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SENATE BILL 6068

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State of Washington

61st Legislature

2009 Regular Session

By Senators Swecker, Haugen, King, and Shin; by request of Department of Licensing

Read first time 02/20/09. Referred to Committee on Transportation.

1 AN ACT Relating to the definition of "conviction" for purposes of  
2 the uniform commercial driver's license act; amending RCW 46.20.270;  
3 and reenacting and amending RCW 46.25.010.

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

5 **Sec. 1.** RCW 46.20.270 and 2006 c 327 s 1 are each amended to read  
6 as follows:

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

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

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

1 (4) For the purposes of this title (~~(46 RCW the term)~~) and except  
2 as defined in RCW 46.25.010, "conviction" means a final conviction in  
3 a state or municipal court or by any federal authority having  
4 jurisdiction over offenses substantially the same as those set forth in  
5 this title (~~(46 RCW)~~) which occur on federal installations in this  
6 state, an unvacated forfeiture of bail or collateral deposited to  
7 secure a defendant's appearance in court, the payment of a fine or  
8 court cost, a plea of guilty or nolo contendere, or a finding of guilt  
9 on a traffic law violation charge, regardless of whether the imposition  
10 of sentence or sanctions are deferred or the penalty is suspended, but  
11 not including entry into a deferred prosecution agreement under chapter  
12 10.05 RCW.

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

18 **Sec. 2.** RCW 46.25.010 and 2006 c 327 s 2 and 2006 c 50 s 1 are  
19 each reenacted and amended to read as follows:

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

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

25 (2) "Alcohol concentration" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (11) "Employer" means any person, including the United States, a  
37 state, or a political subdivision of a state, who owns or leases a

1 commercial motor vehicle, or assigns a person to drive a commercial  
2 motor vehicle.

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

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

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

22 (15) "Out-of-service order" means a declaration by an authorized  
23 enforcement officer of a federal, state, Canadian, Mexican, or local  
24 jurisdiction that a driver, a commercial motor vehicle, or a motor  
25 carrier operation is out-of-service pursuant to 49 C.F.R. 386.72,  
26 392.5, 395.13, 396.9, or compatible laws, or the North American uniform  
27 out-of-service criteria.

28 (16) "Positive alcohol confirmation test" means an alcohol  
29 confirmation test that:

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

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

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

37 (17) "School bus" means a commercial motor vehicle used to

1 transport preprimary, primary, or secondary school students from home  
2 to school, from school to home, or to and from school-sponsored events.  
3 School bus does not include a bus used as a common carrier.

4 (18) "Serious traffic violation" means:

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

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

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

11 (d) Driving a commercial motor vehicle without obtaining a  
12 commercial driver's license;

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

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

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

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

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

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

37 (22) "United States" means the fifty states and the District of  
38 Columbia.

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

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

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

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

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