

HOUSE BILL REPORT

HB 3254

As Reported by House Committee On:
Judiciary

Title: An act relating to accountability for persons driving under the influence of intoxicating liquor or drugs.

Brief Description: Concerning accountability for persons driving under the influence of intoxicating liquor or drugs.

Sponsors: Representatives Goodman, Pedersen, Simpson, Morrell, Green, Kelley, Kagi and Roberts.

Brief History:

Committee Activity:

Judiciary: 1/30/08, 2/5/08 [DPS].

Brief Summary of Substitute Bill

- Creates an ignition interlock license that allows a person to drive while his or her regular license is suspended due to driving under the influence of intoxicating liquor or any drug (DUI), and makes temporary restricted licenses unavailable for persons convicted of DUI.
- Creates a pilot program to monitor compliance by ignition interlock users and vendors.
- Shortens the time period, from 30 days to 20 days, in which a person arrested for DUI must request a hearing from the Department of Licensing regarding his or her license suspension.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

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.

Staff: Trudes Tango (786-7384).

Background:

When a person is arrested for driving under the influence (DUI), the arresting officer must take certain steps, including marking the person's driver's license. The marked license becomes a temporary license valid for 60 days or until the suspension of the person's license is sustained at a Department of Licensing (DOL) hearing, whichever occurs first. Courts consider a driver's license a property right once it is issued and therefore some due process of law is required before suspension.

Administrative Suspension of Persons Arrested for DUI

The arrested person may have his or her license suspended as a result of an administrative action by the DOL and as a result of a criminal conviction for DUI. Within 30 days of arrest, the person may request a DOL hearing to contest the license suspension. The hearing must be held within 60 days after arrest.

An administrative suspension is based on either refusing to take the breath or blood alcohol concentration test (BAC) when arrested or having a BAC of .08 or higher. Administrative suspension periods last from 90 days to two years, depending on whether the driver refused the BAC and whether there have been prior incidents.

A court-ordered suspension is based on a DUI conviction, and like the administrative suspension, the suspension periods vary depending on the offender's BAC level and prior offenses. License suspensions for DUI convictions can range from 90 days to four years.

Ignition Interlock Requirements for Person Convicted of DUI

After the period of license suspension for a DUI conviction has expired, a person may drive only a vehicle equipped with an ignition interlock device. The device must be installed on any vehicle operated by the driver. However, an ignition interlock device is not required on vehicles owned by the driver's employer. The time periods required for an ignition interlock device are one year, five years, and 10 years for the first, second, and third times the person is required to have such a device installed. It is a misdemeanor crime for a person who is required to use an interlock to drive without one.

An interlock device is also required as a condition of receiving a temporary restricted license (TRL). A TRL allows a person to drive while his or her regular license is suspended, and is available to persons suspended for various reasons, not just DUI. A TRL may be issued under limited circumstances, such as when the person demonstrates that it is necessary for him or her to drive for work, school, treatment, or other reasons specified in statute. There is no employer exemption for temporary restricted licenses.

Summary of Substitute Bill:

An ignition interlock license (IIL) is created that authorizes a person to drive a noncommercial vehicle with an ignition interlock device while his or her regular driver's license is suspended for DUI.

Ignition Interlock License

Beginning Jan. 1, 2009, any person who has had or will have his or her license suspended administratively may apply to the DOL for an IIL. The person can apply for an IIL at any time, including immediately after being arrested or after a hearing revoking his or her license. The DOL shall require the person to maintain the device on all vehicles operated by the person for the remainder of the period of suspension.

A person receiving an IIL waives his or her right to a DOL hearing on the suspension of the person's regular license. The time period for when a person must request a hearing after being arrested for DUI is shortened from 30 days to 20 days. Temporary restricted licenses will not be available to persons who have lost their licenses due to DUI.

For those persons convicted of DUI, the court must order that the offender apply for an IIL. The court may waive the requirement if the offender does not own a car, is not eligible to receive an IIL, or ignition interlocks are not available in the offender's area. If waived, the court must order the offender to submit to alcohol monitoring. The period of time required for interlock use or alcohol monitoring for convicted persons is one year, five years, or ten years, depending on whether the person has previously been required to have an interlock device.

Requirements for Ignition Interlock Licenses

A person is not eligible to get an IIL if the person has committed any vehicular homicide or vehicular assault within seven years prior to the current DUI.

An ignition interlock device is not required on cars owned by the person's employer and driven as a requirement of employment during working hours. The person must provide the DOL with a declaration from the employer that the person is required to drive a vehicle owned by the employer.

The DOL must notify the person that the IIL will be canceled when the DOL receives evidence that a functioning device is no longer installed. The license will be canceled 15 days from the mailing of the notice, but if the person proves that a functioning device has been installed, the cancellation will be stayed. If the license is cancelled, the driver can obtain a new ignition interlock license at no charge upon proving that a device has been installed.

The DOL must cancel the IIL if the driver has been convicted of operating a motor vehicle in violation of the IIL restrictions or if the driver is convicted of a separate offense that would warrant a suspension of a regular license.

Compliance Pilot Program

A pilot program is created to monitor compliance by persons required to use the devices and by interlock companies and vendors. The DOL, Washington State Patrol (WSP), and Washington Traffic Safety Commission (WTSC) must coordinate to establish a compliance pilot program targeting at least one county in Eastern Washington and one county in Western

Washington. In addition, the WTSC must track recidivism of persons required to have an ignition interlock license.

Other Provisions

A conviction for violating a restriction of an IIL requires immediate revocation of the license and is punishable by a fine of not less than \$50 nor more than \$2,000 and/or imprisonment for not more than six months. In addition, it is the crime of Driving While License is Suspended (DWLS) if a person drives while his or her ignition interlock license is revoked.

An ignition interlock device revolving fund is created to assist in covering the costs of ignition interlock devices for indigent persons.

Substitute Bill Compared to Original Bill:

The substitute bill made the following changes:

- For the purposes of the employer exception, the applicant for an ignition interlock license must provide the DOL with a declaration from the employer that the person's employment requires him or her to drive the employer-owned vehicle.
- Clarifies that a person convicted of DUI, whether it is based on alcohol or drugs, may apply for an ignition interlock license. The original bill had inconsistent language.
- Clarifies that a court must "order" a person to apply for an ignition interlock license, rather than "require" the person to apply.
- Adds a provision requiring the Washington Traffic Safety Commission to track recidivism rates for DUI violations by persons required to have ignition interlock licenses.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed except section 2, regarding implied consent, section 4, regarding the offense of driving while license suspended, sections 5, 6, and 7, regarding temporary restricted licenses, and sections 10 through 13, regarding penalties associated with driving under the influence of any liquor or drugs, which take effect January 1, 2009.

Staff Summary of Public Testimony:

(In support) This bill shortens the period under which a DUI offender can drive after being arrested. A large number of people continue to drive whether they have a license or not. An ignition interlock license will hold them accountable. Technology will prevent people from driving drunk. Washington could be the second state in the country with an ignition interlock license law. New Mexico's ignition interlock license law has resulted in lower re-offender rates. The use of ignition interlocks is a proven best practice. The state has the power to conditionally reinstate a person's driver's license. This will be a new tool for law enforcement.

Persons Testifying: Representative Goodman, prime sponsor; Rob McKenna, Attorney General; Lowell Porter, Liz Luce, Chief Batiste, Department of Licensing; Kathy Schuster; Dave Johnson, Washington Coalition of Crime Victims; Gordon Schuster; Nora Sizemore; Joan Oquist; and Jerry Stanton, Ignition Interlock of Washington Inc.

Persons Signed In To Testify But Not Testifying: None.