

CDL & DUI Charges

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Commercial Drivers Professional License And DUI Charges A Potentially Lethal Combination

The State of Washington has come down hard on commercial vehicle drivers who have alcohol and/or drugs in their blood while performing their duties on the highways. Accordingly, penalties and suspensions are more severe than for non-commercial driver's license holders. Also, the probability of job loss is high.

Along with DUI, the holder of a commercial driver's license must avoid committing a "serious traffic violation".

According to RCW 46.25.010(18) "serious traffic violation" means:

- (a) Excessive speeding defined as 15 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 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;
- (d) 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 DCL on the date the citation was issued, is not guilty of a "serious traffic offense".

Grounds for disqualifying a person from driving a commercial motor vehicle are numerous. RCW 46.25.090 reads, in part, as follows:

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

- (a) Driving a 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, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, as determined by any testing methods approved by law in the state or any other state or jurisdiction;
- (c) Leaving the scene of an accident involving a motor vehicle driven by the person;
- (d) Using a motor vehicle in the commission of a felony;
- (e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(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 cancelled, or the driver is disqualified from operating a commercial motor vehicle;

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

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than 3 years.

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

(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 10 years.

(4) A person is disqualified from driving a commercial motor vehicle for life that uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispense of a controlled substance, as defined by chapter 69.50 RCW.

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

(i) Not less than 60 days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

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

(ii) Not less than 120 days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there have been 2 or more prior serious traffic violations.

{5}{b) The disqualification period under {a} {ii} of this subsection must be in addition to any other previous period of disqualification.

{5}{c) 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 3 year period, must be counted.

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

{a) Not less than 90 days nor more than 1 year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

{b) Not less than 1 year nor more than 5 years if, during a 10-year period, the person is convicted of or is found to have committed 2 violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

{c) Not less than 3 years nor more than 5 years if, during a 10-year period, the person is convicted of or is found to have committed 3 or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

{d) Not less than 180 day nor more than 2 years if the person is convicted of or found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport 16 or more passengers, including the driver. A person is disqualified for a period of not less than 3 years nor more than 5 years if, during a 10-year 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, or while operating motor vehicles designed to transport 16 or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100.

The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a 5-year period are disqualified for life.

Under the Washington Administrative Code (WAC 308-100-130), "serious traffic violations" also include:

(1) Negligent driving in the first or second degree, as defined by RCW 46.61.5249 or 46.61.525;

(2) Following too closely, as defined by RCW 46.61.145;

(3) Failure to stop, as defined by RCW 46.61.055, 46.61.065, 46.61.195, 46.61.200, 46.61.365, 46.61.370 or 46.61.375;

(4) Failure to yield right of way, as defined by RCW 46.61.180, 46.61.185, 46.61.190, 46.61.202, 46.61.205, 46.61.210, 46.61.215, 46.61.220, 46.61.235, 46.61.245, 46.61.261, 46.61.300, or 46.61.427;

(5) Speed to fast for conditions, as defined by RCW 46.61.400;

(6) Improper lane change or travel, as defined by RCW 46.61.140; and

(7) Improper or erratic lane changes, including:

- (a) Improper overtaking on the right, as defined by RCW 46.61.115;
- (b) Improper overtaking on the left, as defined by RCW 46.61.120; and
- (c) Improper driving to left of center of roadway, as defined by RCW 46.61.125.

Basically, with a Commercial Driver's License (CDL) the charged person needs an attorney who can suppress States evidence or negotiate a plea to a criminal traffic matter or infraction that is not as damaging to CDL status. Saving the CDL by eliminating a suspension may not be probable.

However, substantially reducing the suspension period can be accomplished by an effective, imaginative and experienced attorney. Contact us for a free consultation at the number below, or visit our website:

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