

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

Passed by the Senate February 15,
2023

Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House March 24, 2023

Yeas 96 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved April 6, 2023 9:39 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, 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 BANNISTER

Secretary

FILED

April 6, 2023

**Secretary of State
State of Washington**

SENATE BILL 5041

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

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

Prefiled 12/12/22. Read first time 01/09/23. Referred to Committee on Transportation.

1 AN ACT Relating to compliance with federal motor carrier safety
2 administration requirements for the drug and alcohol clearinghouse;
3 amending RCW 46.25.052, 46.25.060, 46.25.088, 46.25.100, 46.25.090,
4 46.25.120, and 46.20.324; reenacting and amending RCW 46.25.010;
5 adding a new section to chapter 46.25 RCW; repealing RCW 46.25.123
6 and 46.25.125; and providing an effective date.

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

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

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

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

15 (2) "Alcohol concentration" means:

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

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

20 (3) "Commercial driver's license" (CDL) means a license issued to
21 an individual under chapter 46.20 RCW that has been endorsed in

1 accordance with the requirements of this chapter to authorize the
2 individual to drive a class of commercial motor vehicle.

3 (4) The "commercial driver's license information system" (CDLIS)
4 is the information system established pursuant to 49 U.S.C. Sec.
5 31309 to serve as a clearinghouse for locating information related to
6 the licensing and identification of commercial motor vehicle drivers.

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

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

12 (a) Has a gross combination weight rating or gross combination
13 weight of 11,794 kilograms or more (26,001 pounds or more), whichever
14 is greater, inclusive of any towed unit or units with a gross vehicle
15 weight rating or gross vehicle weight of more than 4,536 kilograms
16 (10,000 pounds or more), whichever is greater; or

17 (b) Has a gross vehicle weight rating or gross vehicle weight of
18 11,794 kilograms or more (26,001 pounds or more), whichever is
19 greater; or

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

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

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

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

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

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

1 46.25.120, "drive" includes operation or physical control of a motor
2 vehicle anywhere in the state.

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

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

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

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

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

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

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

37 (ii) Is domiciled in another state as provided in 49 C.F.R. Sec.
38 383.23(b)(2) as it existed on October 1, 2017, or such subsequent
39 date as may be provided by the department by rule, consistent with
40 the purposes of this section.

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

4 (16) "Out-of-service order" means a declaration by an authorized
5 enforcement officer of a federal, state, Canadian, Mexican, or local
6 jurisdiction that a driver, a commercial motor vehicle, or a motor
7 carrier operation is out-of-service pursuant to 49 C.F.R. Secs.
8 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North
9 American uniform out-of-service criteria.

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

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

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

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

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

23 (19) "Serious traffic violation" means:

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

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

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

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

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

39 (f) Driving a commercial motor vehicle without a commercial
40 driver's license in the driver's possession; however, any individual

1 who provides proof to the court by the date the individual must
2 appear in court or pay any fine for such a violation, that the
3 individual held a valid CDL on the date the citation was issued, is
4 not guilty of a "serious traffic violation";

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

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

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

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

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

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

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

37 (b) "Excepted interstate," which means the CDL or CLP holder or
38 applicant operates or expects to operate in interstate commerce, but
39 engages exclusively in transportation or operations excepted under 49
40 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on

1 April 30, 2019, or such subsequent date as may be provided by the
2 department by rule, consistent with the purposes of this section,
3 from all or parts of the qualification requirements of 49 C.F.R. Part
4 391 as it existed on April 30, 2019, or such subsequent date as may
5 be provided by the department by rule, consistent with the purposes
6 of this section, and is required to obtain a medical examiner's
7 certificate in accordance with procedures provided in 49 C.F.R. Sec.
8 391.45 as it existed on April 30, 2019, or such subsequent date as
9 may be provided by the department by rule, consistent with the
10 purposes of this section;

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

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

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

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

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

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

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

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

36 (a) Has current registration;

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

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

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

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

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

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

7 (~~((27))~~) (26) "Collector truck operator" means an operator of a
8 noncommercial vehicle that is being exclusively owned and operated as
9 a collector truck.

10 **Sec. 2.** RCW 46.25.052 and 2021 c 317 s 22 are each amended to
11 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (9) The department must transmit the fees collected for CLPs to
2 the state treasurer for deposit in the highway safety fund unless
3 prior to July 1, 2023, the actions described in (a) or (b) of this
4 subsection occur, in which case the portion of the revenue that is
5 the result of the fee increased in section 206, chapter 44, Laws of
6 2015 3rd sp. sess. must be distributed to the connecting Washington
7 account created under RCW 46.68.395.

8 (a) Any state agency files a notice of rule making under chapter
9 34.05 RCW, absent explicit legislative authorization enacted
10 subsequent to July 1, 2015, for a rule regarding a fuel standard
11 based upon or defined by the carbon intensity of fuel, including a
12 low carbon fuel standard or clean fuel standard.

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

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

23 **Sec. 3.** RCW 46.25.060 and 2021 c 317 s 23 are each amended to
24 read as follows:

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

27 (i) Is a resident of this state;

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

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

35 (iv) Has passed a knowledge and skills examination for driving a
36 commercial motor vehicle that complies with minimum federal standards
37 established by federal regulation enumerated in 49 C.F.R. Part 383,
38 subparts F, G, and H, in addition to other requirements imposed by
39 state law or federal regulation. The department may not allow the

1 person to take the skills examination during the first (~~fourteen~~)
2 14 days after initial issuance of the person's commercial learner's
3 permit. The examinations must be prescribed and conducted by the
4 department; and

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

8 (b) In addition to the fee charged for issuance or renewal of any
9 license, the applicant shall pay a fee of no more than (~~ten~~
10 ~~dollars~~) \$10 until June 30, 2016, and (~~thirty-five dollars~~) \$35
11 beginning July 1, 2016, for the classified knowledge examination,
12 classified endorsement knowledge examination, or any combination of
13 classified license and endorsement knowledge examinations. The
14 applicant shall pay a fee of no more than (~~one hundred dollars~~)
15 \$100 until June 30, 2016, and (~~two hundred fifty dollars~~) \$250
16 beginning July 1, 2016, for each classified skill examination or
17 combination of classified skill examinations conducted by the
18 department.

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

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

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

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

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

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

1 (ii) Public benefit not-for-profit corporations that support
2 early childhood education and assistance programs as described in RCW
3 43.216.505.

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

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

12 (2)(a) The department may waive the skills examination and the
13 requirement for completion of a course of instruction in the
14 operation of a commercial motor vehicle specified in this section for
15 a commercial driver's license applicant who meets the requirements of
16 49 C.F.R. Sec. 383.77. For current or former military service members
17 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
18 may also waive the requirements for a knowledge test for commercial
19 driver's license applicants. Beginning December 1, 2021, the
20 department shall provide an annual report to the house and senate
21 transportation committees and the joint committee on veterans' and
22 military affairs of the legislature on the number and types of
23 waivers granted pursuant to this subsection.

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

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

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

36 (iii) Unprocessed agricultural commodities, as defined in RCW
37 17.21.020, where such commodities are produced by farmers, ranchers,
38 vineyardists, or orchardists; or

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

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

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

12 (4) The fees under this section must be deposited into the
13 highway safety fund unless prior to July 1, 2023, the actions
14 described in (a) or (b) of this subsection occur, in which case the
15 portion of the revenue that is the result of the fee increased in
16 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
17 distributed to the connecting Washington account created under RCW
18 46.68.395.

19 (a) Any state agency files a notice of rule making under chapter
20 34.05 RCW, absent explicit legislative authorization enacted
21 subsequent to July 1, 2015, for a rule regarding a fuel standard
22 based upon or defined by the carbon intensity of fuel, including a
23 low carbon fuel standard or clean fuel standard.

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

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

34 **Sec. 4.** RCW 46.25.088 and 2013 c 224 s 11 are each amended to
35 read as follows:

36 (1) A CDL expires in the same manner as provided in RCW
37 46.20.181.

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

1 (a) Complete the application form required under RCW
2 46.25.070(1), providing updated information and required
3 certifications, and meet all the requirements of RCW 46.25.070 and 49
4 C.F.R. Sec. 383.71;

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

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

9 (3) The department must not renew a CDL if the CDL holder is
10 prohibited from operating a commercial motor vehicle based on a query
11 of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec.
12 383.73.

13 **Sec. 5.** RCW 46.25.100 and 2021 c 317 s 20 are each amended to
14 read as follows:

15 (1) When a person has been disqualified from operating a
16 commercial motor vehicle, the person is not entitled to have the
17 commercial driver's license or commercial learner's permit restored
18 until after the expiration of the appropriate disqualification period
19 required under RCW 46.25.090 (~~((or until the department has received a~~
20 ~~drug and alcohol assessment and evidence is presented of satisfactory~~
21 ~~participation in or completion of any required drug or alcohol~~
22 ~~treatment program for ending the disqualification under RCW~~
23 ~~46.25.090(7))~~). After expiration of the appropriate period and upon
24 payment of a requalification fee of (~~(twenty dollars)~~) \$20 until June
25 30, 2016, and (~~(thirty-five dollars)~~) \$35 beginning July 1, 2016,
26 (~~((or one hundred fifty dollars if the person has been disqualified~~
27 ~~under RCW 46.25.090(7),)~~) the person may apply for a new, duplicate,
28 or renewal commercial driver's license or commercial learner's permit
29 as provided by law. If the person has been disqualified for a period
30 of one year or more, the person shall demonstrate that he or she
31 meets the commercial driver's license or commercial learner's permit
32 qualification standards specified in RCW 46.25.060.

33 (2) The fees under this section must be deposited into the
34 highway safety fund unless prior to July 1, 2023, the actions
35 described in (a) or (b) of this subsection occur, in which case the
36 portion of the revenue that is the result of the fee increased in
37 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
38 distributed to the connecting Washington account created under RCW
39 46.68.395.

1 (a) Any state agency files a notice of rule making under chapter
2 34.05 RCW, absent explicit legislative authorization enacted
3 subsequent to July 1, 2015, for a rule regarding a fuel standard
4 based upon or defined by the carbon intensity of fuel, including a
5 low carbon fuel standard or clean fuel standard.

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

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

16 **Sec. 6.** RCW 46.25.090 and 2022 c 51 s 1 are each amended to read
17 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (B) Convicted of reckless driving, where there has been a prior
2 serious traffic violation; or
3 (ii) Not less than (~~one hundred twenty~~) 120 days if:
4 (A) Convicted of or found to have committed a third or subsequent
5 serious traffic violation while driving a commercial motor vehicle;
6 or
7 (B) Convicted of reckless driving, where there has been two or
8 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
13 has committed a serious traffic violation while driving a commercial
14 motor 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 (~~one hundred eighty~~) 180 days nor more than
19 one year if convicted of or found to have committed a first violation
20 of an out-of-service order while driving a commercial vehicle;
21 (b) Not less than two years nor more than five years if, during a
22 (~~ten-year~~) 10-year period, the person is convicted of or is found
23 to have committed two violations of out-of-service orders while
24 driving a commercial motor vehicle in separate incidents;
25 (c) Not less than three years nor more than five years if, during
26 a (~~ten-year~~) 10-year period, the person is convicted of or is found
27 to have committed three or more violations of out-of-service orders
28 while driving commercial motor vehicles in separate incidents;
29 (d) Not less than (~~one hundred eighty~~) 180 days nor more than
30 two years if the person is convicted of or is found to have committed
31 a first violation of an out-of-service order while transporting
32 hazardous materials, or while operating motor vehicles designed to
33 transport (~~sixteen~~) 16 or more passengers, including the driver. A
34 person is disqualified for a period of not less than three years nor
35 more than five years if, during a (~~ten-year~~) 10-year period, the
36 person is convicted of or is found to have committed subsequent
37 violations of out-of-service orders, in separate incidents, while
38 transporting hazardous materials, or while operating motor vehicles
39 designed to transport sixteen or more passengers, including the
40 driver.

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

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

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

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

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

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

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

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

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

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

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

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

11 (~~(+9)~~) (8) A person is disqualified from driving a commercial
12 motor vehicle for not more than one year if a report has been
13 received by the department from the federal motor carrier safety
14 administration that the person's driving has been determined to
15 constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person
16 who is simultaneously disqualified from driving a commercial motor
17 vehicle under this subsection and under other provisions of this
18 chapter, or under 49 C.F.R. 383.52, shall serve those
19 disqualification periods concurrently.

20 (~~(+10)~~) (9) Within (~~ten~~) 10 days after suspending, revoking,
21 or canceling a commercial driver's license or disqualifying a driver
22 from operating a commercial motor vehicle, the department shall
23 update its records to reflect that action.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.25
25 RCW to read as follows:

26 (1) The department, upon receiving notification that pursuant to
27 49 C.F.R. Sec. 382 that a Washington state CLP or CDL holder is
28 prohibited from operating a commercial motor vehicle, must initiate a
29 downgrade of the CLP or CDL. The downgrade must be completed and
30 recorded on the CDLIS driver record within 60 days of the
31 department's receipt of such notification.

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

37 (3) When the department receives notification that a CLP or CDL
38 holder is no longer prohibited from operating a commercial motor

1 vehicle under subsection (1) of this section, the department must
2 remove the downgrade or pending downgrade.

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

8 **Sec. 8.** RCW 46.25.120 and 2022 c 16 s 39 are each amended to
9 read as follows:

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

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

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

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

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

1 that disclosed an alcohol concentration of 0.04 or more or any
2 measurable amount of THC concentration.

3 (6) Upon receipt of the sworn report of a law enforcement officer
4 under subsection (5) of this section, the department shall disqualify
5 the driver from driving a commercial motor vehicle under RCW
6 46.25.090, subject to the hearing provisions of RCW 46.20.329 and
7 46.20.332. The hearing shall be conducted in the county of the
8 arrest. For the purposes of this section, the hearing shall cover the
9 issues of whether a law enforcement officer had reasonable grounds to
10 believe the person had been driving or was in actual physical control
11 of a commercial motor vehicle within this state while having alcohol
12 in the person's system or while under the influence of any drug,
13 whether the person refused to submit to the test or tests upon
14 request of the officer after having been informed that the refusal
15 would result in the disqualification of the person from driving a
16 commercial motor vehicle, if applicable, and, if the test was
17 administered, whether the results indicated an alcohol concentration
18 of 0.04 percent or more or any measurable amount of THC
19 concentration. The department shall order that the disqualification
20 of the person either be rescinded or sustained. Any decision by the
21 department disqualifying a person from driving a commercial motor
22 vehicle is stayed and does not take effect while a formal hearing is
23 pending under this section or during the pendency of a subsequent
24 appeal to superior court so long as there is no conviction for a
25 moving violation or no finding that the person has committed a
26 traffic infraction that is a moving violation during the pendency of
27 the hearing and appeal. If the disqualification of the person is
28 sustained after the hearing, the person who is disqualified may file
29 a petition in the superior court of the county of arrest to review
30 the final order of disqualification by the department in the manner
31 provided in RCW 46.20.334.

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

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

4 **Sec. 9.** RCW 46.20.324 and 2005 c 288 s 6 are each amended to
5 read as follows:

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

9 (1) Has been granted the opportunity for an administrative
10 review, informal settlement, or formal hearing under RCW 46.20.245,
11 46.20.308, 46.25.120, (~~46.25.125,~~) 46.65.065, 74.20A.320, or by
12 rule of the department; or

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

15 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
16 each repealed:

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

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

21 NEW SECTION. **Sec. 11.** This act takes effect November 18, 2024.

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.

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