

SENATE BILL REPORT

SB 5328

As of February 4, 2019

Title: An act relating to driver's license suspensions and revocations.

Brief Description: Concerning driver's license suspensions and revocations.

Sponsors: Senators Salomon, Kuderer, Hunt, Hasegawa, Palumbo, Nguyen, Saldaña, Liias, Frockt and Keiser.

Brief History:

Committee Activity: Law & Justice: 1/31/19.

Brief Summary of Bill

- Eliminates failure to respond or appear in connection with a traffic infraction as a reason for suspension of a person's driver's license.
- Creates driving while license suspended or revoked 4 (DWLS 4), a traffic infraction resulting from a nonresident suspension, suspension of an intermediate driver's license, or suspension for any of the reasons listed in DWLS 2 or 3 when the person has resolved the underlying issue but not reinstated their license.
- Elevates DWLS 4 to DWLS 3 on the fourth violation of DWLS 4.
- Authorizes the Department of Licensing (DOL) to reinstate licenses suspended as a result of the failure to respond or appear in connection with a traffic infraction and requires DOL to create an online process for eligible persons to request reinstatement.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Shani Bauer (786-7468)

Background: It is a crime for a person to drive a motor vehicle in this state while that person's privilege to drive is suspended or revoked. There are three degrees of the crime of DWLS, which are dependent on the reason the person's license was suspended or revoked.

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.

First degree DWLS is a gross misdemeanor offense and involves driving when an order of license revocation is in effect for being a habitual traffic offender.

Second degree DWLS, also a gross misdemeanor offense, generally involves driving when the person's license is suspended or revoked based on a conviction of any number of relatively serious traffic offenses or based on administrative action taken by DOL.

DWLS 3 is a misdemeanor offense and generally involves driving after a license is suspended or revoked for secondary reasons where there is no set suspension period. More specifically, those reasons include the person:

- failed to furnish proof of satisfactory progress in a required alcoholism or drug treatment program;
- failed to furnish proof of financial responsibility for the future;
- failed to comply with the provisions relating to uninsured accidentants;
- failed to respond to a notice of traffic infraction for a moving violation, 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 or citation;
- committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license;
- has been suspended or revoked by reason of one or more of the items listed in the DWLS in the second degree offense, but was eligible to reinstate the person's driver's license or driving privilege at the time of the violation;
- has received traffic citations or notices of traffic infraction relating to intermediate driver's licenses that resulted in a suspension; or
- is not in compliance with a child support order.

At various times, the Legislature has attempted to establish avenues to avoid suspension or facilitate return of a person's license when the license is revoked for secondary reasons. In 2009, the Legislature adopted a relicensing diversion program for persons who commit DWLS 3 and whose license was suspended or revoked for failing to respond, appear, or comply with a notice of traffic infraction. In 2011, the Legislature authorized the prosecutor to direct DWLS 3 cases resulting from a traffic infraction to the prosecutor's office for consideration of filing an information or entry into a pre-charge diversion program rather than filing charges.

To reinstate a driver's license after it has been suspended or revoked, a person must clear the underlying reason for the suspension, which usually entails paying money, proving financial responsibility, and paying a reinstatement fee of \$75 for non-alcohol related suspensions, or \$150 for alcohol related suspensions.

Summary of Bill: A person's driver's license may not be suspended for failure to respond to a traffic infraction notice for a moving violation, failure to appear at a requested hearing, violation of a written promise to appear in court, or failure to comply with the terms of a traffic infraction notice or citation. A person's driver's license may be suspended if the reason for the underlying suspension was failure to comply with the terms of a notice of a criminal complaint or criminal citation.

The crime of DWLS 4 is created as a traffic infraction, subject to a penalty of \$250. If the person appears in person before the court or submits by mail written proof that they have reinstated their license after being cited, the court must reduce the penalty to \$50.

A person is subject to DWLS 4 if the person drives while their license is revoked for one of the following reasons:

- the person committed an offense in another state that, if committed in this state, would not be grounds for suspension or revocation of the person's driver's license;
- the person's license has been suspended or revoked by reason of one or more of the items listed in DWLS 2, DWLS 3, or for a failure to appear at a requested hearing for a noncriminal moving violation or a failure to respond to a notice of a traffic infraction, but was eligible to reinstate the driver's license or driving privilege at the time of the violation; or
- the person has received traffic citations or notices of a traffic infraction relating to an intermediate driver's license that resulted in a suspension.

A person is guilty of DWLS 3 on the fourth violation of DWLS 4 within a four-year period.

The relicensing diversion program is renamed the relicensing program. A person who is subject to DWLS 3 or DWLS 4 may participate in the relicensing program at the discretion of the prosecuting attorney.

DOL is authorized to administratively reinstate all licenses suspended as a result of the failure to respond to a notice of traffic infraction for a moving violation, failure to appear at a requested hearing, violation of a written promise to appear in court, or failure to comply with the terms of a notice of traffic infraction or citation. Within 30 days of the effective date of the bill DOL must:

- notify potentially eligible persons whose licenses have been suspended that the person's license may be eligible for reinstatement;
- provide an online process to allow persons whose licenses have been suspended to determine whether they are eligible for license reinstatement; and
- provide information as to the process for license reinstatement.

A reissue fee will apply to license reinstatements under this section.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on September 1, 2019.

Staff Summary of Public Testimony: PRO: Many DWLS offenses result from low income individuals who do not have the ability to pay the money to get their license reinstated. Public safety concerns are still addressed by this bill as offenses like DUI are still a reason for license suspension and would still result in a crime if the person drives without a license.

This bill will help keep drivers licensed, insured, and out of the criminal system. When a person's license gets suspended, they still have to drive to work, pick up kids, go to the doctor. These are trips out of necessity and result in the person being charged with DWLS3. DWLS3 was not an offense until 1993. It has dramatically increased costs to the system, which conservatively costs over \$1.3 billion. Public defender caseloads are stretched to the breaking point. We need to focus scarce resources in helping people avoid the revolving door of the criminal justice system.

This law locks people up because they do not have the means to pay for a ticket. DWLS3 is part of the larger criminal justice system that suffers from racial disproportionality. Criminality of this particular offense pushes families into poverty.

This is a pro-public safety bill and should increase the probability of people driving with a license and insurance. People have an incentive to pay any debt—whether that be a credit card bill or any other bill. Driver's license suspension should not be used as a tool for debt collection. A person is not a more dangerous driver because they have failed to pay a traffic infraction.

CON: When license suspension was invalidated as a result of *Redmond v. Moore*, collection revenue decreased by \$31 million, until the Legislature fixed the issue in HB 1854. This will have an equally significant impact on collections. What is the difference between one infraction and ten if there is no recourse for collection?

The narrative that people are on their way to work is untrue and violators do not typically get put in jail. The occupational restricted license is available, but almost no one uses it because the driver must show proof of insurance.

Drivers who get traffic infractions are more dangerous. A study in 2015 found that speeding drivers were involved in a crash every 15 minutes. A person with a suspended license is three times more likely to kill someone driving.

Other suggestions for improvement:

- Do not call the new infraction DWLS4. This is confusing for the public.
- Should escalate to DWLS 3 after two priors in ten years rather than three priors in four years.
- Infraction amount should be equal to the lowest other traffic infraction.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Mark Cooke, American Civil Liberties Union of Washington; Virla Spencer, Center for Justice; Paul Benz, Faith Action Network; John Schochet, City of Seattle; Alex Hur, Washington Defender Association.

CON: James McMahan, Washington Association Sheriffs and Police Chiefs; Kelsi Hamilton, Washington Collectors Association; Chester Baldwin, WCA—Washington Collectors Association; Tammy Sund, Aberdeen Court Administrator; Mark McClain, Pacific County Prosecutor.

Persons Signed In To Testify But Not Testifying: No one.