

government and its existing public institutions, and shall take effect immediately.

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CHAPTER 178

[Substitute Senate Bill No. 5441]

UNIFORM COMMERCIAL DRIVER'S LICENSE ACT

AN ACT Relating to licensing of commercial drivers; amending RCW 28A.04.131, 46.20.470, 46.37.010, 46.52.120, 46.55.090, 46.61.519, and 46.90.300; reenacting and amending RCW 46.52.130 and 46.63.020; creating a new chapter in Title 46 RCW; creating a new section; repealing RCW 46.20.440, 46.20.450, and 46.20.460; prescribing penalties; and providing effective dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. This chapter may be cited as the Uniform Commercial Driver's License Act.

NEW SECTION. Sec. 2. (1) The purpose of this chapter is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA), Title XII, P.L. 99-570, and reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by:

- (a) Permitting commercial drivers to hold only one license;
- (b) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;
- (c) Strengthening licensing and testing standards.

(2) This chapter is a remedial law and shall be liberally construed to promote the public health, safety, and welfare. To the extent that this chapter conflicts with general driver licensing provisions, this chapter prevails. Where this chapter is silent, the general driver licensing provisions apply.

NEW SECTION. Sec. 3. The definitions set forth in this section apply throughout this chapter.

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

(2) "Alcohol concentration" means:

- (a) The number of grams of alcohol per one hundred milliliters of blood; or
- (b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued in accordance with the requirements of this chapter to an individual that authorizes the individual to drive a class of commercial motor vehicle.

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

(5) "Commercial driver's instruction permit" means a permit issued under section 8(4) of this act.

(6) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross weight rating of 26,001 or more pounds;

(b) If the vehicle is designed to transport sixteen or more passengers, including the driver;

(c) If the vehicle is transporting hazardous materials and is required to be identified by a placard in accordance with 49 C.F.R. part 172, subpart F; or

(d) If the vehicle is a school bus as defined in RCW 46.04.521 regardless of weight or size.

(7) "Conviction" has the definition set forth in RCW 46.20.270.

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

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of sections 12, 13, and 14 of this act, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009.

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

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle, or the registered gross weight, whichever is greater. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units.

(13) "Hazardous materials" has the same meaning found in Section 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.).

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

(15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(16) "Serious traffic violation" means:

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

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

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

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

(17) "State" means a state of the United States and the District of Columbia.

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

(19) "United States" means the fifty states and the District of Columbia.

NEW SECTION. Sec. 4. No person who drives a commercial motor vehicle may have more than one driver's license.

NEW SECTION. Sec. 5. (1)(a) A driver of a commercial motor vehicle holding a driver's license issued by this state who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control, in any other state or federal, provincial, territorial, or municipal laws of Canada, other than parking violations, shall notify the department in the manner specified by rule of the department within thirty days of the date of conviction.

(b) A driver of a commercial motor vehicle holding a driver's license issued by this state who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in this or any other state or federal, provincial, territorial, or municipal laws of Canada, other than parking violations, shall notify his or her employer in writing of the conviction within thirty days of the date of conviction.

(c) The notification requirements contained in (a) and (b) of this subsection as they relate to the federal, provincial, territorial, or municipal laws of Canada become effective only when the federal law or federal rules are changed to require the notification or a bilateral or multilateral agreement is entered into between the state of Washington and any Canadian province implementing essentially the same standards of regulation and penalties of all parties as encompassed in this chapter.

(2) A driver whose driver's license is suspended, revoked, or cancelled by a state, who loses the privilege to drive a commercial motor vehicle in a state for any period, or who is disqualified from driving a commercial motor

vehicle for any period, shall notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

(3) A person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

(a) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(b) The dates between which the applicant drove for each employer; and

(c) The reason for leaving that employer.

The applicant shall certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

NEW SECTION. Sec. 6. (1) An employer shall require the applicant to provide the information specified in section 5(3) of this act.

(2) No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(a) In which the driver has a driver's license suspended, revoked, or cancelled by a state, has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle; or

(b) In which the driver has more than one driver's license.

NEW SECTION. Sec. 7. (1) Drivers of commercial motor vehicles shall obtain a commercial driver's license as required under this chapter by April 1, 1992. The director shall establish a program to convert all qualified commercial motor vehicle drivers by that date. After April 1, 1992, except when driving under a commercial driver's instruction permit and a valid automobile or classified license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds and is in immediate possession of a commercial driver's license and applicable endorsements valid for the vehicle they are driving. However, this requirement does not apply to any person:

(a) Who is the operator of a farm vehicle, and the vehicle is:

(i) Controlled and operated by a farmer;

(ii) Used to transport either agricultural products, farm machinery, farm supplies, or any combination of those materials to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier;

(iv) Used within one hundred fifty miles of the person's farm; and

(v) Not transporting hazardous materials required to be identified by a placard; or

(b) Who is a firefighter operating emergency equipment, and:

(i) The firefighter has successfully completed a driver training course approved by the director; and

(ii) The firefighter carries a certificate attesting to the successful completion of the approved training course; or

(c) Who is operating a recreational vehicle for noncommercial purposes.

(2) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or cancelled, while subject to disqualification, or in violation of an out-of-service order. Violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1).

NEW SECTION. Sec. 8. (1)(a) No person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars for each classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than fifty dollars for each classified skill examination or combination of classified skill examinations conducted by the department.

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

(i) The test is the same which would otherwise be administered by the state;

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

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

(2) The department may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. part 383.77.

(3) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or cancelled in any state, nor may a

commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(4)(a) A commercial driver's instruction permit may be issued to an individual who holds a valid automobile or classified driver's license.

(b) A commercial driver's instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period. The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. An application for a commercial driver's instruction permit shall be accompanied by a fee of five dollars. The department shall forthwith transmit the fees collected for commercial driver's instruction permits to the state treasurer.

NEW SECTION. Sec. 9. (1) The application for a commercial driver's license or commercial driver's instruction permit must include the following:

- (a) The full name and current mailing and residential address of the person;
- (b) A physical description of the person, including sex, height, weight, and eye color;
- (c) Date of birth;
- (d) The applicant's Social Security number;
- (e) The person's signature;
- (f) Certifications including those required by 49 C.F.R. part 383.71(a);
- (g) Proof of certification of physical examination or waiver, as required by 49 C.F.R. 391.41 through 391.49;
- (h) Any other information required by the department; and
- (i) A consent to release driving record information to parties identified in chapter 46.52 RCW and this chapter.

(2) When a licensee changes his or her name, mailing address, or residence address, the person shall notify the department as provided in RCW 46.20.205.

(3) A driver of a commercial motor vehicle shall immediately apply for a driver's license upon becoming a resident of this state. No person who has been a resident of this state for thirty days may drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

NEW SECTION. Sec. 10. (1) The commercial driver's license must be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

- (a) The name and residence address of the person;

- (b) The person's color photograph;
- (c) A physical description of the person including sex, height, weight, and eye color;
- (d) Date of birth;
- (e) The person's Social Security number or any number or identifier deemed appropriate by the department;
- (f) The person's signature;
- (g) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive, together with any endorsements or restrictions;
- (h) The name of the state; and
- (i) The dates between which the license is valid.

(2) Commercial driver's licenses may be issued with the classifications, endorsements, and restrictions set forth in this subsection. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

(a) Licenses may be classified as follows:

(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 being towed is in excess of 10,000 pounds.

(ii) Class B is a single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

(iii) Class C is a single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds consisting of:

(A) Vehicles designed to transport sixteen or more passengers, including the driver;

(B) Vehicles used in the transportation of hazardous materials that requires the vehicle to be identified with a placard under 49 C.F.R., part 172, subpart F; and

(C) School buses designed to carry fewer than sixteen passengers.

(b) The following endorsements and restrictions may be placed on a license:

(i) "H" authorizes the driver to drive a vehicle transporting hazardous materials.

(ii) "K" restricts the driver to vehicles not equipped with air brakes.

(iii) "T" authorizes driving double and triple trailers.

(iv) "P" authorizes driving vehicles carrying passengers.

(v) "N" authorizes driving tank vehicles.

(vi) "X" represents a combination of hazardous materials and tank vehicle endorsements.

The license may be issued with additional endorsements and restrictions as established by rule of the director.

(3) Before issuing a commercial driver's license, the department shall obtain driving record information through the commercial driver's license information system, the national driver register, and from the current state of record.

(4) Within ten days after issuing a commercial driver's license, the department must notify the commercial driver's license information system of that fact, and provide all information required to ensure identification of the person.

(5) A commercial driver's license shall expire in the same manner as provided in RCW 46.20.181.

(6) When applying for renewal of a commercial driver's license, the applicant shall complete the application form required by section 9(1) of this act, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the applicant shall take and pass the written test for a hazardous materials endorsement.

NEW SECTION. Sec. 11. (1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to section 14 of this act, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

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

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more as determined by any testing methods approved by law in this state or any other state or jurisdiction;

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

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

(e) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle.

If any of the violations set forth in this subsection occurred while transporting a hazardous material required to be identified by a 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 the effective date of this act, may be considered in applying this subsection.

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

(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 69.50 RCW.

(5) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(6) Within ten days after suspending, revoking, or cancelling a commercial driver's license, the department shall update its records to reflect that action. After suspending, revoking, or cancelling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state that issued the commercial driver's license.

NEW SECTION. Sec. 12. When a person has been disqualified from operating a commercial motor vehicle, the person is not entitled to have the commercial driver's license restored until after the expiration of the appropriate disqualification period required under section 11 of this act. After expiration of the appropriate period and upon payment of a requalification fee of twenty dollars, the person may apply for a new, duplicate, or renewal commercial driver's license as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license qualification standards specified in section 8 of this act.

NEW SECTION. Sec. 13. (1) Notwithstanding any other provision of Title 46 RCW, a person may not drive, operate, or be in physical control of a commercial motor vehicle while having alcohol in his or her system.

(2) Law enforcement or appropriate officials shall issue an out-of-service order valid for twenty-four hours against a person who drives, operates, or is in physical control of a commercial motor vehicle while having alcohol in his or her system or who refuses to take a test to determine his or her alcohol content as provided by section 14 of this act.

NEW SECTION. Sec. 14. (1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's blood or breath for the purpose of determining that person's alcohol concentration or the presence of other drugs.

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under section 11 of this act.

(4) If the person refuses testing, or submits to a test that discloses an alcohol concentration of 0.04 or more, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section and that the person refused to submit to testing, or submitted to a test that disclosed an alcohol concentration of 0.04 or more.

(5) Upon receipt of the sworn report of a law enforcement officer under subsection (4) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under section 11 of this act, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while under the influence of alcohol or any drug, whether the person was placed under arrest, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, and, if the test was administered, whether the results indicated an alcoholic concentration in that person's blood of 0.04 percent or more. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

NEW SECTION. Sec. 15. Within ten days after receiving a report of the conviction of any nonresident holder of a commercial driver's license 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.

NEW SECTION. Sec. 16. The department may adopt rules necessary to carry out this chapter.

NEW SECTION. Sec. 17. The department may enter into or make agreements, arrangements, or declarations to carry out this chapter.

NEW SECTION. Sec. 18. 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 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 cancelled, and if the person is not disqualified from driving a commercial motor vehicle or is subject to an out-of-service order.

NEW SECTION. Sec. 19. (1) A person subject to RCW 81.04.405 who is determined by the utilities and transportation commission, after notice, to have committed an act that is in violation of section 4, 5, 6, 7, or 13 of this act is liable to Washington state for the civil penalties provided for in RCW 81.04.405.

(2) A person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provision of section 4, 5, 6, 7, or 13 of this act is guilty of a gross misdemeanor.

Sec. 20. Section 4, chapter 153, Laws of 1969 ex. sess. as last amended by section 1, chapter 200, Laws of 1981 and RCW 28A.04.131 are each amended to read as follows:

In addition to other powers and duties, the state board of education shall adopt rules and regulations governing the training and qualifications of school bus drivers. Such rules and regulations shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules and regulations shall insure that school bus drivers are provided a due process hearing before any certification required by such rules and regulations is cancelled: PROVIDED FURTHER, That such rules and regulations shall not conflict with the authority of the department of licensing to license school bus drivers in accordance with ~~((RCW 46.20.440 through 46.20.470))~~ chapter 46.— RCW (sections 1 through 19 of this act). The state board of education may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's driving skills.

Sec. 21. Section 4, chapter 20, Laws of 1967 ex. sess. as last amended by section 7, chapter 1, Laws of 1985 ex. sess. and RCW 46.20.470 are each amended to read as follows:

There shall be an additional fee for ~~((the special endorsement for each class of vehicle))~~ issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each ~~((endorsement))~~ class shall not exceed ~~((ten))~~ twelve dollars for the original ~~((endorsement nor more than three dollars for))~~ commercial driver's license or subsequent ~~((endorsement))~~ renewals. The fee shall be deposited in the highway safety fund.

Sec. 22. Section 46.37.010, chapter 12, Laws of 1961 as last amended by section 707, chapter 330, Laws of 1987 and RCW 46.37.010 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter or in regulations issued by the chief of the Washington state patrol, or which is equipped in any manner in violation of this chapter or the state patrol's regulations, or for any person to do any act forbidden or fail to perform any act required under this chapter or the state patrol's regulations.

(2) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

(3) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(4) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(5) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

(6) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

(7) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

(8) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested

or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

(9) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

Sec. 23. Section 46.52.120, chapter 12, Laws of 1961 as last amended by section 2, chapter 38, Laws of 1988 and RCW 46.52.120 are each amended to read as follows:

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.

~~(2) The ((case record shall be maintained in two parts:~~

~~(a) One part shall be the employment driving record of the person. This part shall include all motor vehicle accidents in which the person is involved while the person is driving a commercial motor vehicle as an employee of another or an owner-operator, all convictions of the person for violation of the motor vehicle laws while the person is driving a commercial motor vehicle as an employee of another or an owner-operator, and all findings that the person has committed a traffic infraction while the person is driving a commercial motor vehicle as an employee of another or an owner-operator. The same reports shall be entered when the person is a law enforcement officer or fire fighter as defined in RCW 41.26.030, or a state patrol officer, and is driving an official police, state patrol, or fire department vehicle in the course of their official duties.~~

~~(b) The other part shall include all other accidents, convictions, and findings that the person has committed a traffic infraction:~~

~~(3) Such)) records shall be for the confidential use of the director ((and)), the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license or to provide proof of a person's failures to appear under RCW 46.64.020.~~

~~((4))~~ (3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.

Sec. 24. Section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 181, Laws of 1987, section 2, chapter 397, Laws of 1987 and by section 2, chapter 9, Laws of 1987 1st ex. sess. and RCW 46-.52.130 are each reenacted and amended to read as follows:

~~((Any request for))~~ A certified abstract ~~((must specify which part is requested, and only the part requested shall be furnished. The employment))~~ of the driving record ~~((part))~~ shall be furnished only to the individual named in the abstract, an employer, the insurance carrier that has insurance in effect covering the employer~~((;))~~ or a prospective employer~~((; The other part shall be furnished only to the individual named in the abstract))~~, the insurance carrier that has insurance in effect covering the named individual, ~~((or))~~ the insurance carrier to which the named individual has applied~~((; Both parts shall be furnished to))~~, or an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment. City attorneys and county prosecuting attorneys may provide ~~((both parts of))~~ the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to ~~((individuals;))~~ insurance companies, ~~((or employers;))~~ and covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies. A certified abstract of the full driving record maintained by the department shall be furnished to individuals and employers or prospective employers. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; ~~((and))~~ any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

~~((The abstract provided to an insurance company shall have excluded from it any information pertaining to any occupational driver's license when the license is issued to any person employed by another or self-employed as a motor vehicle driver who during the five years preceding the request has been issued such a license by reason of a conviction or finding of a traffic infraction involving a motor vehicle offense outside the scope of his principal employment, and who has during that period been principally employed as a motor vehicle driver deriving the major portion of his income therefrom:))~~ The abstract provided to the insurance company shall ~~((also))~~ exclude any information pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any member of the Washington state patrol, while driving official vehicles in the performance of occupational duty during an emergency situation if the chief of the officer's or fire fighter's department certifies on the accident report that the actions of the officer or fire fighter were reasonable under the circumstances as they existed at the time of the accident.

The director shall collect for each abstract the sum of four dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer receiving the certified abstract shall use it exclusively for his own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.

Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Any violation of this section is a gross misdemeanor.

Sec. 25. Section 9, chapter 377, Laws of 1985 as amended by section 7, chapter 311, Laws of 1987 and RCW 46.55.090 are each amended to read as follows:

(1) All vehicles impounded shall be taken to the nearest storage location that has been inspected and is listed on the application filed with the department.

(2) All vehicles shall be handled and returned in substantially the same condition as they existed before being towed.

(3) All personal belongings and contents in the vehicle shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. Personal belongings shall not be sold at auction to fulfill a lien against the vehicle.

(4) All personal belongings not claimed before the auction shall be turned over to the local law enforcement agency to which the initial notification of impoundment was given. Such personal belongings shall be disposed of pursuant to chapter 63.32 or 63.40 RCW.

(5) Tow truck drivers shall have a Washington state driver's license endorsed for (~~vehicle combinations under RCW 46.20.440~~) the appropriate classification under chapter 46.— RCW (sections 1 through 19 of this act) or the equivalent issued by another state.

(6) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner or the vehicle's insurer may view the vehicle without charge during normal business hours.

Sec. 26. Section 28, chapter 165, Laws of 1983 as amended by section 1, chapter 274, Laws of 1984 and RCW 46.61.519 are each amended to read as follows:

(1) It is a traffic infraction to drink any alcoholic beverage in a motor vehicle when the vehicle is upon a highway.

(2) It is a traffic infraction for a person to have in his possession while in a motor vehicle upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage if the container has been opened or a seal broken or the contents partially removed.

(3) It is a traffic infraction for the registered owner of a motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage which has been opened or a seal broken or the contents partially removed, unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(4) This section does not apply to a public conveyance that has been commercially chartered for group use or to the living quarters of a motor

home or camper or, except as otherwise provided by RCW 66.44.250 or local law, to any passenger for compensation in a for-hire vehicle licensed under city, county, or state law, or to a privately-owned vehicle operated by a person possessing a valid operator's license (~~((with a special endorsement issued under RCW 46.20.440))~~ endorsed for the appropriate classification under chapter 46.— RCW (sections 1 through 19 of this act) in the course of his usual employment transporting passengers at the employer's direction: PROVIDED, That nothing in this subsection shall be construed to authorize possession or consumption of an alcoholic beverage by the operator of any vehicle while upon a highway.

Sec. 27. Section 3, chapter 186, Laws of 1986 as amended by section 2, chapter 181, Laws of 1987, section 55, chapter 244, Laws of 1987, section 6, chapter 247, Laws of 1987, and by section 11, chapter 388, Laws of 1987 and RCW 46.63.020 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) (~~RCW 46.16.160 relating to vehicle trip permits;~~

~~(8))~~ RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(8) relating to unauthorized acquisition of a special decal, license plate, or card for disabled persons' parking;

(10) RCW 46.20.021 relating to driving without a valid driver's license;

(11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

- (12) RCW 46.20.342 relating to driving with a suspended or revoked license;
- (13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (14) RCW 46.20.416 relating to driving while in a suspended or revoked status;
- (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (17) Section 19 of this act relating to commercial driver's licenses;
- (18) Chapter 46.29 RCW relating to financial responsibility;
- ~~((18))~~ (19) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- ~~((19))~~ (20) RCW 46.48.175 relating to the transportation of dangerous articles;
- ~~((20))~~ (21) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- ~~((21))~~ (22) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- ~~((22))~~ (23) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- ~~((23))~~ (24) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- ~~((24))~~ (25) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- ~~((25))~~ (26) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- ~~((26))~~ (27) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- ~~((27))~~ (28) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- ~~((28))~~ (29) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- ~~((29))~~ (30) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- ~~((30))~~ (31) RCW 46.61.500 relating to reckless driving;
- ~~((31))~~ (32) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- ~~((32))~~ (33) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- ~~((33))~~ (34) RCW 46.61.522 relating to vehicular assault;
- ~~((34))~~ (35) RCW 46.61.525 relating to negligent driving;

~~((35))~~ (36) RCW 46.61.530 relating to racing of vehicles on highways;

~~((36))~~ (37) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((37))~~ (38) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((38))~~ (39) RCW 46.64.020 relating to nonappearance after a written promise;

~~((39))~~ (40) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((40))~~ (41) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((41))~~ (42) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((42))~~ (43) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((43))~~ (44) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((44))~~ (45) Chapter 46.82 RCW relating to driver's training schools;

~~((45))~~ (46) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((46))~~ (47) RCW 46.87.250 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 28. Section 1, chapter 19, Laws of 1985 as last amended by section 1, chapter 24, Laws of 1988 and RCW 46.90.300 are each amended to read as follows:

The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.260, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.12.380, 46.16.010, 46.16.011, 46.16.025, 46.16.028, 46.16.030, 46.16.088, 46.16.135, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.381, 46.16.390, 46.16.500, 46.16.505, 46.16.710, 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.394, 46.20.410, 46.20.416, 46.20.420, 46.20.430, 46.20.435, ~~((46.20.440))~~ 46.20.500, 46.20.510, 46.20.550, 46.20.599, 46.20.750, 46.29.605, 46.29.625, 46.32.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.196, 46.37.200, 46.37.210, 46.37.215, 46.37.220, 46.37.230, 46.37.240,

46.37.260, 46.37.270, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, 46.37.369, 46.37.375, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.465, 46.37.467, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 46.37.540, 46.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37.600, 46.37.610, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.100, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, 46.44.180, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46.52.090, 46.52.100, 46.65.090, 46.79.120, and 46.80.010.

NEW SECTION. Sec. 29. The state supreme court shall revise the uniform citation form by October 1, 1989, to conform to the requirements of this act.

NEW SECTION. Sec. 30. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 31. Sections 1 through 19 of this act shall constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 32. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 20, Laws of 1967 ex. sess., section 1, chapter 68, Laws of 1969 ex. sess., section 4, chapter 100, Laws of 1970 ex. sess., section 1, chapter 126, Laws of 1971 ex. sess., section 1, chapter 114, Laws of 1980 and RCW 46.20.440;

(2) Section 2, chapter 20, Laws of 1967 ex. sess. and RCW 46.20.450; and

(3) Section 3, chapter 20, Laws of 1967 ex. sess., section 2, chapter 68, Laws of 1969 ex. sess., section 2, chapter 126, Laws of 1971 ex. sess. and RCW 46.20.460.

NEW SECTION. Sec. 33. Sections 25, 26, 28, and 32 of this act shall take effect on April 1, 1992. The remainder of this act shall take effect on October 1, 1989. The director of licensing may immediately take such steps as are necessary to insure that all sections of this act are implemented on their respective effective dates.

Passed the Senate April 10, 1989.

Passed the House April 4, 1989.

Approved by the Governor April 27, 1989.

Filed in Office of Secretary of State April 27, 1989.