

HOUSE BILL REPORT

SSB 5732

As Passed House - Amended:

April 14, 2009

Title: An act relating to traffic infractions for drivers whose licenses or privileges are suspended or revoked.

Brief Description: Concerning traffic infractions for drivers whose licenses or privileges are suspended or revoked.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin, Regala and Hargrove).

Brief History:

Committee Activity:

Transportation: 3/19/09, 3/24/09 [DPA].

Floor Activity

Passed House - Amended: 4/14/09, 60-36.

Brief Summary of Substitute Bill (As Amended by House)

- Allows for relicensing diversion programs in counties or cities of any size for persons who commit driving with license suspended in the third degree (DWLS 3) by driving with a license that has been suspended or revoked for failing to respond to a notice of traffic infraction, failing to appear at a requested hearing, or failing to comply with the terms of a notice of traffic infraction or citation, while placing various limitations on participation.
- Requires a court or prosecuting attorney in a jurisdiction that does not have a relicensing diversion program to provide an individual with an abstract and a list of unpaid traffic fines if that person commits DWLS 3 in the circumstances listed above.
- Requires, subject to available funds, the reporting of data regarding relicensing diversion programs to the Administrative Office of the Courts in order for it to develop a best practice model.

HOUSE COMMITTEE ON TRANSPORTATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 21 members: Representatives Clibborn, Chair; Liias, Vice Chair; Rodne, Assistant Ranking Minority Member; Armstrong, Campbell, Driscoll, Eddy, Finn, Johnson, Klippert, Morris, Rolfes, Sells, Shea, Simpson, Springer, Takko, Upthegrove, Wallace, Williams and Wood.

Minority Report: Do not pass. Signed by 6 members: Representatives Roach, Ranking Minority Member; Cox, Ericksen, Herrera, Kristiansen and Moeller.

Staff: David Munnecke (786-7315)

Background:

It is unlawful for any person to drive a motor vehicle in this state while that person's privilege to drive is suspended or revoked. A person commits driving with license suspended in the third degree (DWLS 3) by driving a motor vehicle when the person's driver's license is suspended or revoked because the person has: (1) failed to respond to a notice of traffic infraction; (2) failed to appear at a requested hearing; (3) violated a written promise to appear in court; or (4) failed to comply with the terms of a notice of traffic infraction or citation, in addition to a variety of other behaviors. Driving with license suspended in the third degree is a misdemeanor, with approximately 102,000 cases of DWLS 3 filed annually and approximately 45,000 annual convictions for the offense.

A relicensing diversion program assists drivers with suspended or revoked licenses to regain their license and insurance and to pay their outstanding fines. Most of the courts of limited jurisdiction in Washington do not offer the option of a relicensing diversion program to people who are charged with DWLS 3, and handle the cases through the traditional adjudicatory process.

The Department of Licensing maintains a case record on every person licensed to operate a motor vehicle in Washington. These case records or abstracts contain information relating to a person's driving record, including:

- a list of motor vehicle accidents in which the person was driving;
- whether any of the motor vehicle accidents resulted in a fatality;
- any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;
- the status of the person's driving privilege in this state; and
- any reports of failure to appear in response to a traffic citation or failure to respond to a notice of an infraction.

Washington law restricts the distribution and use of abstracts. Certified abstracts may only be released to specified persons, including:

- the individual named in the abstract;
- an employer or prospective employer;
- a transit authority checking prospective vanpool drivers;
- specified insurance companies;
- an alcohol/drug assessment or treatment agency approved by the Department of Social and Health Services (DSHS); and
- city and county prosecuting attorneys.

A full abstract may be released to the individual named in the abstract, an employer or agent, prospective employer or agent, or a city or county prosecuting attorney. A partial abstract may be released to specified insurance companies and alcohol/drug assessment or treatment agencies approved by the DSHS.

Summary of Amended Bill:

A relicensing diversion program must be designed to assist drivers with suspended or revoked licenses to regain their license and insurance and to pay their outstanding fines. A court or prosecuting attorney must provide an individual with an abstract of that person's driving record, in addition to a list of that person's unpaid traffic offense-related fines and contact information for each jurisdiction or collection agency to which the money is owed when a person commits driving with license suspended in the third degree (DWLS 3) by driving with a license that has been suspended or revoked due to: (1) failure to respond to a notice of traffic infraction; (2) failure to appear at a requested hearing; (3) violation of a written promise to appear in court; or (4) failure to comply with the terms of a notice of traffic infraction or citation in a jurisdiction that does not have a relicensing diversion program. A fee of up to \$20 may be imposed by the court for providing the driving abstract.

The superior courts or courts of limited jurisdiction in counties or cities of any size are authorized to participate or provide relicensing diversion programs to persons who commit DWLS 3 by driving with a license that has been suspended or revoked due to: (1) failure to respond to a notice of traffic infraction; (2) failure to appear at a requested hearing; (3) violation of a written promise to appear in court; or (4) failure to comply with the terms of a notice of traffic infraction or citation. Eligibility is limited to violators with not more than four convictions for failure to appear in the last 10 years, subject to a less restrictive rule imposed by the presiding judge of the county district court or municipal court, or no more than four convictions in the last 10 years of DWLS 3 when the license has been suspended or revoked for: (1) failure to respond to a notice of traffic infraction; (2) failure to appear at a requested hearing; (3) violation of a written promise to appear in court; or (4) failure to comply with the terms of a notice of traffic infraction or citation. People subject to arrest under a warrant are not eligible for the diversion program. The diversion option may be offered at the discretion of the prosecuting attorney before charges are filed or by the court after charges are filed. Participants against whom charges are filed may be charged a fee of up to \$100 to support administration of the program.

Counties and cities with relicensing diversion programs must annually provide, subject to available funds, the Administrative Office of the Courts (AOC) with information regarding eligibility criteria used for their programs, the number of participants, how many regain their drivers' licenses and insurance, and the total amount of fines collected. The costs of the programs and other information as determined by the office will also be provided. The information is to be analyzed by the AOC, subject to available funds, and it will recommend a best practices model for relicensing diversion programs.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill deals with people who are convicted of driving while license suspended in the third degree (DWLS 3) because they fail to appear in court and are then caught when they drive after their license is suspended. This is irresponsible, but it now constitutes a disproportionate 30 percent of the court's time even though it is a nonviolent offense. In 2007 there were 98,000 cases of DWLS 3.

This bill would only require the creation of relicensing diversion programs in larger cities and counties where it is already an option. This would be a good way to get people back into the community without incarceration. District attorneys often feel that they need to put offenders in jail, but there have been no objections to this program from the prosecutors. These programs are also an effective way to collect fines, of which about 50 percent go to local jurisdictions. This bill would not allow people who do not pay their fines to participate in the programs, since this would create a scofflaw mentality.

Driving with license suspended is really driving while poor. This bill would provide an explanation of the process, a method for how people could return to the status of fully licensed driver, and the ability to enter into payment plans. These programs should be mandatory in larger cities and counties. If the programs start before the individual is charged, the programs could save money. Overall, 22 cities and counties have these programs. These programs are already in place in Spokane, King, and Pierce counties where they help address the burdens on the courts. In Snohomish County, the program has a 50-percent success rate and it is just a letter to the offender. The offender has 90 days to get their license back and is told how to do so.

(With concerns) The counties are concerned about this program being mandatory, and some counties that want to start these programs have not done so because the programs are not explicitly authorized. There are also costs associated with these programs. The \$100 fee that is allowed under the bill would not cover the costs of some of the cities that have tried the program. These programs would allow the courts to be more efficient, but these cases really only take up about 15 percent of the courts' time.

(Opposed) None.

Persons Testifying: (In support) Senator Kline, prime sponsor; Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers; and Sophia Byrd McSherry, Office of Public Defenders.

(With concerns) Mellani McAleenan, Board for Judicial Administration; Brian Enslow, Washington State Association of Counties; and Tammy Fellin, Association of Cities.

Persons Signed In To Testify But Not Testifying: None.