

SENATE BILL REPORT

SB 5339

AS OF FEBRUARY 2, 1993

Brief Description: Providing for quick resolution of the revocation, suspension, or denial of driving privileges.

SPONSORS: Senators A. Smith, McCaslin, Winsley, Deccio, Fraser, M. Rasmussen and Roach

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lidia Mori (786-7755)

Hearing Dates: February 4, 1993

BACKGROUND:

A person who is arrested for DWI and who has a breath or blood alcohol reading of 0.10 or greater can lose his or her driving privilege for various periods of time, depending on prior convictions, if the person is found guilty in a court of law. However, because of court congestion and prosecutor workloads, the cases against some DWI defendants are sometimes delayed, dismissed, or pleaded down to lesser offenses.

Studies have shown that swift and certain license suspension is one of the most effective deterrents to drunk driving. To accomplish this goal, 29 states and the District of Columbia provide for an "administrative per se" process for the loss of a license. It is estimated that enactment of an administrative per se act will save about 26 lives and prevent over 1,000 alcohol-related traffic injuries in Washington each year.

SUMMARY:

The Department of Licensing (DOL) is authorized to administratively suspend or revoke the driving privileges of any person arrested for DWI who has a breath or blood alcohol reading of 0.10 or greater.

A law enforcement officer must have reasonable grounds to believe the driver was operating a motor vehicle while under the influence of alcohol. The officer must warn the driver that the driving privilege will be revoked or denied if he or she refuses the test or that the driving privilege will be suspended, revoked, or denied if the test is administered and the reading is 0.10 or greater.

If the test is refused or failed, the officer must confiscate the driver's license and issue a temporary license that is effective 12 hours after the time of arrest, and is valid for 45 days from the date of arrest or until a hearing is held,

whichever occurs first. The officer must provide the driver with information on his or her right to request a hearing to contest the suspension or revocation.

Upon receipt of the report indicating the driver refused the test, DOL is to issue a revocation. The first refusal in five years is a one-year revocation. A second or subsequent refusal in five years is a two-year revocation. The revocation is effective 45 days from the date of the arrest.

Upon receipt of the sworn report indicating the driver submitted to the test and the result of the test was 0.10 or greater, DOL is required to suspend, revoke, or deny the person's driving privilege. The suspension will be for 90 days on a first offense, revocation will be for one year on a second offense, and two years on a third offense, to become effective 45 days from the date of arrest.

If a driver wishes to contest a suspension or revocation, the person must submit, in writing, a request for a hearing within ten days from the date of arrest. Upon receipt of the request for the hearing, DOL is to set a hearing date. The hearing is to be held in the county of arrest within 45 days of the date of arrest, except that all or part of the hearing may be conducted by telephone or other electronic means. If the suspension or revocation is sustained at the hearing, the driver has the right to file an appeal to the superior court in the county of arrest. The driver may seek a stay of the effective date of the suspension or revocation during the appeal.

Each person suspended or revoked under this act is required to receive an alcohol evaluation and enroll in any recommended treatment program prior to reinstatement. Proof of financial responsibility is not required after a first suspension or when seeking an occupational license after a first suspension. A person participating in an alcohol or drug program may apply for a provisional driver's license.

When a driver is granted entry into a deferred prosecution program, a certified abstract of driving record is allowed to be furnished to the individual named in the abstract, an employer, the insurance carrier covering the employer or the individual, or to an alcohol/drug assessment or treatment agency to which the individual has applied or been assigned.

The legislation authorizes a study to be conducted by the Washington Traffic Safety Commission to review the effectiveness of the act.

License reinstatement fees are increased from \$50 to \$100 to fund the new license suspension procedure.

Appropriation: none

Revenue: none

Fiscal Note: requested

