

WASHINGTON STATE DEPARTMENT OF LICENSING

CDL Reporting And Recording Requirements

**For offenses committed by a person with
a commercial driver license.**

March 2005

This publication made possible through a grant from the
Federal Motor Carrier Safety Administration.

www.dol.wa.gov

Foreword

This manual is provided specifically for District and Municipal Court Judges, Superior Court Judges, Court Administrators, County Clerk's, County and City and Felony Prosecutors.

The electronic version of the manual can be accessed from the Internet at www.dol.wa.gov/ds/courts.htm. Click on the CDL Reporting and Recording Requirements Manual link.

DOL hopes this manual will be of assistance to you in providing education and information on processing work to be reported to DOL regarding offenses committed by a driver with a commercial driver license, even if the offense was committed in a personal vehicle. We join with you in working as a team to improve public safety statewide.

The Criminal Justice Program Manager (CJPM) is available to work with you on education of reporting requirements, services provided, problem resolution and program review, either individually, or group settings. The CJPM can be reached at (360) 902-4073. Telephone numbers for the public are on the following page.

This manual and training are provided through a grant from the Federal Department of Transportation, Federal Motor Carrier Safety Administration and the Department wishes to thank them for supporting this endeavor.

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Business Problem and Training Opportunity

The Commercial Driver License Program (CDLP) has a complex set of laws, policies, and procedures. The interface between the Department of Licensing and local courts is critical to the missions of both organizations. The Department relies on local courts for the timely and accurate recording and reporting of data to build and maintain commercial driver records. To work on the findings of CDLP audits a grant request to fund one project position to perform criminal justice outreach to courts throughout the state was submitted and was approved by the Federal Motor Carrier Safety Administration (FMCSA). This position will work with individual judges, prosecutors and court personnel to share information and improve knowledge regarding CDLP problem areas, such as new rules regarding deferred prosecutions.

This grant will allow the Department of Licensing to work with criminal justice community on the commercial driver license (CDL) laws, both current law and changes as they occur. While some CDL training can occur in classrooms, courts that would benefit most from these training and problem-solving exchanges are often the least able to take advantage of them. Thousands of traffic crimes and infractions, including CDL crimes and infractions are resolved every year in part-time courts that may only meet once a month. All courts are being confronted with reduced staffing and cutbacks in their education and travel budgets, are finding that it is increasingly difficult to accommodate staff training. Inadequate communication contributes to errors and omissions in criminal and driver histories. Such errors and omissions ultimately produce greater workloads for the Department and the affected courts. More importantly, they may result in commercial drivers who continue to legally drive when they should not have a commercial driver license.

Proposed Solution

- Obtain a federal (Federal Motor Carrier Safety Administration) grant to fund the training project.
- Create a dedicated position for one year to act as the Criminal Justice Program Trainer.
- Identify and prioritize critical current and future CDL criminal justice compliance issues that will benefit from a training curriculum.
- Develop a training curriculum.
- Develop performance measures and metrics to monitor the effectiveness of the training program.
- Establish baseline reports for performance measures.
- Develop a training manual.
- Identify the criminal justice agencies that need training.
- Develop a schedule to conduct training with the criminal justice agencies.
- Conduct training to all required agencies.
- Leave training manual with all trained agencies.
- Track, report and monitor performance measures established to determine effectiveness of the training program.

Resolution Strategy

- Develop and implement a comprehensive & cohesive training program to identify licensing problem areas relating to CDL ticket masking and to reduce errors and omissions in CDL driver histories. Goal is to eliminate masking occurrences by reduce omissions and errors by 25% by June 2006.
- Design a CDL court-training manual to ensure uniformity of compliance with CDL rules and regulations. Present this document in a hard copy to all agencies trained. Also, provide this manual electronically so that updates can be made in a timely manner.
- Establish baseline performance measurement reports.
- Conduct training.
- Monitor performance measurement reports to determine districts requiring additional training.
- Document project results.
- Conduct Lessons Learned.
- Develop project final report.

Motor Carrier Safety Improvement Act (MCSIA) of 1999

Title 2, Section 201(a) Two new disqualifying offenses:

- Driving a CMV while revoked, suspended, or cancelled, or while the driver is disqualified based upon the driver's operation of a CMV; and
- Causing a fatality through the negligent or criminal operation of a CMV.

Section 202(b) and 202 (h) New disqualification criteria for non-CMV violations.

- 2nd conviction or any combination of offenses under the definition of serious traffic violations arising from separate incidents within a 3-year period while operating a non-CMV; and
- 3rd conviction or any combination of offenses under the definition of serious traffic violations arising from separate incidents within a 3-year period while operating a non-CMV.

Section 202(c) Expanded Definition of Serious Traffic Violations:

- Driving a CMV when the individual has not obtained a commercial driver's license; and
- Driving a CMV when the individual does not have in his or her possession a commercial driver's license unless the individual provides, by the date that the individual must appear in or pay any fine with respect to the citation, to the enforcement authority that issued the citation proof that the individual held a valid commercial driver's license on the date of the citation;
- Driving a CMV when the individual has not met the minimum testing standards for the CMV being operated, or for the type of cargo being transported in the vehicle.

Section 202 (c)(9) - Notification of State Officials

- If an individual violates a state or local law on motor vehicle traffic control (except a parking violation) and the individual
 - (a) has a commercial driver's license issued by another state or
 - (b) is operating a commercial vehicle without a commercial driver's license and has a driver's license issued by another state, the state in which the violation occurred shall notify a state official designated by the issuing state of other violations not later than 10 days after the date the individual is found to have committed the violation.

Section 202 (g) - Masking

- (19) The state shall
 - (A) record in the driving record of an individual who has a commercial driver's license issued by the state; and
 - (B) make available to all authorized persons and governmental entities having access to such record, all information the state receives under paragraph (9) with respect to the individual and every violation by the individual involving motor vehicle (including commercial motor vehicle) of a state or local law on traffic control (except a parking violation), not later than 10 days after the date of receipt of such information or the date of such violation, as the case may be. The state may not allow information regarding such violations to be withheld or masked in any way from the record of the individual possessing a commercial driver's license.

Section 203 - State Noncompliance

- (a) IN GENERAL – If the Secretary of Transportation determines that a State is in substantial noncompliance with this chapter, the Secretary shall issue an order to–
 - (1) prohibit that State from carrying out licensing procedures under this chapter, and
 - (2) prohibit that State from issuing any commercial driver's licenses until such time the Secretary determines such state is in substantial compliance with this chapter.
- (b) EFFECT ON OTHER STATES – A State (other than a State subject to an order under subsection (a)) may issue a non-resident commercial driver's license to an individual domiciled in a State that is prohibited from such activities under subsection (a) if that individual meets all requirements of this chapter and the nonresident licensing requirements of the issuing State.
- (c) PREVIOUSLY ISSUED LICENSES – Nothing in this section shall be construed as invalidating or otherwise affecting commercial driver's licenses issued by a State before the date of issuance under subsection (a) with respect to the State.

Federal Motor Carrier Safety Administration (FMCSA) Final Rule July 31, 2002

SUMMARY: The FMCSA revises its Commercial Driver's License (CDL) Program. The Motor Carrier Safety Improvement Act of 1999 (MCSIA) mandates these revisions. They are designed to enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways by ensuring that only safe drivers operate CMV's.

Section 350-217 What are the Consequences for a State With a CDL Program Not in Substantial Compliance With 49 CFR Part 384, Subpart B?

- Section 103(e) of the MCSIA requires the FMCSA to withhold all Motor Carrier Safety Assistance Program (MCSAP) grant funds authorized under Section 103(b)(1) of MCSIA from States not in substantial compliance with 49 CFR part 284, subpart B. This new sanction is added to the one currently contained in 49 CFR 384, subpart D requiring the agency to withhold five percent of some of a State's Federal-aid highway funds following the first year of noncompliance and 10 percent of such funds following the second and subsequent years of noncompliance.

Section 384.226 – Prohibition on Masking Convictions

- Section 202(g) of the MCSIA prohibits the practice of masking convictions required to be maintained by or transmitted to the State where the driver is licensed. A Joint Explanatory Statement issued by Congress in conjunction with MCSIA makes clear that this new provision is intended to prohibit States not only from masking convictions, but also from using diversion programs or any other disposition that would defer the listing of a guilty verdict on a CDL driver's record. This provision requires that all records of such conviction information be made available to all authorized parties and government entities. The FMCSA urges State Executive Branch agencies to work with the State Judicial Branch to eliminate the practice of masking. This practice allows unsafe drivers to continue to pose a risk to other motorists by allowing their continued operation on the nation's highways.

Section 384.401 – Withholding of Funds Based on Noncompliance

- In order to avoid the withholding of certain Federal aid highway funds, States must be in substantial compliance, as defined in 49 CFR 384.301, with the standards set forth in Subpart B of part 384. Section 103(e) of the MCSIA also requires the FMCSA to withhold Motor Carrier Safety Assistance Program (MCSAP) funds from States that fail to be in substantial compliance with these standards. This section incorporates this new sanctioning requirement.
 - *Following the first year of noncompliance.* A State is subject to both of the following sanctions:
 - An amount equal to five percent of the Federal-aid highway funds required to be appropriated to any State under each of sections 104(b)(1), (b)(3), and (b)(4) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's first year of noncompliance under this part.
 - Grant funds authorized under this section 103(b)(1) of the MCSIA shall be withheld from a State on the first day of the fiscal year following the fiscal year in which the FMCSA determined that the State was not in substantial compliance with subpart B of this part.
 - Five percent is approximately \$800,000.
 - *Following second and subsequent year(s) of noncompliance.* A state is subject to both of the following sanctions:
 - An amount equal to ten percent of the Federal-aid highway funds required to be appropriated to any State under each of sections 104(b)(1), (b)(3), and (b)(4) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's first year of noncompliance under this part.
 - Grant funds authorized under this section 103(b)(1) of the MCSIA shall be withheld from a State on the first day of the fiscal year following the fiscal year in which the FMCSA determined that the State was not in substantial compliance with subpart B of this part.
 - Ten percent is approximately \$1,600,000.

Section 384.405 – Decertification of State CDL Program

- (a) *Prohibition on CDL licensing activities.* The Administrator may prohibit a State found to be in substantial noncompliance from performing any of the following four licensing transactions:
 - (1) Issuance of initial CDLs.
 - (2) Renewal of CDLs.
 - (3) Transfer out-of-state CDLs to the State
 - (4) Upgrade of CDLs.
- (b) *Conditions considered in making decertification determination.* The Administrator will consider, but is not limited to, the following five conditions in determining whether the CDL program of a State in substantial noncompliance should be decertified.
 - (1) The State computer system does not check the Commercial Driver License Information System (CDLIS) and/or the National Driver Register (NDR) as required by 383.73 of this subchapter when processing CDL applicants, drivers transferring a CDL issued by another State, CDL renewals and/or upgrades.
 - (2) The State does not disqualify drivers convicted of disqualifying offenses in CMVs.
 - (3) The state does not transmit convictions for out of State drivers to the State where the driver is licensed.
 - (4) The State does not properly administer knowledge and/or skills tests to CDL applicants or drivers.
 - (5) The State fails to submit a corrective action plan for a substantial compliance deficiency or fails to implement a corrective action plan within the agreed upon time frame.
- (c) *Standard for considering deficiencies.* The deficiencies described in paragraph (b) of this section must affect a substantial number of either CDL applicants or drivers.
- (d) *Decertification: Preliminary determination.* If the Administrator finds that a State is in substantial noncompliance with subpart B of this part, as indicated by the factors specified in 384.405(b), among other things, the FMCSA will inform the State that it has made a preliminary determination of noncompliance and that the State's CDL program may therefore be decertified. Any response from the State, including factual or legal arguments or a plan to correct the noncompliance, must be submitted within 30 calendar days after receipt of the preliminary determination.
- (e) *Decertification: final determination.* If, after considering all material submitted by the State in response to the FMCSA preliminary determination, the Administrator decides that substantial noncompliance exists which warrants decertification of the CDL program, he or she will issue a decertification order prohibiting the State from issuing CDLs until the condition(s) causing the decertification has (have) been corrected.

- (f) *Recertification of a State.* The Governor of the decertified State or his or her designated representative must submit a certification and documentation that the condition causing the decertification has been corrected. If the FMCSA determines that the condition causing the decertification has been satisfactorily corrected, the Administrator will issue recertification order, including any conditions that must be met in order to begin issuing CDLs in the State.
- (g) *State's right to judicial review.* Any State aggrieved by an adverse decision under this section may seek judicial review under 5 U.S.C Chapter 7.
- (h) *Validity of previously issued CDLs.* A CDL issued by a State prior to the date the State is prohibited from issuing CDLs in accordance with provisions of paragraph (a) of this section, will remain valid until its stated expiration date.

Additionally, under MCSIA:

- ❖ Section 203 of the MCSIA requires the FMCSA to prohibit a State from issuing, renewing, transferring, or upgrading CDLs if the agency has determined that the state is in substantial noncompliance with the requirements of Section 31311 of title 49 U.S.C. (49 CFY part 384, subpart B). Because of the severity of this new sanction and the potential effect on drivers and motor carriers located in States found to be in noncompliance, it is envisioned that this penalty will be used only after other attempts to bring the State into substantial compliance has failed. As noted in the commentary to 383.23, the FMCSA envisions this sanction being invoked only in rare situations.
- ❖ To mitigate the impact on drivers and motor carriers in States that have been decertified, the MCSIA is adding a provision to 49 CFR 383.7 and 384.405(h) allowing drivers licensed before a State was decertified to continue to operate CMVs, as long as their licenses remain valid. The FMCSA has also included language in 49 CFR 383.23(b)(2) authorizing States that are in substantial compliance to issue nonresident CDLs to drivers living in States that have been decertified or recertified.

Audit Findings 2001 and 2004

In 2001 the Department of Licensing was audited by the Federal Motor Carrier Safety Administration (FMCSA) and was found to be out of compliance in several areas. The number one priority finding of noncompliance from that audit was as follows:

“Finding WA/CS-12 remains the single most urgent issue in this review and could cause the State to be deemed to be not in compliance, which, if this occurs, carries severe penalties for the State and its CDL drivers. DOL’s initial response to this finding contained some very thoughtful points. However, subsequent rulemaking makes firm the position of FMCSA regarding masking convictions, diversion programs or any other disposition that would defer the listing of a guilty verdict on a CDL driver’s record.”

- Under WA/CS-12:
 - ” Recommendation: Washington must make all necessary changes to ensure that all “Convictions” as defined in 49 CFR 383.5 are recorded, reported and utilized as required in driver disqualifications and license withdrawal, suspension and revocations as required by 49 CFR383/384.” and
- “Overall finding: Since this review was conducted and after the State responded to the review, new rules were promulgated which implicitly state that “The State must not mask, defer imposition or judgment, or allow an individual who enters into a diversion program that would prevent a CDL driver’s conviction for any violation, from appearing on the driver’s record...” 49 CFR 384.226. The FMCSA believes that the State must cease allowing diversion programs for CDL drivers.”

Copied here is CFR 384.226

“[Code of Federal Regulations]

[Title 49, Volume 4]

[Revised as of October 1, 2003]

From the U.S. Government Printing Office via GPO Access

[CITE: 49CFR384.226]

TITLE 49--TRANSPORTATION

CHAPTER III--FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION

PART 384--STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM--Table of
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Subpart B--Minimum Standards for Substantial Compliance by States

Sec. 384.226 Prohibition on masking convictions.

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL driver's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (except a parking violation) from appearing on the driver's record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

[67 FR 49762, July 31, 2002]”

In 2004 the Department of Licensing was again audited by the Federal Motor Carrier Safety Administration (FMCSA) and was found to be out of compliance in several areas. DOL must respond in writing by April 16th, with responses to audit findings and our actions plan to fix compliance issues, and then FMCSA will respond to DOLs responses as to whether or not our proposed compliance resolution is satisfactory.

The priority findings of noncompliance from that audit and DOL's responses are as follows:

Under WA/CS-4:

49 CFR 383.215, -.216 2001 Finding #12 remains outstanding. The definition of "conviction" has not changed to coincide with the federal definition in 49 CFR 383.5. Washington's definition of conviction still does not include determinations by authorized administrative tribunals, pleas of *nolo contendere*, or payments of court costs. (*Per Onsite Report*)

Washington's definition of conviction still does not include determinations by authorized administrative tribunals, pleas of *nolo contendere*, or payments of court costs. It appears that Washington does not utilize the plea of *nolo contendere* in its judicial system. However, in the absence of a definition of conviction that includes a plea of *nolo contendere*, Washington's use of an out-of-state conviction that resulted from a plea of *nolo contendere* may result in a challenge to Washington's authority to rely on the disposition as a basis for imposing a disqualification. Additionally, the failure to include determinations by authorized administrative tribunals and the payment of court costs within the definition of conviction results in the same problem. (*Per Legal Review*)

- DOL will introduce legislation in 2006 to change the definition of a conviction in RCW 46.20.270 to include pleas of *nolo contendere* and payment of court costs

Under WA/CS-10:

49 CFR 384.203, 215, -.216 Washington does not receive adequate information on non-NRVC offenses from Washington courts to impose disqualification of the CDL privilege. Washington receives criminal complaints from Washington courts but the criminal complaint form does not have indicators for CMV or hazmat involvement. (*Per Onsite Report*)

- DOL has revised the "Abstract of Court Record" used primarily by the Superior Courts to report felony convictions. DOL will also address criminal complaint forms received through on-site and group training with the prosecutors.

Under WA/CS-11

49 CFR 384.203, 215, -.216 For a DUI in speedy trial counties, the prosecuting attorney charges the driver under RCW 46.61.502 or RCW 46.61.504, non-CMV provisions of the Washington statutes, and describes the events, which may or may not indicate involvement of a CMV or hazmat. This is compounded by the fact that the criminal complaint form has no indicators for CMV or hazmat involvement. *(Per Onsite Report)*

- DOL will address the criminal complaint forms received through on-site and group training with the prosecutors.

Under WA/CS-12

49 CFR 384.203, 215, -.216 Some Washington counties have a speedy trial process for convictions requiring a court appearance. For such convictions, law enforcement officers do not write citations but send an arrest report to the county's prosecuting attorney who charge the driver and complete a criminal complaint form that is sent to the courts for adjudication. The criminal complaint form does not have indicators for CMV and hazmat involvement. As a result, Washington DOL cannot identify these convictions for disqualification action as mandated by the FMCSRs. *(Per Onsite Report)*

- DOL will address the criminal complaint forms received through on-site and group training with the prosecutors.

Under WA/CS-13

49 CFR 384.203, 215, -.216 Washington's Superior Courts send an abstract of court record to DOL that only has an indicator for hazmat involvement and not for CMV involvement. DOL officials indicated that the court data entry staff do not fill in the hazmat indicator. As a result, Washington DOL cannot identify convictions received from Superior Courts for disqualification action as mandated by the FMCSRs. *(Per Onsite Report)*

- DOL has revised the "Abstract of Court Record" used primarily by the Superior Courts to report felony convictions. DOL will address the criminal complaint forms received through on-site and group training with the prosecutors.

Under WA/UR-1

49 CFR 384.226 Washington has three programs that effectively mask convictions to a driver record: deferred prosecution, deferred finding, and deferred sentence. Washington should review these programs in light of MCSIA requirements on masking of convictions. *(Per Onsite Report)*

- DOL will be conducting statewide on-site training regarding the prohibition on masking, including deferrals of any kind to CDL holders.

Legislation (SHB 2532) passed in 2004 remains unclear regarding the ability of a non-CDL holder convicted of a CMV offense to obtain a deferral. *(Per Onsite Report)*

Washington has attempted to address its reservations about considering as a conviction the payment of court costs in their deferred prosecution program by passing legislation, which becomes effective on July 1, 2005. This legislation prohibits the use of the deferred prosecution program, otherwise available for traffic infractions, by any person who holds a CDL. However, this amendment does not preclude drivers of CMVs who are convicted of traffic infractions but who do not hold CDLs from applying for the program. The amendment also does not prohibit persons charged with misdemeanors or gross misdemeanors (DUI, e.g.) from applying for the deferred prosecution program under RCW 10.05. Washington has until September 30, 2005 to enact this prohibition. *(Per Legal Review)*

- DOL will honor the deferred prosecution for the personal driving privilege, but will disqualify the CDL for the duration of the stay on the personal driving privilege.

For a “deferred sentence” where the court downgrades a criminal citation to negligent driving (a non-qualifying CMV offense) if the driver has no other actions in a court-prescribed timeframe, the posting of negligent driving in the case of a deferred sentence action by the court not only mitigates a required alcohol-related disqualification in Washington, but also mitigates any use of the conviction for multiple-offense disqualification (major or serious) in Washington or other states. Should the driver leave Washington, the M83 ACD code will not be considered a serious offense for consideration with other serious offenses on other record for disqualification.

- DOL will be conducting statewide on-site training regarding the prohibition on masking, including deferrals of any kind to CDL holders. Additionally, it will stress the importance of not downgrading/amending criminal citations for CDL holders.

WA/UR-2

49 CFR 384.209 Washington has a policy to send Washington non-mandatory convictions to the drivers' state by mail on a weekly basis, but reported that convictions are typically sent monthly. This poses a problem for the licensing state in meeting the timeliness requirements (30-day posting of convictions by September 30, 2005, and 10-day posting by September 30, 2008) under MCSIA. (Per Onsite Report)

- DOL has written a new policy to requiring convictions/committed findings be mailed to the home state Friday of each week and has already started this procedure

Washington needs to determine the cause of the current excessive delays between the conviction date and the recording (reporting) of the conviction. Significant improvements are necessary to meet the initial timeliness requirement of the MCSIA by September 30, 2005 and fully comply with the 10-day posting requirement of MCSIA, by September 30, 2008. (Per Data Analysis)

- DOL will stress the importance of timely reporting of bail forfeitures, findings of guilt, plea of guilt, payment of a fine or penalty etc. during the on-site training.

2004 Legislation Effective July 1, 2005

HB 2532 amended RCW 46.25.010, 46.25.060, 46.25.070, 46.25.080, 46.25.130, 46.25.160, and 46.63.070, reenacting and amending RCW 46.20.308 and 46.25.090; and adding a new section to Chapter 46.25 RCW to become compliant with the FMSCA Final Rule and the MSCIA act of 1999 as follows:

RCW 46.20.308 (Implied Consent)

(2)(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

This amendment means that a deferred prosecution granted on a DUI or Physical Control (PC) arrest, which occurred in the personal vehicle, will stay the suspension action imposed for the administrative side. However, if the person has a commercial driver license the Department will be required to suspend/disqualify the commercial driver license privilege. If the person does not have a commercial driver license privilege, the Department will be required to deny commercial driver license issuance.

RCW 46.25.010 (Definitions)

(6)(c) If the vehicle is transporting hazardous materials as defined in this section;

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

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

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

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

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

The amendments add new definitions for commercial driver's licenses and endorsements.

RCW 46.25.060 (Endorsements)

(2) The department shall work with the office of the superintendent of public instruction to develop modified P1 and P2 skill examinations that also include the skill examination components required to obtain a "S" endorsement. In no event may a new applicant for an "S" endorsement be required to take two separate examination to obtain an "S" endorsement and wither a P1 or P2 endorsement, unless that applicant is upgrading his or her existing commercial driver's license to include an "S" endorsement. The combined P1/Sor P2/S skill examination must be offered to the applicant at the same cost as a regular P1 or P2 skill examination.

(5)(a) The department may issue a commercial driver's instruction permit to an applicant who is at least eighteen years of age and holds a valid Washington state driver's license and who has submitted a proper application, passed the general knowledge examination required for issuance of a commercial driver's license under subsection (1) of this section, and paid the appropriate fee for the knowledge examination and an application fee of ten dollars.

(c) The holder of a commercial driver's instruction permit is not authorized to operate a commercial motor vehicle transporting hazardous materials.

The amendments create a new endorsement (S) to the license for school bus drivers; clarifies commercial driver's instruction permits and prohibits commercial driver's instruction permit holders to transport hazardous materials.

RCW 46.25.070 (Application requirements)

(1)(g) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years.

(2) An applicant for a hazardous materials endorsement must submit an application and comply with federal transportation security administration requirements as specified in 49 C.F.R. part 1572, and meet the requirements specified in 49 C.F.R. 383.71 (a) (9).

The amendments require all states to get applicant history from all states previously licensed in for the past 10 years; and requires applicants for a hazardous materials endorsement to pass a background check, including fingerprinting, before the state an issue a hazardous materials endorsement.

RCW 46.25.080 (Commercial driver's license content)

(2)(a)(i) class A is a combination of vehicles with a gross combined weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(b) Vehicles used in the transportation of hazardous materials (~~(that requires the vehicle to be identified with a placard under 46 C.F.F., part 172, subpart F)~~).

(iv) "P1" authorizes driving all vehicles, other than school buses, carrying passengers

(v) "P2" authorizes driving vehicles with a GVWR of less than 26,001 pounds, other than school buses, carrying sixteen or more passengers, including the driver.

(viii) "S" authorizes driving school buses.

(4) (a) Through the commercial driver's license information system((,));

(b) Through the national driver register ((, and));

(c) From the current state of record; and

(d) From all states where the applicant was previously licensed over the last 10 years to driver any type of motor vehicle.

A check under (d) of this subsection need be done only once, either at the time of application for a new commercial driver's license, or upon application for a renewal of a commercial driver's license for the first time after the effective date of this section, provided a notation is made on the driver's record confirming that the driving record check has been made and noting the date it was completed.

The amendments clarify and add new commercial driver's license endorsement information.

A new section is added to chapter 46.25 RCW to read as follows:

(1) The department may not issue, renew, upgrade or transfer a hazardous materials endorsement for a commercial driver's license to any individual authorizing that individual to operate a commercial motor vehicle transporting hazardous material in commerce unless the federal transportation security administration has determined that individual does not pose a security risk warranting denial of the endorsement.

(2) An individual who is prohibited from hold a commercial driver's license with a hazardous materials endorsement under 49 C.F.R. 1572.5 must surrender any hazardous materials endorsement in his or her possession to the department.

(3) The department may adopt such rules as may be necessary to comply with the provisions if 49 C.F.R part 1572.

This addition strengthens the requirements for a CDL holder to obtain a hazardous material endorsement.

RCW 46.25.090 (Disqualifications of the driving privilege)

(1)(a) Driving a (~~commercial~~) motor vehicle under the influence of alcohol or any drug:

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

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

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

If any of the violations set forth in this subsection occurred while transporting ~~(a)~~ hazardous material (~~required to be identified by placard~~), the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents. (~~Only offenses committed after October 1, 1989, may be considered in applying this subsection.~~)

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a (~~commercial~~) motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.050 RCW.

(5)(a) Not less than 60 days if:

(1) Convicted of or found to have committed (~~two~~) a second serious traffic (~~violations,~~) violation while driving a commercial motor vehicle; or

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

(b) Not less than one hundred twenty days if:

(i) Convicted of or found to have committed (~~three~~) a third or subsequent serious traffic (~~violations, committed in~~) violation while driving a commercial motor vehicle (~~arising from separate incidents occurring within a three-year period~~); or

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

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

(6)(d)

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order

while transporting hazardous materials (~~required to be placarded under the Hazardous Materials Transportation Act (46 U.S.C. Sec. 1801-1813)~~), or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not 30 less than three years nor more than five years if, during a ten-year 31 period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials (~~required to be placarded under the Hazardous Materials Transportation Act~~), or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5.10)

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action. (~~After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state that issued the commercial driver's license.~~)

These amendments enhance the reasons for disqualification and add new criteria for disqualification to include counting offenses committed in a personal vehicle.

RCW 46.25.130 (Reporting Convictions)

(1) Within ten days after receiving a report of the conviction of or finding that a traffic infraction has been committed by any nonresident holder of a commercial driver's license, or any nonresident operating a commercial motor vehicle, for any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, (~~committed in a commercial motor vehicle,~~) the department shall notify the driver licensing authority in the licensing state of the conviction.

2)(a) No later than ten days after disqualifying any nonresident holder of a commercial driver's license from operating a commercial motor vehicle, or revoking, suspending, or canceling the nonresident driving privileges of the nonresident holder of a commercial driver's license for at least sixty days, the department must notify the state that issued the license of the disqualification, revocation, suspension, or cancellation.

(b) The notification must include both the disqualification and the violation that resulted in the disqualification, revocation, suspension, or cancellation. The notification and the information it provides must be recorded on the driver's record.

These amendments change the reporting timeframes on committed findings and convictions.

RCW.25.160 (Valid Commercial Driver's License Privilege)

Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver's license or commercial driver's instruction permit issued by any state or jurisdiction in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver's licenses or permits, if the person's license or permit is not suspended, revoked, or canceled, and if the person is not disqualified from driving a commercial motor vehicle or is subject to an out-of-service order.

This amendment just adds the word jurisdiction.

RCW 46.63.070 (Responding to traffic infractions)

(5)(a) Except as provided in (b) and (c) of this subsection, in hearings conducted pursuant to subsections (3) and (4) of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction.

b) A person may not receive more than one deferral within a seven-year period for traffic infractions for moving violations and more than one deferral within a seven-year period for traffic infractions for nonmoving violations.

(c) A person who is the holder of a commercial driver's license may not receive a deferral under this section.

This amendment prohibits giving a CDL holder a deferred finding, deferred sentence, other deferral or deferred prosecution.