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## Judiciary Committee

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### HB 3254

**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 Summary of 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.

**Hearing Date:** 1/30/08

**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.

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

### *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 4 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 ten 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 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 anytime, 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 7 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 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.

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.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Sections 2, 4 through 7, and 10 through 13 take effect January 1, 2009.