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**SUBSTITUTE HOUSE BILL 2446**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Robertson, Appelwick, Kastama, Dickerson, Constantine, Ogden, Cooper, Keiser, Kenney, Costa, Cody, Wood, Conway, Anderson and Gombosky)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to temporary restricted drivers' licenses; amending  
2 RCW 46.20.3101, 46.20.380, 46.20.391, 46.20.394, and 46.20.400;  
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read  
6 as follows:

7 Pursuant to RCW 46.20.308, the department shall suspend, revoke, or  
8 deny the arrested person's license, permit, or privilege to drive as  
9 follows:

10 (1) In the case of a person who has refused a test or tests:

11 (a) For a first refusal within five years, where there has not been  
12 a previous incident within five years that resulted in administrative  
13 action under this section, revocation or denial for (~~one year~~) five  
14 hundred forty days;

15 (b) For a second (~~or subsequent~~) refusal within five years, or  
16 for a first refusal where there has been one or more previous incidents  
17 within five years that have resulted in administrative action under  
18 this section, revocation or denial for (~~two~~) three years or until the  
19 person reaches age twenty-one, whichever is longer. A revocation

1 imposed under this subsection (1)(b) shall run consecutively to the  
2 period of any suspension, revocation, or denial imposed pursuant to a  
3 criminal conviction arising out of the same incident;

4 (c) For a third or subsequent refusal within five years, or for a  
5 second refusal where there has been two or more previous incidents  
6 within five years that have resulted in administrative action under  
7 this section, revocation or denial for four years or until the person  
8 reaches age twenty-one, whichever is longer. A revocation imposed  
9 under this subsection (1)(c) runs consecutively to the period of any  
10 suspension, revocation, or denial imposed under a criminal conviction  
11 arising out of the same incident.

12 (2) In the case of an incident where a person has submitted to or  
13 been administered a test or tests indicating that the alcohol  
14 concentration of the person's breath or blood was 0.10 or more:

15 (a) For a first incident within five years, where there has not  
16 been a previous incident within five years that resulted in  
17 administrative action under this section, placement in probationary  
18 status as provided in RCW 46.20.355;

19 (b) For a second or subsequent incident within five years,  
20 revocation or denial for two years.

21 (3) In the case of an incident where a person under age twenty-one  
22 has submitted to or been administered a test or tests indicating that  
23 the alcohol concentration of the person's breath or blood was 0.02 or  
24 more:

25 (a) For a first incident within five years, suspension or denial  
26 for ninety days;

27 (b) For a second or subsequent incident within five years,  
28 revocation or denial for one year or until the person reaches age  
29 twenty-one, whichever is longer.

30 (4) Ninety days after revocation or denial under subsection (2)(b)  
31 of this section, the person whose license or privilege has been revoked  
32 or denied may apply to the department for issuance of a temporary  
33 restricted license under RCW 46.20.391 with the requirement that the  
34 person have an ignition interlock or other biological or technical  
35 device installed on his or her vehicle and operate no other motor  
36 vehicle for the remainder of the term of revocation or denial. A  
37 temporary restricted license granted as the result of an application  
38 under this section extends through the period of any suspension,

1 revocation, or denial imposed under a criminal conviction arising out  
2 of the same incident.

3 **Sec. 2.** RCW 46.20.380 and 1985 ex.s. c 1 s 6 are each amended to  
4 read as follows:

5 No person may file an application for (~~(an occupational)~~) a  
6 temporary restricted driver's license as provided in RCW 46.20.391  
7 unless he or she first pays to the director or other person authorized  
8 to accept applications and fees for driver's licenses a fee of twenty-  
9 five dollars. The applicant shall receive upon payment an official  
10 receipt for the payment of such fee. All such fees shall be forwarded  
11 to the director who shall transmit such fees to the state treasurer in  
12 the same manner as other driver's license fees.

13 **Sec. 3.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read  
14 as follows:

15 (1) Any person licensed under this chapter who is convicted of an  
16 offense relating to motor vehicles for which suspension or revocation  
17 of the driver's license is mandatory, other than vehicular homicide or  
18 vehicular assault, or any person authorized to apply under RCW  
19 46.20.3101, or any person who has had his or her driver's license  
20 suspended or revoked for nonpayment of fines or for failure to have  
21 insurance, may submit to the department an application for (~~(an~~  
22 ~~occupational)~~) a temporary restricted driver's license. The  
23 department, upon receipt of the prescribed fee and upon determining  
24 that the petitioner is (~~(engaged in an occupation or trade that makes~~  
25 ~~it essential that the petitioner operate a motor vehicle)~~) eligible to  
26 receive the license under subsection (3) of this section, may issue  
27 (~~(an occupational)~~) a temporary restricted driver's license and may set  
28 definite restrictions as provided in RCW 46.20.394. No person may  
29 petition for, and the department shall not issue, (~~(an occupational)~~)  
30 a temporary restricted driver's license that is effective during a  
31 revocation imposed under RCW 46.20.3101(1) or the first:

32 (a) Thirty days of any suspension (~~(or revocation)~~) imposed (~~(for~~  
33 a violation of RCW 46.61.502 or 46.61.504)) under RCW 46.61.5055(1)(a);

34 (b) Thirty days of a revocation imposed under RCW 46.61.5055(1)(b);

35 (c) Ninety days of a revocation imposed under RCW 46.20.3101(2)(b);

36 (d) One year of a revocation imposed under RCW 46.61.5055 (2) or  
37 (3).

1 A petitioner under (b), (c), or (d) of this subsection must also  
2 agree to have an ignition interlock or other biological or technical  
3 device installed on his or her vehicle and operate no other motor  
4 vehicle during the term of revocation. A temporary restricted license  
5 issued after a suspension or revocation under RCW 46.61.5055 or  
6 46.20.3101 extends through the entire period of any concurrent or  
7 consecutive suspensions or revocations that may be imposed as the  
8 result of both administrative action and criminal conviction arising  
9 out of the same incident.

10 (2) A person aggrieved by the decision of the department on the  
11 application for ~~((an occupational))~~ a temporary restricted driver's  
12 license may request a hearing as provided by rule of the department.

13 ~~((+2))~~ (3) An applicant for ~~((an occupational))~~ a temporary  
14 restricted driver's license is eligible to receive such license only  
15 if:

16 (a) Within one year immediately preceding the date of the offense  
17 that gave rise to the present conviction, the applicant has not  
18 committed any offense relating to motor vehicles for which suspension  
19 or revocation of a driver's license is mandatory; and

20 (b) Within five years immediately preceding the date of the offense  
21 that gave rise to the present conviction, the applicant has not  
22 committed ~~((any of the following offenses: (i) Driving or being in~~  
23 ~~actual physical control of a motor vehicle while under the influence of~~  
24 ~~intoxicating liquor; (ii))~~ vehicular homicide under RCW 46.61.520~~((+))~~  
25 or ~~((+iii))~~ vehicular assault under RCW 46.61.522; and

26 (c) The applicant meets at least one of the following qualifying  
27 circumstances: (i) Is engaged in an occupation or trade that makes it  
28 essential that he or she operate a motor vehicle; (ii) is undergoing  
29 continuing health care or providing continuing health care to another  
30 who is dependent upon the applicant; (iii) is enrolled in an  
31 educational institution and pursuing a course of study leading to a  
32 diploma, degree, or other certification of successful educational  
33 completion; (iv) is undergoing substance abuse treatment; (v) is  
34 fulfilling court-ordered community service responsibilities; or (vi) is  
35 in an apprenticeship, on-the-job training, or welfare-to-work program;  
36 and

37 (d) The applicant files satisfactory proof of financial  
38 responsibility pursuant to chapter 46.29 RCW.

1       (~~(3)~~) (4) The director shall cancel (~~(an occupational)~~) a  
2 temporary restricted driver's license upon receipt of notice that the  
3 holder thereof has been convicted of operating a motor vehicle in  
4 violation of its restrictions, or of an offense that pursuant to  
5 chapter 46.20 RCW would warrant suspension or revocation of a regular  
6 driver's license. The cancellation is effective as of the date of the  
7 conviction, and continues with the same force and effect as any  
8 suspension or revocation under this title.

9       **Sec. 4.** RCW 46.20.394 and 1983 c 165 s 26 are each amended to read  
10 as follows:

11       In issuing (~~(an occupational)~~) a temporary restricted driver's  
12 license under RCW 46.20.391, the department shall describe the (~~(type~~  
13 ~~of occupation permitted)~~) qualifying circumstances and shall set forth  
14 in detail the specific hours of the day during which the person may  
15 drive to and from his (~~(place of work)~~) or her home, which may not  
16 exceed twelve hours in any one day; the days of the week during which  
17 the license may be used; and the general routes over which the person  
18 may travel. These restrictions shall be prepared in written form by  
19 the department, which document shall be carried in the vehicle at all  
20 times and presented to a law enforcement officer under the same terms  
21 as the (~~(occupational)~~) temporary restricted driver's license. Any  
22 violation of the restrictions constitutes a violation of RCW 46.20.342  
23 and subjects the person to all procedures and penalties therefor.

24       **Sec. 5.** RCW 46.20.400 and 1967 c 32 s 33 are each amended to read  
25 as follows:

26       If (~~(an occupational)~~) a temporary restricted driver's license is  
27 issued and is not revoked during the period for which issued the  
28 licensee may obtain a new driver's license at the end of such period,  
29 but no new driver's (~~(permit shall)~~) license may be issued to such  
30 person until he or she surrenders his (~~(occupational)~~) or her temporary  
31 restricted driver's license and his or her copy of the order and the  
32 director is satisfied that he or she complies with all other provisions  
33 of law relative to the issuance of a driver's license.

34       NEW SECTION. **Sec. 6.** This act takes effect July 1, 1998.

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