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## Transportation Committee

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### ESSB 5226

**Brief Description:** Concerning the suspension of licenses for traffic infractions.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Salomon, Saldaña, Das, Frockt, Hasegawa, Kuderer, Liias, Lovelett, Muzzall, Nguyen, Nobles, Pedersen, Randall and Wilson, C.).

#### Brief Summary of Engrossed Substitute Bill

- Removes the penalty of driver's license suspension for failing to comply with the terms of a notice of a non-criminal traffic infraction for a moving violation.
- Requires the court to enter into a payment plan when a person requests to do so if the person does not have the ability to pay the monetary obligation in full and certain other conditions are met.
- Requires driver's license suspension if a person who fails to make a payment under a payment plan fails to appear and provide evidence of ability to pay when required to do so by a court.
- Mandates driver's license suspension for 60 days and establishes a period of probation for one year when a person commits one or more moving violations on three or more separate occasions within one year or on four or more separate occasions within two years.
- Authorizes the Department of Licensing to administratively reinstate the driver's license of a person whose license was suspended prior to March 1, 2022 because the person failed to respond to a notice of a 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.
- Increases the total amount owed in assessments for a traffic infraction by

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

\$6 and adds a \$1 fee for all original and renewal driver's licenses.

**Hearing Date:** 3/22/21

**Staff:** Jennifer Harris (786-7143).

**Background:**

Driver's License Suspension.

No person may drive a motor vehicle on a roadway in the state without having a valid driver's license. It is unlawful for a person to drive a motor vehicle while that person's driver's license is suspended.

The Department of Licensing (DOL) is required to suspend an individual's driver's license when it receives notice from a court that he or she has failed to respond to a notice of traffic infraction for a moving violation; failed to appear at a requested hearing for a moving violation; violated a written promise to appear in court for a moving violation; or failed to comply with the terms of a notice of traffic infraction, criminal complaint, or citation for a moving violation.

Under administrative rule, a driver's license is suspended for 60 days when person has committed four or more moving violations within a one-year period, or five or more moving violations within a two-year period. There is a one-year probation period after the suspension is lifted during which a person cannot commit additional moving violations.

When the DOL has suspended a person's driver's license, a new, duplicate, or renewal driver's license may not be issued until all requirements for reinstatement have been satisfied and a \$75 reissuance fee paid.

Payment Plans.

A person found to have committed a traffic infraction may be permitted to enter into a payment plan on the penalty assessed if the court determines that a person is unable to pay an obligation in full and not more than one year has passed since the obligation was due, unless the person was previously granted a payment plan on the obligation or the person is out of compliance with another payment plan.

Some local jurisdictions offer relicensing programs that enable drivers whose licenses are suspended for delinquent traffic fines to consolidate their fines into a payment plan and have their licenses reinstated.

Penalties, Assessments, and Fees.

The base penalties for the majority of traffic infractions are set by the Washington Supreme Court, the most common of which is \$48. Once additional assessments and fees are included, the total amount owed for infractions with base penalties of \$48 is \$139. This total includes the following additional penalties and fees, which are assessed for all traffic offenses: two public safety and education assessments (105 percent of base penalty); a legislative assessment (\$20 assessment); a trauma care fee (\$5 fee); an auto theft prevention fee (\$10 fee); and a traumatic brain injury account fee (\$5 fee).

A court may, at its discretion, waive, reduce, or suspend the base monetary penalty prescribed for an infraction. The public safety and education assessments, legislative assessment, trauma care fee, and auto theft prevention fee may not be reduced or waived. The traumatic brain injury account fee may be reduced or waived.

### **Summary of Engrossed Substitute Bill:**

#### Driver's License Suspension.

Driver's license privileges are no longer suspended for failing to comply with the terms of a notice of traffic infraction for a non-criminal offense or for violating a written promise to appear in court for a notice of infraction for a moving violation. A driver's license is suspended for failure to appear at any hearing for a moving violation.

When a person commits one or more moving violations on three or more separate occasions within a one-year period, or on four or more occasions within a two-year period, the DOL must suspend the license of the driver for 60 days and establish a period of probation for one calendar year to begin when the suspension ends. Prior to reinstatement of the driver's license, the person must complete a safe driving course recommended by the DOL. During the period of probation, the person must not be convicted of any additional traffic infractions for moving violations. Conviction for a traffic infraction for a moving violation during this period will result in 30 days being added to the suspension period.

When a person has committed a traffic infraction for a moving violation on two occasions within a one-year period or on three occasions within a two-year period, the DOL must send the person a notice that an additional infraction for a moving violation will result in suspension of the person's license for a period of 60 days. The DOL may not charge a licensing reissuance fee at the end of the term of suspension.

The DOL is authorized to administratively reinstate the driver's license of a person suspended prior to March 1, 2022 because the person:

- failed to respond to a notice of a traffic infraction for a moving violation;
- failed to appear at a requested hearing for a moving violation;
- violated a written promise to appear in court for a notice of infraction for a moving violation; or
- failed to comply with the terms of a notice of traffic infraction.

Within 90 days after March 1, 2022, the DOL is required to take reasonable steps to publicize the availability of relief to reinstate a suspended license as specified above, and to create an online application process for people whose licenses are suspended and may be eligible for reinstatement. The driver's license reissuance fee of \$75 applies to this reinstatement.

#### Inability to Pay.

The options provided on a notice of traffic infraction must include an option to allow a person to admit responsibility for the infraction and to attest that the person does not currently have the ability to pay the infraction in full. Information must be provided on how to submit evidence of inability to pay and sign up for a payment plan. The person must be informed that failure to pay or enter into a payment plan may result in a collection action, including garnishment of wages or other assets. The time in which a person must respond to a notice of traffic infraction is extended from 15 days to 30 days.

#### Payment Plans.

A court that determines that a person is not able to pay a monetary obligation in full may enter into a payment plan with the person, irrespective of the date the monetary obligation initially became due and payable, whether the person was previously granted a payment plan with respect to the monetary obligation, or whether the person was non-compliant with an existing or prior payment plan. A person may request a payment plan if a legal proceeding has commenced to collect any delinquent amount associated with a traffic infraction owed by the person.

A person may also request a payment plan at any time for the payment of any monetary penalty, fee, cost, assessment, or other monetary obligation associated with a traffic infraction. The court must enter into a payment plan with the person if:

1. the person does not have the ability to pay the monetary obligation in full;
2. the person has not previously been granted a payment plan for the same monetary obligation; and
3. the court has not authorized its collections agency to take civil legal enforcement action.

Where a court has authorized its collections agency to take civil legal enforcement action, the court may, in its discretion, enter into a payment plan. If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow the conversion of all or part of the monetary obligation due to this community restitution program if the person is unable to make reasonable payments. A person may voluntarily pay additional amounts above what is due under the payment plan.

If a payment is delinquent or if a person fails to complete a community restitution program as required under the payment plan, unless a court finds good cause, the court may refer the unpaid monetary obligation for civil enforcement. If a person has not either entered into a payment plan

or paid the monetary obligation in full after 90 days, the court may refer the monetary obligation to a collections agency. If a person attested to an inability to pay when responding to a notice of a traffic infraction, the court must attempt to enter into a payment plan with the person prior to referring the monetary obligation to a collections agency.

A court may assess the person a reasonable administrative fee if the payment plan is administered by it. The administrative fee may not exceed the lesser of \$10 per infraction or \$25 per payment plan. A court may also contract with outside entities to administer its payment plan system. The court may assess the person a reasonable fee for the administrative services, which may be calculated on a periodic, percentage, or other basis.

A court may modify a payment plan at any time. A court may require a person who fails to make a payment to appear and provide evidence of ability to pay.

#### Fees and Penalties.

The legislative assessment amount for a traffic infraction is increased from \$20 to \$24, with the increase directed to the Driver Licensing Technology Support Account for use in supporting information technology systems used by the DOL to communicate with the judicial information system, manage driving records, and implement court orders.

A new assessment on traffic infractions of \$2 is imposed for the judicial information system to be used to support information technology systems used by the DOL to communicate with the judicial information system, manage driving records, and implement court orders.

An additional \$1 fee is imposed on original and renewal, regular and enhanced driver's license applications. Revenues from the fee must be used to pay for processing costs for driver's license issuance and reinstatements, information technology upgrades, and the ongoing costs to maintain the driver's license and identicard record and issuance system.

The Driver's License Technology Support Account is created as a subaccount in the Highway Safety Fund. Funds in the subaccount may be spent only after appropriation, and may only be used to support information technology systems used by the DOL to communicate with the judicial information system, manage driving records, and implement court orders.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on March 1, 2022.