

ESHB 1033 - S AMD 435

By Senators Kline, Johnson, Esser

ADOPTED AS AMENDED 04/26/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.20.391 and 1999 c 274 s 4 and 1999 c 272 s 1 are
4 each reenacted and amended to read as follows:

5 (1) Any person licensed under this chapter who is convicted of an
6 offense relating to motor vehicles for which suspension or revocation
7 of the driver's license is mandatory, other than vehicular homicide or
8 vehicular assault, or who has had his or her license suspended under
9 RCW 46.20.3101 (2)(a) or (3)(a), may submit to the department an
10 application for an occupational driver's license. The department, upon
11 receipt of the prescribed fee and upon determining that the petitioner
12 is engaged in an occupation or trade that makes it essential that the
13 petitioner operate a motor vehicle, may issue an occupational driver's
14 license and may set definite restrictions as provided in RCW 46.20.394.
15 No person may petition for, and the department shall not issue, an
16 occupational driver's license that is effective during the first thirty
17 days of any suspension or revocation imposed either for a violation of
18 RCW 46.61.502 or 46.61.504 or under RCW 46.20.3101 (2)(a) or (3)(a), or
19 for both a violation of RCW 46.61.502 or 46.61.504 and under RCW
20 46.20.3101 (2)(a) or (3)(a) where the action arises from the same
21 incident. A person aggrieved by the decision of the department on the
22 application for an occupational driver's license may request a hearing
23 as provided by rule of the department.

24 (2)(a) A person licensed under this chapter whose driver's license
25 is suspended administratively due to failure to appear or pay a traffic
26 ticket under RCW 46.20.289; a violation of the financial responsibility
27 laws under chapter 46.29 RCW; or for multiple violations within a
28 specified period of time under RCW 46.20.291, may apply to the
29 department for an occupational driver's license if the applicant

1 demonstrates to the satisfaction of the department that one of the
2 following additional conditions are met:

3 (i) The applicant is in an apprenticeship program ~~((or))~~, an on-
4 the-job training program ~~((for which))~~, or is gainfully employed and a
5 driver's license is required;

6 (ii) The applicant presents evidence that he or she has applied for
7 a position in an apprenticeship or on-the-job training program and the
8 program has certified that a driver's license is required to begin the
9 program, provided that a license granted under this provision shall be
10 in effect no longer than fourteen days;

11 (iii) The applicant is in a program that assists persons who are
12 enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to
13 become gainfully employed and the program requires a driver's license;
14 or

15 (iv) The applicant is undergoing substance abuse treatment or is
16 participating in meetings of a twelve-step group such as alcoholics
17 anonymous.

18 (b) If the suspension is for failure to respond, pay, or comply
19 with a notice of traffic infraction or conviction, ~~((the))~~ applicants
20 must be offered the opportunity to enter into a payment plan with the
21 court, subject to the court's discretion as to the individual
22 applicant.

23 (c) An occupational driver's license issued to an applicant
24 described in (a) of this subsection shall be valid for the period of
25 the suspension or revocation but not more than two years. The
26 suspension or revocation of the regular driver's license shall not be
27 affected by the issuance of an occupational license. The two-year
28 period is to provide an opportunity for the applicant to work in order
29 to satisfy any penalties or other sanctions imposed by the court which
30 are the causes of the suspension or revocation of his or her regular
31 driver's license.

32 (d) Upon receipt of evidence that a holder of an occupational
33 driver's license granted under this subsection is no longer enrolled in
34 an apprenticeship ~~((or))~~ program, on-the-job training program, or is no
35 longer gainfully employed, the director shall give written notice by
36 first class mail to the driver that the occupational driver's license
37 shall be canceled. The effective date of cancellation shall be fifteen

1 days from the date of mailing the notice. If at any time before the
2 cancellation goes into effect the driver submits evidence of continued
3 enrollment in the program or continued employment, the cancellation
4 shall be stayed. If the cancellation becomes effective, the driver may
5 obtain, at no additional charge, a new occupational driver's license
6 upon submittal of evidence of enrollment in another program that meets
7 the criteria set forth in this subsection.

8 (e) The department shall not issue an occupational driver's license
9 under (a)(iv) of this subsection if the applicant is able to receive
10 transit services sufficient to allow for the applicant's participation
11 in the programs referenced under (a)(iv) of this subsection.

12 (3) An applicant for an occupational driver's license is eligible
13 to receive such license only if:

14 (a) Within one year immediately preceding the date of the offense
15 that gave rise to the present conviction, the applicant has not
16 committed any offense relating to motor vehicles for which suspension
17 or revocation of a driver's license is mandatory; and

18 (b) Within seven years immediately preceding the date of the
19 offense that gave rise to the present conviction or incident, the
20 applicant has not committed any of the following offenses: (i) Driving
21 or being in actual physical control of a motor vehicle while under the
22 influence of intoxicating liquor; (ii) vehicular homicide under RCW
23 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

24 (c) The applicant is engaged in an occupation or trade that makes
25 it essential that he or she operate a motor vehicle, except as allowed
26 under subsection (2)(a) of this section; and

27 (d) The applicant files satisfactory proof of financial
28 responsibility under chapter 46.29 RCW; and

29 (e) The applicant, if the suspension or revocation is a result of
30 a conviction of RCW 46.61.502 or 46.61.504 or administrative action
31 under RCW 46.20.3101, submits written verification of installation of
32 an ignition interlock or other biological or technical device on the
33 vehicle he or she intends to operate.

34 (4) The director shall cancel an occupational driver's license upon
35 receipt of notice that the holder thereof has been convicted of
36 operating a motor vehicle in violation of its restrictions, or of a
37 separate offense that under chapter 46.20 RCW would warrant suspension

1 or revocation of a regular driver's license. The cancellation is
2 effective as of the date of the conviction, and continues with the same
3 force and effect as any suspension or revocation under this title.

4 (5) No person may petition for, and the department shall not issue,
5 an occupational driver's license to any person if the person previously
6 entered into a payment plan under subsection (2)(b) of this section and
7 the person has failed to satisfy payment of all obligations included in
8 the payment plan.

9 (6) Any person issued an occupational driver's license whose
10 license suspension or revocation is a result of a conviction of RCW
11 46.61.502 or 46.61.504 or administrative action under RCW 46.20.3101
12 may drive only a motor vehicle equipped with a functioning ignition
13 interlock or other biological or technical device for the duration of
14 the period for which the occupational driver's license is valid.

15 **Sec. 2.** RCW 46.63.110 and 2002 c 279 s 15 and 2002 c 175 s 36 are
16 each reenacted and amended to read as follows:

17 (1) A person found to have committed a traffic infraction shall be
18 assessed a monetary penalty. No penalty may exceed two hundred and
19 fifty dollars for each offense unless authorized by this chapter or
20 title.

21 (2) The monetary penalty for a violation of RCW 46.55.105(2) is two
22 hundred fifty dollars for each offense. No penalty assessed under this
23 subsection (2) may be reduced.

24 (3) The supreme court shall prescribe by rule a schedule of
25 monetary penalties for designated traffic infractions. This rule shall
26 also specify the conditions under which local courts may exercise
27 discretion in assessing fines and penalties for traffic infractions.
28 The legislature respectfully requests the supreme court to adjust this
29 schedule every two years for inflation.

30 (4) There shall be a penalty of twenty-five dollars for failure to
31 respond to a notice of traffic infraction except where the infraction
32 relates to parking as defined by local law, ordinance, regulation, or
33 resolution or failure to pay a monetary penalty imposed pursuant to
34 this chapter. A local legislative body may set a monetary penalty not
35 to exceed twenty-five dollars for failure to respond to a notice of
36 traffic infraction relating to parking as defined by local law,

1 ordinance, regulation, or resolution. The local court, whether a
2 municipal, police, or district court, shall impose the monetary penalty
3 set by the local legislative body.

4 (5) Monetary penalties provided for in chapter 46.70 RCW which are
5 civil in nature and penalties which may be assessed for violations of
6 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
7 are not subject to the limitation on the amount of monetary penalties
8 which may be imposed pursuant to this chapter.

9 (6)(a) Whenever a monetary penalty is imposed by a court under this
10 chapter it is immediately payable. ~~((If the person is unable to pay at
11 that time the court may, in its discretion, grant an extension of the
12 period in which the penalty may be paid. If the penalty is not paid on
13 or before the time established for payment))~~ The court shall have
14 available the option of a payment plan by which the penalty is to be
15 paid within eighteen months. However, it is in the court's discretion
16 whether to allow a person, under this section, to enter into a payment
17 plan with the court. The court may allow a person to enter into a
18 payment plan if the person (i) is not able to pay a monetary penalty in
19 full when it is imposed; (ii) has had a monetary penalty imposed within
20 the previous twelve months and the penalty has not been paid in full;
21 or (iii) is currently in a payment plan for a previously imposed
22 penalty and a new monetary penalty is imposed by a court. The court
23 may, but need not, rearrange the earlier payment plan to include the
24 new penalty or may enter into a separate payment plan. In the event
25 that a payment plan is requested by a person owing a monetary penalty
26 and the court, under RCW 3.02.045, has sent the person's existing debt
27 to a collection agency due to the person's failure to satisfy his or
28 her obligations, the court may, but need not, remove the account from
29 the collection agency in order to create a payment plan.

30 (b) If a payment required to be made under the payment plan is
31 delinquent by thirty days, the court shall notify the department of the
32 failure to pay the penalty, and the department shall suspend the
33 person's driver's license or driving privilege until the penalty has
34 been paid ((and)), including the penalty provided in subsection (4) of
35 this section ((has been paid)).

36 (c) If the court requires a person to enter into a payment plan and
37 he or she does not do so or has entered into a payment plan but has not

1 paid the penalty in full within not more than eighteen months of the
2 initial payment, the court shall notify the department of the
3 delinquency, and the department shall suspend the person's driver's
4 license or driving privilege until the penalty has been paid, including
5 the penalty provided in subsection (3) of this section.

6 (d) "Payment plan," as used in this subsection, means a plan that
7 requires a person to pay an initial payment, followed by reasonable
8 payments in an amount established by the court. The person may
9 voluntarily pay any amount at any time in addition to these payments.

10 (7) In addition to any other penalties imposed under this section
11 and not subject to the limitation of subsection (1) of this section, a
12 person found to have committed a traffic infraction shall be assessed
13 a fee of five dollars per infraction. Under no circumstances shall
14 this fee be reduced or waived. Revenue from this fee shall be
15 forwarded to the state treasurer for deposit in the emergency medical
16 services and trauma care system trust account under RCW 70.168.040.

17 (8)(a) In addition to any other penalties imposed under this
18 section and not subject to the limitation of subsection (1) of this
19 section, a person found to have committed a traffic infraction other
20 than of RCW 46.61.527 shall be assessed an additional penalty of ten
21 dollars. The court may not reduce, waive, or suspend the additional
22 penalty unless the court finds the offender to be indigent. If a
23 community restitution program for offenders is available in the
24 jurisdiction, the court shall allow offenders to offset all or a part
25 of the penalty due under this subsection (8) by participation in the
26 community restitution program.

27 (b) Revenue from the additional penalty must be remitted under
28 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
29 under this subsection to the state treasurer must be deposited as
30 provided in RCW 43.08.250. The balance of the revenue received by the
31 county or city treasurer under this subsection must be deposited into
32 the county or city current expense fund. Moneys retained by the city
33 or county under this subsection shall constitute reimbursement for any
34 liabilities under RCW 43.135.060.

35 **Sec. 3.** RCW 46.64.025 and 1999 c 86 s 7 are each amended to read
36 as follows:

1 (1) Whenever any person violates his or her written promise to
2 appear in court, ((or)) fails to appear for a scheduled court hearing,
3 or fails to comply with the terms of a citation, the court in which the
4 defendant failed to appear or comply shall promptly give notice of such
5 fact to the department of licensing. Whenever thereafter the case in
6 which the defendant failed to appear or comply is adjudicated, the
7 court hearing the case shall promptly file with the department a
8 certificate showing that the case has been adjudicated.

9 (2)(a) Where compliance with the terms of a misdemeanor citation is
10 limited to the payment of a monetary penalty, and a person is not able
11 to pay the monetary penalty in full, the court may enter into a payment
12 plan with the person. The court shall have available the option of a
13 payment plan. However, it is in the court's discretion whether to
14 allow a person, under this section, to enter into a payment plan with
15 the court. If a person has entered into a payment plan under this
16 subsection, the court shall not notify the department of licensing that
17 the person has failed to comply with the terms of a citation as it
18 applies to payment of the monetary penalty unless a payment required to
19 be made under the payment plan is delinquent by thirty days or the
20 penalty is not paid in full within not more than eighteen months of the
21 initial payment.

22 (b) "Payment plan," as used in this subsection, means a plan that
23 requires a person to pay an initial payment, followed by reasonable
24 payments in an amount established by the court. The person may
25 voluntarily pay any amount at any time in addition to these payments."

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26 On page 1, line 1 of the title, after "Relating to" strike the
27 remainder of the title and insert "driver's licenses; amending RCW
28 46.64.025; and reenacting and amending RCW 46.20.391 and 46.63.110."

EFFECT: When the court imposes a monetary penalty and the person

is unable to pay it in full, the court shall have available a payment plan. It is up to the court as to whether to allow the person to enter into a payment plan. This also applies to situations in which a person has had a monetary penalty imposed within the previous 12 months and has not paid it in full and it also applies when a person is currently in a payment plan and a new monetary penalty is imposed. If a person requests a payment plan but the court has sent the existing debt to a collection agency, the court may remove the account from the collection agency and create a new payment plan. If a person does not enter into a payment plan with the court or does not pay the penalty off within 18 months of the initial payment, DOL will suspend the person's driver's license until the penalty has been paid.

A person who is employed may apply to DOL for an occupational license if his or her driver's license was suspended administratively due to failure to appear or pay a traffic ticket, a violation of insurance laws, or for multiple traffic violations within a specified period of time.

If a person has had his or her license suspended or revoked as a result of DUI or administrative action and that person applies for an occupational license, he or she must submit written verification of installation of an ignition interlock device on the vehicle he or she intends to operate. The person is restricted to driving only a vehicle equipped with an ignition interlock device for the duration of the period for which the occupational license is valid.

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