**Sec.**  RCW 46.25.090 and 2022 c 51 s 1 are each amended to read as follows:

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

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

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more or any measurable amount of THC concentration, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age ((~~twenty~~‑~~one~~)) 21, or with a THC concentration of 5.00 nanograms per milliliter of whole blood or more, or a THC concentration above 0.00 if the person is under the age of ((~~twenty-one~~)) 21, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

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

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

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

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

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

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

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

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ((~~ten~~)) 10 years.

(4) A person is disqualified from driving a commercial motor vehicle for life who:

(a) Uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW; or

(b) Uses a motor vehicle in the commission of any trafficking offense under RCW 9A.40.100, which offenses are deemed consistent with felonies involving severe forms of trafficking in persons as described by the federal motor carrier safety administration.

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

(i) Not less than ((~~sixty~~)) 60 days if:

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

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

(ii) Not less than ((~~one hundred twenty~~)) 120 days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

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

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

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

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

(a) Not less than ((~~one hundred eighty~~)) 180 days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than two years nor more than five years if, during a ((~~ten-year~~)) 10-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ((~~ten-year~~)) 10-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than ((~~one hundred eighty~~)) 180 days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport ((~~sixteen~~)) 16 or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ((~~ten-year~~)) 10-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

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

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

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train or other on-track equipment;

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

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

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

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

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

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

(i) Not less than ((~~sixty~~)) 60 days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than ((~~one hundred twenty~~)) 120 days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

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

((~~(9)~~)) (8) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

((~~(10)~~)) (9) Within ((~~ten~~)) 10 days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

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

(1) The department, upon receiving notification that pursuant to 49 C.F.R. Sec. 382 that a Washington state CLP or CDL holder is prohibited from operating a commercial motor vehicle, must initiate a downgrade of the CLP or CDL. The downgrade must be completed and recorded on the CDLIS driver record within 60 days of the department's receipt of such notification.

(2) Any administrative review made available by the federal motor carrier safety administration is the exclusive remedy for a CDL or CLP holder to contest administrative or clerical errors in the information sent to the department from the drug and alcohol clearinghouse.

(3) When the department receives notification that a CLP or CDL holder is no longer prohibited from operating a commercial motor vehicle under subsection (1) of this section, the department must remove the downgrade or pending downgrade.

(4) If the federal motor carrier safety administration notifies the state that the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall: Remove the downgrade and remove any reference related to the driver's erroneous prohibited status from CDLIS and the driver's record.

**Sec.**  RCW 46.25.120 and 2022 c 16 s 39 are each amended to read as follows:

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

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

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

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol, cannabis, or any drug in his or her system or while under the influence of alcohol, cannabis, or any drug may obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

(5) If the person refuses testing, or a test is administered that discloses an alcohol concentration of 0.04 or more or any measurable amount of THC concentration, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section or a blood test was administered pursuant to subsection (4) of this section and that the person refused to submit to testing, or a test was administered that disclosed an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

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

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

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

**Sec.**  RCW 46.20.324 and 2005 c 288 s 6 are each amended to read as follows:

Unless otherwise provided by law, a person shall not be entitled to a driver improvement interview or formal hearing under the provisions of RCW 46.20.322 through 46.20.333 when the person:

(1) Has been granted the opportunity for an administrative review, informal settlement, or formal hearing under RCW 46.20.245, 46.20.308, 46.25.120, ((~~46.25.125,~~)) 46.65.065, 74.20A.320, or by rule of the department; or

(2) Has refused or neglected to submit to an examination as required by RCW 46.20.305.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 46.25.123 (Mandatory reporting of positive test) and 2005 c 325 s 3 & 2002 c 272 s 1; and

(2) RCW 46.25.125 (Disqualification for positive test—Procedure) and 2005 c 325 s 4 & 2002 c 272 s 2.

NEW SECTION. **Sec.**  This act takes effect November 18, 2024.

**--- END ---**

Passed by the Senate February 15, 2023.

Passed by the House March 24, 2023.

Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.