

HOUSE BILL REPORT

ESHB 1033

As Passed Legislature

Title: An act relating to clarifying the restrictions concerning occupational licenses.

Brief Description: Clarifying the restrictions concerning occupational licenses.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Kirby, Cooper, Sullivan and Lantz).

Brief History:

Committee Activity:

Judiciary: 1/17/03, 1/24/03 [DPS].

Floor Activity:

Passed House: 2/12/03, 97-0.

Senate Amended.

Passed Senate: 4/11/03, 49-0.

House Refused to Concur. Asks Senate to Recede.

Senate Amended.

Passed Senate: 4/26/03, 48-0.

House Concurred.

Passed House: 4/27/03, 98-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Requires that a person who has failed to pay a traffic fine, including such a person who is an applicant for an occupational license, must be offered an opportunity, subject to court discretion, to enter into a payment plan for those unpaid fines.
- Allows a person's gainful employment to qualify her or him for an occupational license.
- Requires that a person who has lost his or her driving privileges for a drunk driving violation must install an ignition interlock in order to get an occupational license.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Lantz, Chair; Moeller, Vice Chair; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Minority Report: Without recommendation. Signed by 1 member: Representative Carrell, Ranking Minority Member.

Staff: Bill Perry (786-7123).

Background:

Occupational Licenses

Under prescribed circumstances, a person whose driver's license has been suspended or revoked may get an "occupational" license. Such a license is for the purpose of allowing the person to work, or in some instances to get training or to get treatment for substance abuse.

The authority to drive under such a license is limited to driving that is directly related to employment, training or treatment. The license must be accompanied by specific detailed restrictions on the hours of the day when driving is allowed and by a general description of the permitted routes for traveling to and from work or treatment. An occupational license is good for either the length of the suspension or revocation, or for two years, whichever is shorter.

There are two main categories of persons who may apply for an occupational license. One is persons who have had their licenses suspended by the Department of Licensing (DOL) for one of three specified reasons. These reasons include:

- failure to pay a traffic ticket; or
- driving without insurance; or
- committing multiple driving offenses with a frequency that indicates a disrespect for traffic laws or a disregard for the safety of others.

A person who has had his or her license suspended for one of the above three reasons may apply to the DOL for an occupational license if he or she:

- is in an apprenticeship or training program that requires a license; or
- has applied for such a program (in which case an occupational license will be good for only 14 days); or
- is enrolled in a WorkFirst program that requires a license; or
- is undergoing substance abuse treatment or attending substance abuse meetings and does not have transit services available to get to and from the treatment or meetings.

The other main category of persons who may apply for an occupational license is those who have lost their licenses because of a drunk driving related offense. The loss may

have been the result of conviction for driving under while under the influence (DUI) or the result of administrative action for a violation of the Implied Consent Law following an arrest for DUI.

Any applicant for an occupational license must meet certain requirements, including having insurance coverage or otherwise showing proof of financial responsibility.

If the reason for the loss of license was failure to pay a fine, then the applicant must also enter into a payment plan with the court in order for the DOL to issue an occupational license. Some otherwise qualified applicants have apparently been unable to get occupational licenses solely because some courts do not have payment plans.

Payment Plans

Traffic law offenses, whether civil or criminal, may result in fines being imposed against offenders. In a significant number of cases where fines have been imposed, offenders fail to make timely payment of those fines. Failure to pay fines results in the suspension of an offender's driver's license.

Most of the less serious traffic offenses are civil rather than criminal. These civil violations are punishable by monetary fines only and are handled by the issuance of a notice of traffic infraction. The person receiving the notice of infraction may either pay the fine or request a hearing to contest the notice or to present mitigating circumstances. If the person has failed to pay the fine or fails to appear at a requested hearing, the court will enter an order assessing the monetary penalty for the traffic infraction. Monetary penalties imposed by the court for traffic infractions are payable immediately. If the person is unable to pay at the time, the court may grant an extension. If payment is still not made within the granted time, the court must notify the Department of Licensing (DOL), and the DOL must suspend the person's driver's license until the penalty is paid. For traffic infractions, the court may waive, reduce, or suspend the penalty. At the person's request, the court may also order performance of a number of hours of community restitution in lieu of a monetary penalty, with the penalty amount being credited at the rate of the current state minimum wage.

More serious violations of the traffic laws, such as reckless driving, drunk driving, or driving with a suspended license, are crimes. Crimes are typically punishable by both imprisonment and fine. When a person is arrested for a criminal violation of the traffic laws, the arresting officer may serve the person with a traffic citation and notice to appear in court. The person must give his or her written promise to appear in court as required by the citation and notice. If the person violates the written promise to appear in court, the court must give notice of that fact to the DOL. Upon receipt of the notice, the DOL suspends the person's driver's license for failing to appear in court as required by the citation and notice.

Many, but not all, courts offer payment plans for offenders who are unable to pay fines

in full at the time they are due. These plans allow such an offender to pay the fine off in installments over time. In the case of infractions, a plan may require community restitution instead of fines.

Summary of Engrossed Substitute Bill:

Occupational Licenses

The following changes are made with respect to the issuance of occupational licenses to applicants who have lost their licenses due failure to pay a fine or failure to have insurance, or due to administrative action by the DOL based on multiple traffic law violations:

- Being gainfully employed allows a person to apply for an occupational license.
- Failure to be in a payment plan no longer disqualifies an applicant who has lost his or her license for failure to pay a fine.
- Subject to the court's discretion, a court must offer a payment plan to any applicant who has lost his or her license for failure to pay a fine.
- No person may apply for an occupational license if he or she has previously entered into a payment plan for traffic fines and has failed to make all payments required under the plan.

With respect to applicants for an occupational license who have lost there licenses for DUI-related reasons, installation of an ignition interlock is required on any vehicle to be driven by the applicant.

Payment Plans for Traffic Infraction Fines

All courts are required to have available an 18 month payment plan for payment of fines for traffic infractions. Courts have discretion to allow offenders to enter such plans if the person: (1) cannot pay a fine in full when it is imposed; (2) has an outstanding unpaid penalty that was imposed not more than 12 months previously; or (3) is already in a payment plan for another fine. If an offender is already in a payment plan when her or she has a new fine imposed, a court may incorporate the existing payment plan into a single new plan, or may create a separate plan for the new offense. If an existing unpaid fine has been turned over to a collection agency, the court may remove the fine from collection and incorporate it into a payment plan.

The court's notification to the DOL of an unpaid fine is to occur upon a person's: (1) failure to enter an offered payment plan; (2) delinquency of 30 days in making a payment under a plan; or (3) failure to make all payments under a plan within 18 months of the first payment. Upon receipt of such a notification, the DOL is to suspend the person's driver's license.

Payment Plans for Criminal Traffic Fines

Whenever a misdemeanor traffic crime results in a penalty that is monetary only, the

court may enter into a payment plan with the offender. Once a person is in a plan, the court is to notify the DOL of the person's failure to pay the fine only if the person is 30 days delinquent in a payment or if the person has not completed payments under the plan within 18 months.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: People who have lost their licenses because of unpaid traffic fines often need to drive in order to work or to get training to work. Unless they can work, they cannot pay off their fines, but as long as the fines are unpaid, they cannot get a driver's license. The current system is completely unfair. An otherwise qualified applicant will be unable to get an occupational license if he or she happens to live in a jurisdiction that does not offer payment plans for traffic fines.

Testimony Against: None.

Testified: (In support) Peter Guzman, City of Tacoma; Peter Teets, Department of Licensing; and Mary Wolney, University of Washington Law School Clinic - Car Recovery.

(In support with concerns) Mary Wolney, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.