

SENATE BILL REPORT

SHB 1741

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, APRIL 1, 1993

Brief Description: Revising penalties for ignoring traffic tickets.

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

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Rinehart, Roach, and Spanel.

Staff: Lidia Mori (786-7755)

Hearing Dates: March 29, 1993; April 1, 1993

BACKGROUND:

Many traffic laws have been "decriminalized" and made into 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. 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:

Crimes relating to failure to respond to a traffic infraction and failure to comply with a traffic citation are repealed.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 to require a finding by the judge that jail time would pose a substantial risk to the defendant's physical or mental well-being.

Second, the Department of Social and Health Services, instead of the court, is to periodically review 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.

SUMMARY OF PROPOSED SENATE AMENDMENT:

When a person is convicted of a second charge of driving while under the influence of intoxicating liquor or drug within a five-year period, 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. The plates and registration will be held for 90 days from the date of surrender. No Washington State vehicle registration or license plates may be reissued to that person for the vehicle by the department.

On a third or subsequent conviction for driving while under the influence of intoxicating liquor or drug within a five-year period, a law enforcement officer is directed to seize the vehicle the person was driving at the time of the offense, if owned by that person. Notice is required to be served on the owner and any person having any known right or interest in the vehicle, including a community property interest. The vehicle is determined to be forfeited if no one notifies the law enforcement agency 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.

The Department of Licensing is directed to revoke the driver's license for one year of any person who is convicted of either a state or federal drug offense. If the person's license is suspended at the time of conviction or the person does not have a driver's license, the department will not reissue the license for a period of six months after application is made for a new license.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

This bill follows the move to decriminalize minor traffic crimes.

TESTIMONY AGAINST: None

TESTIFIED: Melanie Stewart, Washington State District Court Judges; Clark Holloway, Department of Licensing