

SENATE BILL REPORT

SHB 2660

As Reported By Senate Committee On:
Judiciary, February 27, 2004
Highways & Transportation, March 1, 2004

Title: An act relating to alcohol-related offenses.

Brief Description: Revising provisions involving alcohol-related offenses.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives G. Simpson, Carrell, McMahan, Lovick, Kenney and Wallace; by request of Office of the Lieutenant Governor).

Brief History:

Committee Activity: Judiciary: 2/26/04, 2/27/04 [DPA].
Highways & Transportation: 3/1/04 [DPA (JUD)].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline and Thibaudeau.

Staff: Lidia Mori (786-7755)

SENATE COMMITTEE ON HIGHWAYS & TRANSPORTATION

Majority Report: Do pass as amended by Committee on Judiciary.

Signed by Senators Horn, Chair; Swecker, Vice Chair; Esser, Haugen, Jacobsen, Kastama, Mulliken, Murray, Oke, Poulsen and Spanel.

Staff: Kimberly Johnson (786-7346)

Background: Any person who operates a motor vehicle in this state is deemed to have given consent for a blood or breath alcohol concentration (BAC) test if he or she is arrested for driving while under the influence of alcohol or drugs (DUI). This provision is known as the Implied Consent Law.

A so-called "per se" violation of the DUI law consists of operating a motor vehicle while having a BAC of 0.08 or more for persons over the age of 21 or a BAC of 0.02 or more for younger drivers.

If an arresting officer has reasonable grounds to believe a driver has committed DUI, the officer may request the driver to take a BAC test. If the driver refuses the test or submits to the test and fails it, his or her driver's license will be administratively suspended or revoked by the Department of Licensing (DOL).

Except for first-time, low BAC offenders, periods of license suspension or revocation under these administrative provisions run consecutively to any period of suspension or revocation required upon a criminal conviction arising out of the same incident.

Periods of license loss range as follows for first, second and third offenses within seven years:

- If the driver's BAC was below 0.15, or there was no BAC for reasons other than the driver's refusal to take the test: 90 days, two years, and three years;
- If the driver's BAC was at or above 0.15, or there was no BAC because of refusal: one year, 900 days; and four years.

Drivers who have had their licenses suspended may apply for an "occupational" driver's license if their license was suspended due to failure to pay a traffic ticket, driving without insurance, or committing multiple driving offenses within a specified period of time may apply for an occupational license. A person who has had his or her license suspended for one of these reasons may apply to DOL for an occupational license if he or she is engaged in an occupation that makes driving essential, is in an apprenticeship program that requires a license or has applied for one, is enrolled in a WorkFirst program that requires a license, or is undergoing substance abuse treatment or attending substance abuse meetings and no appropriate transit services are available.

Drivers who have had their licenses suspended or revoked as the result of a conviction for a crime such as DUI or as the result of administrative action for a violation of the implied consent law may also apply for an occupational license. The person must be engaged in an occupation or trade that makes driving essential, at least the first 30 days of the suspension or revocation has passed, and it was for the driver's first implied consent law violation.

Applicants for occupational driver's licenses must also:

- have insurance coverage or otherwise show proof of financial responsibility;
- not have committed within the prior year an offense requiring loss of driving privileges;
- not have committed DUI, Vehicular Assault, or Vehicular Homicide within the previous seven years.

Under legislation enacted in 1994, courts are given authority to order that ignition interlocks be installed on the cars of certain drivers. If a court orders the installation of one of these devices, DOL is to mark the person's driver's license indicating that the person is allowed to operate a car only if it is equipped with such a device.

First-time DUI offenders with a BAC of less than .15 and persons granted a deferred prosecution who have no prior DUI conviction are not subject to an ignition interlock requirement. Ignition interlocks are required in the following situations:

- first time DUI conviction or deferred prosecution with a BAC of at least .15 or due to refusal to take the test, there is no test result;
- second or subsequent DUI conviction;
- first time DUI conviction but the person has a previous deferred prosecution or it is a deferred prosecution the person has a previous DUI conviction.

For first, second and third ignition interlock restrictions, the periods required for use are respectively, one year, five years, and ten years.

Summary of Amended Bill: Drivers who have lost their license either because they refused the BAC test or because they took the test and failed it, may, after a minimum period of license loss, apply to DOL for a temporary restricted license (TRL). The department must determine any minimum amount of suspension or revocation time that may be required in order to remain eligible for federal incentive grants, and it may not issue any TRL until after the minimum period has elapsed. Periods of administrative and criminal suspensions or revocations arising out of the same incident are to run concurrently. DUI offenders who have refused to take the BAC test receive increased periods of revocation upon conviction. The periods of license loss for a first, second and third-time offender, respectively, are two years (instead of one), three years (instead of 900 days), and four years (unchanged).

An occupational driver's license issued to a person whose license is suspended administratively due to failure to appear or pay a traffic ticket, a violation of the financial responsibility laws, or for multiple violations within a specified time period is valid for the period of the suspension or revocation. People who are providing continuing care to a dependent may apply for a temporary restricted or an occupational license.

An applicant for a TRL who has committed an alcohol-related offense must show proof of the installation of an ignition interlock device. A court will also order installation of an ignition interlock as a condition of granting a deferred prosecution petition on any alcohol-dependency based case. The ignition interlock requirement is removed for vehicles owned by a person's employer when the person is required to drive the employer's vehicle as part of his or her employment.

DOL must have interlock vendor notification of an interlock installation before the department may issue any license for which an interlock is required. DOL must also suspend the license of a person required to use an interlock upon learning from the interlock vendor, or otherwise, that the required device is no longer functioning.

Amended Bill Compared to Substitute Bill: A court will order installation of an ignition interlock as a condition of granting a deferred prosecution petition on any alcohol-dependency based case, instead of any alcohol-related case. An occupational driver's license is valid of the period of the suspension or revocation and the two-year limit is removed. The ignition interlock requirement is removed for vehicles owned by a person's employer when the person is required to drive the employer's vehicle as part of his or her employment. People who are providing continuing care to a dependent may apply for a temporary restricted or an occupational license.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Statistics show people are three times more likely to drive drunk again with a suspended license than if their car is equipped with an ignition interlock device. This bill will help kids grow up safe and healthy and will make Washington State one of the leaders in the

nation in this area. It is not good public policy to write laws that cannot be enforced and license suspension cannot be enforced.

Testimony Against: None.

Testified: Rep. Simpson, prime sponsor; Lt. Governor Brad Owen, Pete Youngers, MADD; Geoff Berg, WA Defender Assn., WA Assn. of Criminal Defense Lawyers; Bill Kirk, WA Defender Assn., WA Assn. of Criminal Defense Lawyers.