

HOUSE BILL REPORT

ESSB 5226

As Passed House - Amended:

April 10, 2021

Title: An act relating to the suspension of licenses for traffic infractions.

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 History:

Committee Activity:

Transportation: 3/22/21, 4/2/21 [DPA].

Floor Activity:

Passed House: 4/10/21, 80-17.

Brief Summary of Engrossed Substitute Bill (As Amended By House)

- 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

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.

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 January 1, 2023, 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 \$6 and adds a \$1 fee for all original and renewal driver's licenses.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 24 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry, Chapman, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Lovick, Paul, Ramel, Riccelli, Slatter, Taylor, Valdez, Walsh and Wicks.

Minority Report: Do not pass. Signed by 2 members: Representatives Orcutt and Sutherland.

Minority Report: Without recommendation. Signed by 3 members: Representatives Robertson, Assistant Ranking Minority Member; Dent and McCaslin.

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 six or more moving violations within a one-year period, or seven 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 Amended 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 January 1, 2023, 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 January 1, 2023, 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 January 1, 2023.

Staff Summary of Public Testimony:

(In support) This bill improves public safety and frees up the driver's licenses of 64,000 people. It will also prevent 46,000 driver's licenses from automatically being suspended every year. A driver's license will no longer be suspended due to the inability of someone to pay the cost of a moving violation. If someone's driver's license has been suspended and they drive without it, they do so without auto insurance. Alternatively, if they do not drive, they may not be able to work. This results in a financial drain and a drain on the legal system.

The courts and local governments should not be funded on the back of people of color or lower income people. Courts in Spokane County have made available \$25 per month payment plans, and the program more than pays for itself. But other jurisdictions do not have a program like this.

Driver's licenses should be suspended based on the failure to drive safely, not the failure to pay the cost of a moving violation. The bill tightens enforcement for traffic violators by requiring a driver's license to be suspended for three moving violations in a year or for four moving violations in two years. The public safety system should remain focused on public safety issues. The bill also strengthens payment plans.

The bill passed the Senate with five Republican votes. Fiscal concerns were resolved in the

Senate by adding \$6 to moving violations and \$1 to driver's license fees. A number of stakeholders are concerned that a floor amendment adopted in the Senate will allow judges to require people who are not in compliance with a payment plan to return to court, and if they fail to appear, this would be grounds for driver's license suspension. But it is unlikely that a judge would require people to return to court for noncompliance.

(Opposed) None.

(Other) A person who cannot pay a traffic fine is not any less safe of a driver. States have a bad habit of using driver's license suspensions as a tool to collect debt obligations. The result is that these individuals lose their liability insurance and more people wind up in the criminal legal system. It cost the state \$1.3 billion between 1994 and 2015 to enforce Driving While License Suspended in the third degree charges.

Many of the most vulnerable depend on access to vehicles. The state economy depends on workers getting to work. African Americans, Latinos, and young Washingtonians have been greatly impacted by driver's license suspension. In the Seattle Municipal Court, 51 percent of defendants with Driving While License Suspended in the third degree charges are black, while they make up only 7 percent of the population. The current driver's license suspension policy is a targeted machine that targets drivers of color.

Debt-based driver's license suspensions exclusively penalize the poor and criminalize economic distress. The loss of a driver's license can lead to a downward spiral of negative consequences in a person's life that is hard to find a way out of. It also worsens racial disparities. The current legal and financial obligation system was, in part, created to provide the courts with revenues. A different approach to funding is needed.

When other states, cities, and counties have stopped suspending driver's licenses for failure to pay traffic infraction fines, collection rates have increased. This change has also helped residents' obtain auto insurance and employment. Cities and states benefit from more revenue as a result. Low-income families should not have to pay all the charges and fees owed when they fail to pay the costs of a moving violation. This can lead to a never-ending cycle of fines and debt.

In its current form, the bill does not end debt-based driver's license suspension. The Senate floor amendment that was adopted creates a new pathway for driver's license suspension and is harmful. It sets a dangerous precedent for other states. If people have to appear in court for missing a payment, many will not be able to because they cannot take time off of work. Domestic violence survivors need to leave home and may not be able to attend court due to safety risks.

The adopted Senate floor amendment addresses important issues and was a reasonable compromise.

Persons Testifying: (In support) Senator Salomon, prime sponsor; James McMahan, Washington Association of Sheriffs and Police Chiefs; Shawn McCully, Valley Defenders; Breean Beggs, City of Spokane; Carl Filler, Justice Action Network; and Calico Goodrich.

(Other) Nina Martinez, Latino Civic Alliance; Jimmy Matta, City of Burien; Kelsi Hamilton, Washington Collectors Association; Martha Ramos and Lee Newgent, Washington Drivers Relicensing Taskforce; Nat Jacob, Jefferson Associated Counsel; Jenna Robert, Seattle City Attorney's Office; Marla Murdock; Shaun Scott, Statewide Poverty Action Network; Corliss Samaniego; Julianna Tesfu, City of Seattle; Juliana Roe, Washington State Association of Counties; Renee Kimball; Tammy Bacigalupo; Mark Cooke, American Civil Liberties Union–Washington; Priya Sarathy Jones, Fines and Fees Justice Center; and Jodi Lynn Tillery.

Persons Signed In To Testify But Not Testifying: None.