

HOUSE BILL REPORT

SHB 2446

As Passed House:

February 13, 1998

Title: An act relating to temporary restricted drivers' licenses.

Brief Description: Changing provisions relating to temporary restricted drivers' licenses.

Sponsors: By House Committee on Law & Justice (H) (originally sponsored by Representatives Robertson, Appelwick, Kastama, Dickerson, Constantine, Ogden, Cooper, Keiser, Kenney, Costa, Cody, Wood, Conway, Anderson and Gombosky).

Brief History:

Committee Activity:

Law & Justice: 2/3/98, 2/5/98 [DPS].

Floor Activity:

Passed House: 2/13/98, 98-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Bill Perry (786-7123).

Background: Under legislation enacted in 1994, courts have explicit authority to order that ignition interlocks or other devices be installed on the cars of certain drivers. Included among such drivers are those who are convicted of, or granted a deferred prosecution on, a charge of drunk driving (DUI).

Ignition interlock devices are alcohol analyzing devices designed to prevent a person with alcohol in his or her system from starting or driving a car. Other "biological or technical" devices may be installed for the same purpose. If a court orders the installation of one of these devices, the Department of Licensing (DOL) is to mark the person's driver's license indicating that the person is allowed to operate a car only if it is equipped with such a device.

A person convicted of a first DUI within five years may be eligible for an "occupational" license. The DOL may grant such a license to a person if, among other things, the person's employment makes it essential that he or she be able to drive. Various restrictions are placed on the occupational license, such as prescribed hours and routes, with which the driver must comply. Persons who lose their licenses through administrative action may not apply for an occupational license.

Under the state's implied consent law, all drivers are subject to loss of a license for refusing to take a blood or breath alcohol content (BAC) test when lawfully requested to do so. As an incentive for persons to comply with the implied consent law, the license sanctions for refusing a BAC test are more severe than the administrative sanctions for failing a BAC test or the license loss for a DUI conviction.

Last year, the Legislature enacted HB 1940 which expanded the use of ignition interlock devices and increased the license revocation sanctions for implied consent law violations. The bill also replaced the "occupational license" with a "temporary restricted license." The Governor vetoed sections of the bill that would have allowed persons who violate the implied consent law to apply for temporary restricted licenses. These sections also contained all of the other provisions relating to temporary restricted licenses, including changing the name, changing eligibility requirements, and expanding the use of occupational restricted licenses generally. Also included in these sections were the expanded use of ignition interlock devices and increases in the penalties for violations of the implied consent law. The Governor's veto message indicates that his only objection to the bill was the provision allowing a temporary restricted license after license loss for an implied consent law violation. Under the state constitution, the Governor may not veto less than an entire section of a bill.

Summary of Bill: The vetoed portions of HB 1940 are enacted, with the exception of the provision that would have allowed temporary restricted licenses for implied consent violations.

Occupational licenses are replaced with "temporary restricted licenses." Following a prescribed initial period of a license loss resulting from criminal conviction or administrative action, a person may petition the DOL for a temporary restricted license. These prescribed initial periods escalate with the total period of suspension or revocation imposed, and range from the first 30 days to the first year of the suspension or revocation. If a petition is granted following the initial period of license loss, the temporary restricted license is good for the remainder of the suspension or revocation, including any periods of consecutive license loss due to administrative and judicial action arising from the same incident.

A DUI-related petitioner, other than a petitioner who was a first-time offender with a BAC of less than .15, must agree to installation of an ignition interlock device on his or

her car. The person must also agree to drive no other car for the period of suspension or revocation.

Persons who lose their license for nonpayment of fines or for failure to have insurance may also petition for a temporary restricted license.

The circumstances under which a temporary restricted license may be used are expanded beyond the employment criteria applicable to occupational licenses. Those new circumstances include the necessity of driving to: (1) provide continuing health care to the petitioner or a dependent; (2) pursue education; (3) attend substance abuse treatment; (4) fulfill court-ordered community service responsibilities; or (5) participate in an apprenticeship or job training program.

Periods of administrative revocation of a driver's license for refusing to take a BAC test are increased as follows:

- For a first refusal within five years, from one year to 540 days;
- For a second refusal within five years, from two years to three years; and
- For a third refusal within five years, a new revocation period of four years is created.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect July 1, 1998.

Testimony For: This proposal was overwhelmingly passed by the Legislature last year, and the inadvertently included portion that caused the Governor's veto has been removed.

Testimony Against: None.

Testified: Bob Markholt, Center for Career Alternatives (pro); Peter Guzman, City of Tacoma (pro); Peter Youngers, Ignition Interlock (pro); Paul Cary, Ignition Interlock (pro); and Dave Chapman, Washington Association of Criminal Defense Lawyers and Washington Defenders Association (pro).