

HOUSE BILL REPORT

SHB 1741

As Amended by the Senate

Title: An act relating to enforcement of traffic laws.

Brief Description: Revising penalties for ignoring traffic tickets.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Ludwig, Johanson and Orr.)

Brief History:

Reported by House Committee on:
Judiciary, March 2, 1993, DPS;
Passed House, March 11, 1993, 98-0;
Amended by Senate.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: Many traffic laws have been "decriminalized" and made civil infractions instead of crimes. For these infractions, no jail time may be imposed, but civil punishment includes fines and in some instances loss of driving privileges. Although infractions themselves are not crimes, failing to respond to a notice of infraction is a crime.

Under the "Nonresident Violator Compact," a state may agree to release motorists from another state who are cited for traffic law violations without requiring the motorists to post appearance bonds. Such an agreement is dependent, however, on the home state of a cited motorist having a law which requires driver's license suspension for failing to comply with a traffic citation. Washington has adopted the compact, but does not have a law that would require license suspension for Washington drivers who fail to comply with

citations issued by other participants in the compact. Washington does have a law that prohibits renewal of a license for a person who has failed to comply.

The state's motor vehicle code has various escalating penalties for driving without a license and for DWI. The crime of driving while a license is suspended or revoked may be committed in any one of three degrees, depending on the offense for which the license was suspended or revoked. Driving without a license that was suspended for being an habitual traffic offender is first-degree driving while suspended or revoked. The second-degree offense involves driving following the loss of a license for DWI and other relatively serious traffic offenses for which a license may be suspended or revoked. The third-degree offense involves driving after a license has been suspended or revoked solely for secondary reasons such as failure to furnish proof of financial responsibility, or failure to renew a license after a period of suspension has expired.

Summary of Bill: Crimes relating to failure to respond to a traffic infraction and failure to comply with a traffic citation are repealed. The offenses are made infractions for which the Department of Licensing (DOL) is to suspend a driver's license. The suspension continues until the driver responds or complies, shows proof of financial responsibility, and pays a \$20 reinstatement fee.

The mandatory minimum jail term for first-degree driving while suspended or revoked as the result of being an habitual offender is reduced from one year to 180 days. The crime of driving while suspended or revoked in the third degree is amended to include persons who drive while their licenses are suspended as the result of failing to respond to a notice of a traffic infraction or failing to comply with a citation.

Several changes are made with respect to the crime of DWI:

First, the ground for suspending the otherwise mandatory jail time for DWI is changed. The required risk to a defendant's physical or mental well-being must be "substantial."

Second, the Department of Social and Health Services, instead of the court, is to review periodically the alcohol information schools attended by DWI offenders.

Third, for persons convicted of DWI while they were driving with a suspended or revoked license in the first or second degree, the minimum mandatory fine is raised from \$200 to \$500. This fine, and its accompanying

mandatory 90 days in jail, no longer apply to persons convicted of DWI while driving without a license as a result of third-degree driving while suspended or revoked.

Fourth, a change is made to the requirement that a court impose, in addition to the mandatory jail time for DWI, a suspendible term of imprisonment of up to 180 days "for a period not exceeding two years." This provision is changed to require that the additional suspendible term of confinement be for up to two years.

Various changes are made to the form requirements for notices of traffic infractions and citations in order to reflect the changes made in the substantive provisions described above.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment adds two provisions to the bill.

1. On a person's second DWI conviction within five years, the court is directed to confiscate the Washington State vehicle registration and license plates of the vehicle that the person was driving at the time of the offense, if the convicted person was driving his or her own vehicle. If the person was not driving his or her own vehicle, then the court is to confiscate the registration and plates of a vehicle owned by the person, if any. The plates and registration are to be held for 90 days from the date of surrender. The department of licensing may not reissue vehicle registration or license plates to that person for that vehicle during the 90 days.

2. On a person's third or subsequent DWI conviction within a five-year period, the vehicle the person was driving at the time of the offense is to be seized, if it is owned by that person. The seized vehicle is subject to forfeiture under procedures similar to those that apply to personal property forfeitures under the state's drug laws. Notice is to be served on the owner and any person having any known right or interest in the vehicle, including a person with a community property interest. The vehicle is deemed forfeited if no one notifies the law enforcement agency of a claim within 45 days of seizure. A person who claims ownership or right to possession of the vehicle is entitled to a hearing and the vehicle will be returned to the claimant if the court or administrative law judge determines that the person has a lawful right to possession. If the value of the vehicle is more than \$500, the claimant has a right to remove the hearing to a court. Otherwise, the hearing is before the seizing agency. The seizing agency may keep a

forfeited vehicle or all of the proceeds of the sale of a
forfeited vehicle.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill allows Washington to take advantage of an interstate compact. The bill also makes important clarifications in ambiguities in current law.

Testimony Against: Decriminalizing failure to respond, appear, or comply may hamper enforcement.

Witnesses: Judge Robert McBeth, Washington State District and Municipal Court Judges Association (pro); and Matt Thomas, Washington Association of Prosecuting Attorneys.

VOTE ON FINAL PASSAGE:

Yeas 98