

SENATE BILL REPORT

SB 5247

As Passed Senate, March 4, 2015

Title: An act relating to driving while license suspended when the suspension is based on noncompliance with a child support order.

Brief Description: Concerning driving while license suspended when the suspension is based on noncompliance with a child support order.

Sponsors: Senators O'Ban, Dammeier, Kohl-Welles and Chase.

Brief History:

Committee Activity: Law & Justice: 2/05/15, 2/10/15 [DP, w/oRec].

Passed Senate: 3/04/15, 30-18.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles and Pearson.

Minority Report: That it be referred without recommendation.

Signed by Senator Roach.

Staff: Aldo Melchiori (786-7439)

Background: A person commits the crime of driving while their license is revoked in the first degree if they are driving a motor vehicle when an order of revocation is in effect based on a finding by the Department of Licensing (DOL) that their license is revoked in the first degree or that they are a habitual traffic offender. This is a gross misdemeanor.

Driving while license suspended in the second degree, also a gross misdemeanor, is committed when a person drives a motor vehicle when their license is suspended for:

- a conviction of a felony in the commission of which a motor vehicle was used;
- a previous conviction for driving while license suspended in the second degree;
- a notice received by DOL from a court or diversion unit relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

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- a conviction relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;
- a conviction for operation of a motor vehicle with a suspended or revoked license;
- a conviction relating to the duty in case of injury to or death of a person or damage to an attended vehicle;
- a conviction for attempting to elude pursuing police vehicles;
- a conviction relating to reckless endangerment of emergency zone workers;
- a conviction for reckless driving;
- a conviction for driving or having physical control of a motor vehicle while under the influence of intoxicating liquor or drugs;
- a conviction for vehicular homicide;
- a conviction for vehicular assault;
- a conviction for reckless endangerment of roadway workers;
- a conviction for racing vehicles on highways;
- a conviction for leaving children in an unattended vehicle with motor running;
- a conviction for theft of motor vehicle fuel;
- a conviction for attempting, aiding, abetting, coercing, and committing crimes;
- an administrative action taken by DOL;
- a conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included above; or
- a finding that a person has committed a traffic infraction for negligent driving in the second degree and suspension of driving privileges for that violation.

A person commits the crime of driving while their license is revoked in the third degree, a misdemeanor, if they are driving a motor vehicle while an order is in effect that suspends or revokes their driver's license or privileges because:

- the person failed to furnish proof of satisfactory progress in a required alcoholism or drug treatment program;
- the person failed to furnish proof of financial responsibility for the future;
- the person failed to comply with the provisions relating to uninsured accidents;
- the person failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or failed to comply with the terms of a notice of traffic infraction or citation;
- the person committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license,
- the person has been suspended or revoked by reason of one or more of the items listed in the driving while license suspended in the second degree offense, but was eligible to reinstate the person's driver's license or driving privilege at the time of the violation; or
- the person has received traffic citations or notices of traffic infraction relating to intermediate driver's licenses that resulted in a suspension.

Summary of Bill: In addition to the factors already enumerated as a violation of driving while license suspended in the third degree, the person commits the offense if the person has been certified by the Department of Social and Health Services as a person who is out of compliance with a child support order.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill clarifies an ambiguity that makes prosecution of these cases difficult. It will help in the enforcement of child support orders. Judges are having a difficult time determining whether this should be charged as driving while license suspended in the second degree or third degree. Police in the field have information that the person's license was suspended, but not necessarily why. This would restore the Legislature's original intent to help collect child support. Between 6000 and 7000 people are potentially driving with their driver's license suspended for this reason. Once a parent is in compliance with the child support order, the Division of Child Support notifies DOL.

CON: The statute is clear and has been working for years. Care needs to be taken to avoid a possible unintended consequence of taking away the ability of people to get their license back.

Persons Testifying: PRO: Senator O'Ban, prime sponsor; Bryan Jeter, Puyallup Police Dept.; Larry Mitchell, Terra Evans, city of Redmond Prosecutor's Office; Doug Levy, cities of Puyallup and Redmond; Wally McClure, DSHS Division of Child Support; James McMahan, WA Assn. of Sheriffs and Police Chiefs.

CON: Bob Cooper, WA Defenders Assn., WA Assn. of Criminal Defense Lawyers.