
SENATE BILL 5694

State of Washington

66th Legislature

2019 Regular Session

By Senators King and Saldaña

Read first time 01/28/19. Referred to Committee on Transportation.

1 AN ACT Relating to commercial beekeeper drivers; amending RCW
2 46.25.010, 46.25.055, and 46.25.075; providing an effective date; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 46.25.010 and 2018 c 49 s 4 are each amended to read
6 as follows:

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

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

12 (2) "Alcohol concentration" means:

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

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

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

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

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

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

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

15 (b) Has a gross vehicle weight rating or gross vehicle weight of
16 11,794 kilograms or more (26,001 pounds or more), whichever is
17 greater; or

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

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

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

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

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

35 (9) "Drive" means to drive, operate, or be in physical control of
36 a motor vehicle in any place open to the general public for purposes
37 of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
38 46.25.120, "drive" includes operation or physical control of a motor
39 vehicle anywhere in the state.

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

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

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

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

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

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

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

35 (ii) Is domiciled in another state as provided in 49 C.F.R. Sec.
36 383.23(b)(2) as it existed on October 1, 2017, or such subsequent
37 date as may be provided by the department by rule, consistent with
38 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 hundred
20 nineteen gallons and an aggregate rated capacity of one thousand
21 gallons or more that is either permanently or temporarily attached to
22 the vehicle or the chassis. A commercial motor vehicle transporting
23 an empty storage container tank, not designed for transportation,
24 with a rated capacity of one thousand gallons or more that is
25 temporarily attached to a flatbed trailer is not considered a tank
26 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 except for commercial beekeeper drivers excepted
7 from medical certification requirements under 49 C.F.R. Sec. 390.3(f)
8 and RCW 46.25.055(2), and is required to obtain a medical examiner's
9 certificate in accordance with procedures provided in 49 C.F.R. Sec.
10 391.45 as it existed on April 30, 2019, or such subsequent date as
11 may be provided by the department by rule, consistent with the
12 purposes of this section;

13 (c) "Nonexcepted intrastate," which means:

14 (i) A commercial beekeeper drivers excepted from medical
15 certification requirements under 49 C.F.R. Sec. 390.3 and RCW
16 46.25.055(2); or

17 (ii) The CDL or CLP holder or applicant operates only in
18 intrastate commerce and is required to obtain a medical examiner's
19 certificate in accordance with procedures provided in 49 C.F.R. Sec.
20 391.45 as it existed on April 30, 2019, or such subsequent date as
21 may be provided by the department by rule, consistent with the
22 purposes of this section; or

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

26 (24) "United States" means the fifty states and the District of
27 Columbia.

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

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

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

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

1 (26) "Commercial beekeeper driver" means a driver who is
2 operating a commercial motor vehicle controlled and operated by a
3 beekeeper engaged in the seasonal transportation of bees.

4 **Sec. 2.** RCW 46.25.055 and 2018 c 49 s 1 are each amended to read
5 as follows:

6 (1) Except as provided in 49 C.F.R. Sec. 391.67 as it existed on
7 April 30, 2019, or subsection (2) of this section, or such subsequent
8 date as may be provided by the department by rule, consistent with
9 the purposes of this section, a person may not drive a commercial
10 motor vehicle unless he or she is physically qualified to do so and
11 is medically examined and certified in accordance with procedures
12 provided in 49 C.F.R. Sec. 391.43 as it existed on April 30, 2019, or
13 such subsequent date as may be provided by the department by rule,
14 consistent with the purposes of this section.

15 (2) A commercial beekeeper driver, as defined in RCW 46.25.010,
16 and as authorized under 49 C.F.R. Sec. 390.3, is exempt from the
17 medical examination and certification requirements of subsection (1)
18 of this section.

19 **Sec. 3.** RCW 46.25.075 and 2018 c 49 s 3 are each amended to read
20 as follows:

21 The medical certification requirements of this section do not
22 apply to commercial beekeeper drivers certifying under subsection
23 (1)(b) or (d) of this section.

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

- 27 (a) Nonexcepted interstate;
- 28 (b) Excepted interstate;
- 29 (c) Nonexcepted intrastate; or
- 30 (d) Excepted intrastate.

31 (2) A CDL or CLP applicant or holder who certifies under
32 subsection (1)(a), (b), or (c) of this section that he or she is or
33 expects to be engaged in nonexcepted interstate, excepted interstate,
34 or nonexcepted intrastate commerce must provide a copy of a medical
35 examiner's certificate prepared by a medical examiner, as defined in
36 49 C.F.R. Sec. 390.5 as it existed on April 30, 2019, or such
37 subsequent date as may be provided by the department by rule,
38 consistent with the purposes of this section. A CDL or CLP holder who

1 certifies under subsection (1)(a), (b), or (c) of this section must
2 provide a copy of each subsequently issued medical examiner's
3 certificate.

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

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

10 (ii) The copy of a medical examiner's certificate, when provided
11 under subsection (2) of this section, must be retained for three
12 years beyond the date the certificate was issued; and

13 (iii) When a medical examiner's certificate is provided under
14 subsection (2) of this section, the information required under 49
15 C.F.R. Sec. 383.73 as it existed on April 30, 2019, or such
16 subsequent date as may be provided by the department by rule,
17 consistent with the purposes of this section must be posted to the
18 CDLIS driver record within ten calendar days from the date provided.
19 The indicator of medical certification status, such as "certified" or
20 "not-certified," must be maintained on the driver's record.

21 (b) Within ten calendar days of the driver's medical
22 certification status expiring or a medical variance expiring or being
23 rescinded, the medical certification status of the driver must be
24 updated to "not-certified."

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

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

34 (5)(a) If a driver's medical certification or medical variance
35 expires, or the federal motor carrier safety administration or
36 issuing medical examiner notifies the department that a medical
37 variance was removed or rescinded, the department must:

38 (i) Notify the driver of his or her "not-certified" medical
39 certification status and that the privilege of operating a commercial
40 motor vehicle will be removed from the CDL or CLP unless the driver

1 provides a current medical certificate or medical variance, or
2 changes his or her self-certification to driving in excepted
3 intrastate commerce; and

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

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

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

21 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of
23 the state government and its existing public institutions, and takes
24 effect July 1, 2019.

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