

RCW 46.25.120 Test for alcohol or drugs—Disqualification for refusal of test or positive test—Procedures. (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 breath for the purpose of determining that person's alcohol concentration.

(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 reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(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 RCW 46.25.090.

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol, cannabis, or any drug in his or her system or while under the influence of alcohol, cannabis, or any drug may obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

(5) If the person refuses testing, or a test is administered that discloses an alcohol concentration of 0.04 or more or any measurable amount of THC concentration, 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 or a blood test was administered pursuant to subsection (4) of this section and that the person refused to submit to testing, or a test was administered that disclosed an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

(6) Upon receipt of the sworn report of a law enforcement officer under subsection (5) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, 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 having alcohol in the person's system or while under the influence of any drug, 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, if applicable, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more or any measurable amount of THC concentration. 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.

(7) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

(8) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7). [2022 c 16 § 39; 2015 2nd sp.s. c 3 § 7; 2013 2nd sp.s. c 35 § 12; 2006 c 327 § 5; 2002 c 272 § 5; 1998 c 41 § 6; 1990 c 250 § 50; 1989 c 178 § 14.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Finding—Intent—2015 2nd sp.s. c 3: See note following RCW 10.21.055.

Intent—Construction—Effective date—1998 c 41: See notes following RCW 46.20.265.