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HOUSE BILL 2234

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State of Washington

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By Representatives Hurst and Dahlquist

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1 AN ACT Relating to commercial driver's license suspension; amending  
2 RCW 46.25.090 and 74.20A.320; and providing an effective date.

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

4 **Sec. 1.** RCW 46.25.090 and 2011 c 227 s 4 are each amended to read  
5 as follows:

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

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

13 (b) Driving a commercial motor vehicle while the alcohol  
14 concentration in the person's system is 0.04 or more, or driving a  
15 noncommercial motor vehicle while the alcohol concentration in the  
16 person's system is 0.08 or more, or is 0.02 or more if the person is  
17 under age twenty-one, as determined by any testing methods approved by  
18 law in this state or any other state or jurisdiction;

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

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

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

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

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

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

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

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

27 (4) A person is disqualified from driving a commercial motor  
28 vehicle for life who uses a motor vehicle in the commission of a felony  
29 involving the manufacture, distribution, or dispensing of a controlled  
30 substance, as defined by chapter 69.50 RCW, or possession with intent  
31 to manufacture, distribute, or dispense a controlled substance, as  
32 defined by chapter 69.50 RCW.

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

35 (i) Not less than sixty days if:

36 (A) Convicted of or found to have committed a second serious  
37 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 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; or

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

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

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

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

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

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

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

28 (d) Not less than one hundred eighty days nor more than two years  
29 if the person is convicted of or is found to have committed a first  
30 violation of an out-of-service order while transporting hazardous  
31 materials, or while operating motor vehicles designed to transport  
32 sixteen or more passengers, including the driver. A person is  
33 disqualified for a period of not less than three years nor more than  
34 five years if, during a ten-year period, the person is convicted of or  
35 is found to have committed subsequent violations of out-of-service  
36 orders, in separate incidents, while transporting hazardous materials,  
37 or while operating motor vehicles designed to transport sixteen or more  
38 passengers, including the 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 or  
4 positive alcohol confirmation test as part of the testing program  
5 conducted under 49 C.F.R. 40. A disqualification under this subsection  
6 remains in effect until the person undergoes a drug and alcohol  
7 assessment by a substance abuse professional meeting the requirements  
8 of 49 C.F.R. 40, and the person presents evidence of satisfactory  
9 participation in or successful completion of a drug or alcohol  
10 treatment and/or education program as recommended by the substance  
11 abuse professional, and until the person has met the requirements of  
12 RCW 46.25.100. The substance abuse professional shall forward a  
13 diagnostic evaluation and treatment recommendation to the department of  
14 licensing for use in determining the person's eligibility for driving  
15 a commercial motor vehicle. Persons who are disqualified under this  
16 subsection more than twice in a five-year period are disqualified for  
17 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, state,  
23 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 (ii) For drivers who are not required to always stop, failing to  
27 stop before reaching the crossing, if the tracks are not clear;

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

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

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

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

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

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

4 (ii) Not less than one hundred twenty days if the driver is  
5 convicted of or is found to have committed a second railroad-highway  
6 grade crossing violation in separate incidents within a three-year  
7 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) A person is disqualified from driving a commercial motor  
12 vehicle for not more than one year if a report has been received by the  
13 department from the federal motor carrier safety administration that  
14 the person's driving has been determined to constitute an imminent  
15 hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously  
16 disqualified from driving a commercial motor vehicle under this  
17 subsection and under other provisions of this chapter, or under 49  
18 C.F.R. 383.52, shall serve those disqualification periods concurrently.

19 (10)(a) Upon a determination regarding the suspension, revocation,  
20 or cancellation of a commercial driver's license or disqualification of  
21 a driver from operating a commercial motor vehicle, the department  
22 shall immediately notify the driver's employer or employers, who are on  
23 file with the department, of the determination.

24 (b) If the department receives a notification pursuant to RCW  
25 74.20A.320(1)(b), the department shall immediately notify the driver's  
26 employer or employers, who are on file with the department, of the  
27 notification.

28 (c) The department shall establish a voluntary database in which an  
29 employer may register any employee for which the employer wishes to  
30 receive notifications pursuant to (a) and (b) of this subsection.

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

35 **Sec. 2.** RCW 74.20A.320 and 2009 c 408 s 1 are each amended to read  
36 as follows:

37 (1)(a) The department may serve upon a responsible parent a notice

1 informing the responsible parent of the department's intent to submit  
2 the parent's name to the department of licensing and any appropriate  
3 licensing entity as a licensee who is not in compliance with a child  
4 support order. The department shall attach a copy of the responsible  
5 parent's child support order to the notice. Service of the notice must  
6 be by certified mail, return receipt requested. If service by  
7 certified mail is not successful, service shall be by personal service.

8 (b) If the department serves upon a responsible parent a notice  
9 informing the responsible parent of the department's intent to submit  
10 the parent's name to the department of licensing as a licensee who is  
11 not in compliance with a child support order, the department shall also  
12 notify the department of licensing of the service of the notice.

13 (2) The notice of noncompliance must include the following  
14 information:

15 (a) The address and telephone number of the department's division  
16 of child support office that issued the notice;

17 (b) That in order to prevent the department from certifying the  
18 parent's name to the department of licensing or any other licensing  
19 entity, the parent has twenty days from receipt of the notice to  
20 contact the department and:

21 (i) Pay the overdue support amount in full;

22 (ii) Request an adjudicative proceeding as provided in RCW  
23 74.20A.322;

24 (iii) Agree to a payment schedule with the department as provided  
25 in RCW 74.20A.326; or

26 (iv) File an action to modify the child support order with the  
27 appropriate court or administrative forum, in which case the department  
28 will stay the certification process up to six months;

29 (c) That failure to contact the department within twenty days of  
30 receipt of the notice will result in certification of the responsible  
31 parent's name to the department of licensing and any other appropriate  
32 licensing entity for noncompliance with a child support order. Upon  
33 receipt of the notice:

34 (i) The licensing entity will suspend or not renew the parent's  
35 license and the department of licensing will suspend or not renew any  
36 driver's license that the parent holds until the parent provides the  
37 department of licensing and the licensing entity with a release from

1 the department stating that the responsible parent is in compliance  
2 with the child support order;

3 (ii) The department of fish and wildlife will suspend a fishing  
4 license, hunting license, occupational licenses, such as a commercial  
5 fishing license, or any other license issued under chapter 77.32 RCW  
6 that the responsible parent may possess, and suspension of a license by  
7 the department of fish and wildlife may also affect the parent's  
8 ability to obtain permits, such as special hunting permits, issued by  
9 the department. Notice from the department of licensing that a  
10 responsible parent's driver's license has been suspended shall serve as  
11 notice of the suspension of a license issued under chapter 77.32 RCW;

12 (d) That suspension of a license will affect insurability if the  
13 responsible parent's insurance policy excludes coverage for acts  
14 occurring after the suspension of a license;

15 (e) If the responsible parent subsequently comes into compliance  
16 with the child support order, the department will promptly provide the  
17 parent and the appropriate licensing entities with a release stating  
18 that the parent is in compliance with the order.

19 (3) When a responsible parent who is served notice under subsection  
20 (1) of this section subsequently complies with the child support order,  
21 a copy of a release stating that the responsible parent is in  
22 compliance with the order shall be transmitted by the department to the  
23 appropriate licensing entities.

24 (4) The department of licensing and a licensing entity may renew,  
25 reinstate, or otherwise extend a license in accordance with the  
26 licensing entity's or the department of licensing's rules after the  
27 licensing entity or the department of licensing receives a copy of the  
28 release specified in subsection (3) of this section. The department of  
29 licensing and a licensing entity may waive any applicable requirement  
30 for reissuance, renewal, or other extension if it determines that the  
31 imposition of that requirement places an undue burden on the person and  
32 that waiver of the requirement is consistent with the public interest.

33 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2013.

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