

WSR 22-21-141

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 19, 2022, 9:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-16-104.

Title of Rule and Other Identifying Information: WAC 308-104-025 Effect of accumulation of traffic offenses. New WAC 308-104-026 Safe driving course and 308-104-027 Effect of accumulation of traffic infractions.

Hearing Location(s): On November 28, 2022, at 3:00 p.m., Zoom meeting <https://dol-wa.zoom.us/j/81874782797?pwd=ZzQ5dFpWMU1PS3NrM3JKVTJ5bE5vQT09>, Meeting ID 818 7478 2797, Passcode 279420; One-tap mobile +12532158782,,81874782797#,,,,\*279420# US (Tacoma), +16699006833,,81874782797#,,,,\*279420# US (San Jose); dial by your location +1 253 215 8782 US (Tacoma), Meeting ID 818 7478 2797, Passcode 279420. Find your local number [https://dol-wa.zoom.us/u/kc7eXljrQf](https://dol-wa.zoom.us/j/81874782797?pwd=ZzQ5dFpWMU1PS3NrM3JKVTJ5bE5vQT09). Persons wishing to attend in person can come to the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98501. If you are having trouble accessing the public hearing Zoom link at the time of the hearing, please call 360-902-3846 immediately. You should be admitted into the meeting at the time the public hearing starts.

Date of Intended Adoption: November 29, 2022.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98501, email [rulescoordinator@dol.wa.gov](mailto:rulescoordinator@dol.wa.gov), by November 27, 2022.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, by November 22, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Makes changes in chapter 308-104 WAC to adopt requirements in ESSB 5226 related to an accumulation of traffic offenses and the safe driving course.

Reasons Supporting Proposal: The department is making changes to chapter 308-104 WAC to adopt new requirements established in ESSB 5226 related to suspensions resulting from an accumulation of traffic offenses and a required safe driving course. The law decreases the number of accumulated traffic offenses that result in a license suspension and requires individuals who are suspended under this law to complete a safe driving course. Section 7 of the bill states: "Whenever the official records of the department show that a person has committed a traffic infraction for a moving violation on three or more occasions within a one-year period, or on four or more occasions within a two-year period, the department must suspend the license of the driver for a period of 60 days and establish a period of probation for one calendar year to begin when the suspension ends. Prior to reinstatement of a license, the person must complete a safe driving course as recommended by the department."

Statutory Authority for Adoption: RCW 46.01.110 Rule-making authority and RCW 46.20.119 Reasonable rules.

Statute Being Implemented: ESSB 5226.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carla Weaver, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3682.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. See exemptions below.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

October 19, 2022

Ellis Starrett

Rules and Policy Manager

### OTS-4134.3

AMENDATORY SECTION (Amending WSR 18-11-098, filed 5/21/18, effective 9/4/18)

#### **WAC 308-104-025 Effect of accumulation of traffic offenses.** (1)

For the purposes of RCW 46.20.291(3), whenever the official records of the department show that a person has committed four or more traffic offenses within a one-year period, or five or more traffic offenses within a two-year period, the department may provide notice to the driver warning them of the risk of crash involvement and the possible consequences of further action against the person's license under this section or chapter 46.65 RCW.

(2) Whenever the official records of the department show that a person has committed six or more traffic offenses within a one-year period, or seven or more traffic offenses within a two-year period, the department must issue a notice of suspension denying the person's driving privilege for ~~((sixty))~~ 60 days and establishing a ~~((three hundred sixty-five))~~ 365 day period of probation to begin when the period of suspension ends. During the period of probation, a person must not be convicted of an additional traffic offense.

(3) At a hearing requested by the driver to contest the notice of suspension, the accumulation of violations in subsection (2) of this section shall be considered prima facie evidence of violations of such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways.

(4) If a person is convicted of a traffic offense during the period of ~~((suspension or))~~ probation, the department must impose an additional ~~((thirty-day))~~ 30-day suspension to run consecutively with any suspension already being served under this section ~~((and the period of probation must be extended for three hundred sixty-five days from the date the additional suspension period ends. A person shall have the opportunity to contest the additional period of suspension under the procedure authorized by RCW 46.20.245))~~.

(5) For purposes of this section "traffic offense" means a conviction as defined in RCW 46.20.270(3), or a finding that a traffic infraction has been committed as defined in RCW 46.20.270(5), of a

moving violation as defined in WAC 308-104-160. A traffic offense committed under the provisions of chapter 46.37 RCW by a commercial driver with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes.

[Statutory Authority: RCW 46.01.110. WSR 18-11-098, § 308-104-025, filed 5/21/18, effective 9/4/18; WSR 00-18-069, § 308-104-025, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.01.110 and 1989 c 178 §§ 3, 5, 8 and 16. WSR 89-18-003, § 308-104-025, filed 8/24/89, effective 9/24/89. Statutory Authority: RCW 46.01.110. WSR 82-03-046 (Order 668 DOL), § 308-104-025, filed 1/19/82.]

#### NEW SECTION

**WAC 308-104-026 Safe driving course.** (1) The department recommends safe driving courses so that a driver can learn how to:

- (a) Correct and rehabilitate driving performance;
- (b) Learn safe, responsible, and respectful driving behaviors;

and

(c) Avoid danger potentials, risks to drivers, and other road users.

(2) To receive a recommendation for a safe driving course, an entity or individual offering a safe driving course must apply on a form prescribed by the department and include copies of course materials.

(3) The department considers the following factors when determining whether to recommend a course:

(a) A need exists for a course in the geographic location the course will be offered, or a need exists to provide options to problem drivers.

(b) The entity or individual offering the course is doing so as a part of a larger driver improvement or education program that has demonstrated success in correcting driving performance and behaviors.

(c) The safe driving course educates and assesses student comprehension about the following driving behaviors:

(i) Dangers associated with impaired driving including prescription and over-the-counter drugs, as well as other illicit substances;

(ii) Dangers of driving at excessive speeds;

(iii) Dangers of right-of-way violations including merging, improper turns, roundabouts, and intersections;

(iv) Dangers of distracted driving;

(v) Dangers of improper passing and following vehicles too closely;

(vi) Dangers of aggressive driving;

(vii) Dangers of fatigued driving;

(viii) Passenger safety to include child restraints and seatbelt use;

(ix) Operating around vulnerable road users; and

(x) Hazard awareness: Maintenance and emergency, school zones, construction zones, and weather conditions.

(4) The department may recommend a course that is substantially like the course described in subsection (3) of this section and the course is recommended or approved by another governmental entity.

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NEW SECTION**WAC 308-104-027 Effect of accumulation of traffic infractions.**

(1) The department shall send the driver a notice of suspension listing the qualifying occasions when the records of the department indicate that a person qualifies for a suspension under RCW 46.20.2892.

(2) The exclusive remedy for contesting a notice of suspension is the administrative review described in RCW 46.20.245.

(3) When a driver seeks an administrative review on the limited issue of whether information reported to the department accurately describes the action taken by the court, the department may consider as a part of that review:

(a) Whether each individual traffic infraction reported to the department accurately describes the action taken by a court;

(b) Whether multiple traffic infractions reported by a court should be counted as one occasion.

(4) When the department receives notice that a person has committed an additional traffic infraction during the period of probation, the department shall issue a notice of probation violation informing the person of a 30-day suspension as required by RCW 46.20.2892. The 30-day suspension shall run consecutively with any suspension already being served but consecutively with any other suspension or revocation a person is serving under a separate provision of law. The exclusive remedy for contesting a notice of probation violation is the administrative review procedure described in RCW 46.20.245.

(5) For the purposes of RCW 46.20.2892, a traffic infraction shall have the same meaning as RCW 46.63.020. To determine whether a traffic infraction is a moving violation, the department shall use the definition provided by WAC 308-104-160.

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