

# FINAL BILL REPORT

## 2SHB 2742

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Synopsis as Enacted

**Brief Description:** Addressing accountability for persons driving under the influence of intoxicating liquor or drugs.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Goodman, Liias, Sells, Hasegawa, Maxwell, Roberts, Jacks, Carlyle, Rolfes, Simpson, O'Brien and Morrell).

**House Committee on Judiciary**  
**House Committee on Transportation**  
**Senate Committee on Judiciary**

### **Background:**

#### License Suspension of Persons Arrested for DUI.

When a person is arrested for driving under the influence of alcohol or any drug (DUI), the person's driver's license may be suspended as a result of an administrative action by the Department of Licensing (DOL) and as a result of a criminal conviction. Administrative suspension periods last from 90 days to two years depending on whether the driver refused to take a blood or breath alcohol concentration test (BAC) and whether there have been prior offenses. The suspension period based on a criminal conviction also varies, ranging from 90 days to four years, depending on the offender's BAC level and prior offenses.

#### Ignition Interlock License.

An ignition interlock license (IIL) authorizes a person to drive a noncommercial vehicle with an ignition interlock device while his or her regular driver's license is suspended for alcohol-related DUI. Persons who have an administrative suspension may apply for an IIL. Persons who are suspended based on a conviction are ordered by the court to apply for an IIL. The court may waive the requirement under certain circumstances. If the requirement is waived, the court must order the person to submit to alcohol monitoring. Persons who receive a deferred prosecution must also apply for an IIL. An IIL is not available for persons convicted of DUI based on driving under the influence of drugs. A person is not eligible to receive an IIL if the person has been convicted of vehicular homicide or vehicular assault within seven years of the current offense. The IIL lasts for the length of time the person's regular driver's license is suspended.

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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.*

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 person must provide the DOL with a declaration from the employer that the person is required to drive a vehicle owned by the employer.

#### Additional Ignition Interlock Requirements.

After the suspension period of the person's regular driver's license expires and the person is eligible to reinstate his or her regular driver's license, the person must drive with an ignition interlock device for either one year, five years, or 10 years, depending on whether the person was previously restricted. This statutory requirement is not related to an IIL and applies whether or not a person received an IIL.

#### Prior Offenses.

The penalties and license suspension periods under the DUI statutes vary depending on, among other things, whether the person has had any prior offenses within seven years. The terms "prior offense" and "within seven years" are defined. In a recent Washington Supreme Court (Court) case, the Court held that the terms are ambiguous.

In the case, one of the defendants was arrested for DUI in 2001. He received a deferred prosecution. In 2005 he was again arrested for DUI. His deferred prosecution was revoked. The issue was whether the 2005 conviction counted as a "prior offense within seven years" of the 2001 deferred prosecution, for purposes of sentencing. According to the Court, "prior offense within seven years," could mean either: (1) that the offense to be counted as a "prior" must have occurred before the offense for which the defendant is being sentenced; or (2) that the offense to be counted as a prior could have occurred either before or after -- so long as it is within seven years of -- the offense for which the defendant is being sentenced.

#### **Summary:**

#### Ignition Interlock License.

Changes are made regarding who may apply for an IIL. A person who has been convicted of vehicular homicide or vehicular assault due to driving under the influence may apply for an IIL. Persons whose licenses have been suspended due to DUI based on driving under the influence of drugs may apply for an IIL. Persons who enter into deferred prosecutions for DUI are no longer required to apply for an IIL.

The employer vehicle exception is expanded to include vehicles leased or rented by the person's employer and vehicles whose care or maintenance is the temporary responsibility of the employer and driven at the direction of the employer.

The list of circumstances under which the court may waive the requirement that a person apply for an IIL is expanded. If a court finds that a person is not eligible to receive an IIL, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility. The court must order alcohol monitoring in cases where the IIL requirement is waived and the court has orders that the person not consume alcohol.

#### Additional Ignition Interlock Requirements.

When a person has his or her regular driver's license reinstated and an ignition interlock device is required to be installed, the requirement remains in effect until the DOL receives a declaration from the person's ignition interlock vendor certifying that there have been no "incidents" in the four consecutive months prior to the date the requirement expires. An "incident" is: (1) an attempt to start the vehicle with a BAC of .04 or higher; (2) failure to take or pass any required re-test; or (3) failure of the person to appear at the vendor when required.

#### Prior Offenses.

The definitions of "prior offenses" and "within seven years" are amended. A prior offense within seven years means that the arrest for the prior offense occurred either before or *after* the arrest for the current offense. However, if a deferred prosecution is revoked based on a subsequent DUI-related conviction, the subsequent conviction may not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing.

#### Liability.

If as part of the person's judgment and sentence, a person is required to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of an ignition interlock device. The county probation or supervision department satisfies the requirement to verify installation if it receives a written verification by an ignition interlock company stating that it has installed a device on a vehicle owned or operated by the person. The municipality or county has no further obligation to supervise the use of the device by the person and is not civilly liable for any injuries or damages caused by the person for failing to use a device or for driving under the influence of intoxicating liquor or any drug.

#### Other Provisions.

It is a gross misdemeanor, rather than a misdemeanor, for a person to drive a vehicle without an ignition interlock device when the person is required to have one.

A person commits driving while license suspended in the second degree if he or she is driving while his or her regular driver's license is suspended and the person is eligible to obtain an IIL but did not obtain one.

Procedures for the DOL to cancel IILs and occupational and temporary restricted licenses are amended to be consistent with current practices for cancellations of regular driver's licenses. The effective date of cancellation is 45 days, rather than 15 days, from the date the DOL mails the notice of cancellation.

#### **Votes on Final Passage:**

House	97	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

**Effective:** January 1, 2011