

SENATE BILL REPORT

E2SHB 3254

As Reported By Senate Committee On:
Judiciary, February 29, 2008
Transportation, March 03, 2008

Title: An act relating to accountability for persons driving under the influence of intoxicating liquor or drugs.

Brief Description: Concerning accountability for persons driving under the influence of intoxicating liquor or drugs.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Simpson, Morrell, Green, Kelley, Kagi and Roberts).

Brief History: Passed House: 2/18/08, 95-0.

Committee Activity: Judiciary: 2/27/08, 2/29/08 [DPA].

Transportation: 3/03/08 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, McDermott, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker, Ranking Minority Member; Berkey, Delvin, Eide, Jacobsen, Kastama, Kilmer, King, Pflug, Sheldon and Spanel.

Staff: Janice Baumgardt (786-7319)

Background: People who are convicted of driving under the influence of intoxicating liquor or any drug (DUI) are required to be restricted by the Department of Licensing (DOL) to driving vehicles equipped with an ignition interlock device (IID) after any applicable period of suspension, revocation, or denial of driving privileges. The restriction is in effect for varying lengths of time. A person convicted of DUI, who has not previously been restricted to driving with an IID, is restricted to driving a vehicle with an IID for a period of one year. For a person who has been previously restricted to driving with an IID, the period of the ignition

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

interlock restraint is five years. If a person has been restricted two times or more to driving with an IID, the period of restriction is ten years. The DOL is required to attach or imprint a notation on the driving record of any person restricted to driving with an IID. It is a misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not equipped with a functioning IID. The device is not required on vehicles owned by the driver's employer and driven during working hours as a condition of employment. Data from the DOL for the years 2005, 2006, and a portion of 2007 shows a "significant difference in the amount of recidivism between those drivers who had the IID installed and those who did not. Only 18 percent of the drivers that installed an IID have a subsequent conviction for an alcohol related offense on their driving record, while over 80 percent of those drivers that did not get an interlock device installed have a second or subsequent offense on record." Under current statutory implied consent provisions, any person who operates a motor vehicle in the state of Washington is deemed to have given consent to a test of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug if arrested for DUI. If the driver refuses to take the test, his or her driver's license will be revoked for at least one year. If the driver submits to the test and it indicates an alcohol concentration of .08 or more, or .02 or more if the driver is under age 21, the driver's license will be suspended for at least 90 days. The arresting officer is required to provide written notice of the right to request a formal hearing before the DOL within 30 days of the notice. A person convicted of an offense for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, or a violation of the implied consent provisions, may submit to the DOL an application for a temporary restricted driver's license.

Summary of Bill (Recommended Amendments): An ignition interlock driver's license (IIDL) is defined as a permit issued to a person by the DOL that allows the operation of a noncommercial motor vehicle with an IID while the person's regular driver's license is suspended, revoked, or denied. Beginning January 1, 2009, any person who is convicted of DUI or any person who has had or will have his or her driver's license suspended, revoked, or denied due to a violation of the implied consent law, may submit to DOL an application for an IIDL. A person is not eligible for such a license if he or she has been convicted of vehicular homicide or vehicular assault within the preceding seven years. DOL must require proof that a functioning IID has been installed on all vehicles operated by the applicant except for vehicles owned by a person's employer and driven as a requirement during working hours. The applicant must submit proof of financial responsibility. DOL will imprint a notation on the driving record of any person restricted by the court or DOL to driving with an IID. Any person convicted of DUI must be required by the court to apply for an IIDL and to have a functioning IID installed on all motor vehicles operated by the person. The device is not required on vehicles owned by the person's employer and driven during working hours. The time period during which the person has a valid IIDL counts on a day-for-day basis toward satisfying the period of time an ignition interlock restriction is required by the court or DOL in connection with a DUI. The court may waive the IID requirement if it makes a specific finding that the devices are not reasonably available in the local area, that the person does not operate a vehicle, or the person is not eligible to receive an IIDL. If the restriction is waived, the court is directed to order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person must pay the cost of the monitoring. The implied consent

provisions require a law enforcement officer who arrests a person for DUI to warn the driver that if his or her driver's license is suspended, revoked, or denied, the driver may be eligible to immediately apply for an IIDL. The officer is also required to serve written notice on the person that the right to a hearing is waived if he or she receives an IIDL. A person who requests a hearing must do so within 20 days after receipt of the notice. A person is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor, if the person operates a motor vehicle while his or her driver's license has been suspended or revoked due to a conviction for violation of the restrictions of an IIDL. A person convicted of a violation of any restriction of an IIDL is subject to a fine of not less than \$50 nor more than \$250, imprisonment for not more than six months, or both fine and imprisonment. The IIDL must be cancelled by DOL if it receives notice that the holder has been convicted of operating a motor vehicle in violation of the license's restrictions or has been convicted of a separate offense that warrants suspension or revocation of a regular driver's license. Persons convicted of DUI are not eligible for temporary restricted driver's licenses. The applicant for an IIDL must pay the cost of installing, removing, and leasing the IID and pay an additional fee of \$20 per month. The payments are made to the ignition interlock company and the additional \$20 is submitted to the DOL by the company. The money is deposited by DOL into the ignition interlock device revolving account. The ignition interlock device revolving account program is created to assist in the monetary costs of installing, removing, and leasing ignition interlock devices for indigent persons who are restricted to use of the device. The ignition interlock device revolving account is an appropriated account to be used for administering and operating this program.

A pilot project is created within the ignition interlock device revolving account program to monitor compliance by people required to use IIDs and by ignition interlock companies and vendors. The project will target at least one county from eastern Washington and one from western Washington. The number of ignition interlock devices that are required to be installed and the number actually installed in the target counties will be reviewed. The project will also work to identify those who are not complying with IID requirements or are repeatedly violating the requirements. Ways to track compliance and reduce noncompliance will be identified.

Any person convicted of an alcohol-related DUI must be required by the court to apply for an IIDL and to have a functioning IID installed on all motor vehicles operated by the person.

This Act is null and void if funding is not provided for it in the Omnibus Transportation Appropriations Act.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Amendments): An ignition interlock driver's license (IIDL) is defined as a permit issued to a person by the DOL that allows the operation of a noncommercial motor vehicle with an IID while the person's regular driver's license is suspended, revoked, or denied. Beginning January 1, 2009, any person who is convicted of DUI or any person who has had or will have his or her driver's license suspended, revoked, or denied due to a violation of the implied consent law, may submit to DOL an application for an IIDL. A person is not eligible for such a license if he or she has been convicted of vehicular homicide or vehicular assault within the preceding seven years. DOL must require proof that a functioning IID has been installed on all vehicles operated by the applicant except for vehicles owned by a

person's employer and driven as a requirement during working hours. The applicant must submit proof of financial responsibility. DOL will imprint a notation on the driving record of any person restricted by the court or DOL to driving with an IID. Any person convicted of DUI must be required by the court to apply for an IIDL and to have a functioning IID installed on all motor vehicles operated by the person. The device is not required on vehicles owned by the person's employer and driven during working hours. The time period during which the person has a valid IIDL counts on a day-for-day basis toward satisfying the period of time an ignition interlock restriction is required by the court or DOL in connection with a DUI. The court may waive the IID requirement if it makes a specific finding that the devices are not reasonably available in the local area, that the person does not operate a vehicle, or the person is not eligible to receive an IIDL. If the restriction is waived, the court is directed to order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person must pay the cost of the monitoring. The implied consent provisions require a law enforcement officer who arrests a person for DUI to warn the driver that if his or her driver's license is suspended, revoked, or denied, the driver may be eligible to immediately apply for an IIDL. The officer is also required to serve written notice on the person that the right to a hearing is waived if he or she receives an IIDL. A person who requests a hearing must do so within 20 days after receipt of the notice. A person is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor, if the person operates a motor vehicle while his or her driver's license has been suspended or revoked due to a conviction for violation of the restrictions of an IIDL. A person convicted of a violation of any restriction of an IIDL is subject to a fine of not less than \$50 nor more than \$250, imprisonment for not more than six months, or both fine and imprisonment. The IIDL must be cancelled by DOL if it receives notice that the holder has been convicted of operating a motor vehicle in violation of the license's restrictions or has been convicted of a separate offense that warrants suspension or revocation of a regular driver's license. Persons convicted of DUI are not eligible for temporary restricted driver's licenses. The applicant for an IIDL must pay the cost of installing, removing, and leasing the IID and pay an additional fee of \$20 per month. The payments are made to the ignition interlock company and the additional \$20 is submitted to the DOL by the company. The money is deposited by DOL into the ignition interlock device revolving account. The ignition interlock device revolving account program is created to assist in the monetary costs of installing, removing, and leasing ignition interlock devices for indigent persons who are restricted to use of the device. The ignition interlock device revolving account is an appropriated account to be used for administering and operating this program.

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Any person convicted of an alcohol-related DUI must be required by the court to apply for an IIDL and to have a functioning IID installed on all motor vehicles operated by the person.

This Act is null and void if funding is not provided for it in the Omnibus Transportation Appropriations Act.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): Removes the language pertaining to creating uniform standards for alcohol and drug assessments of persons applying for an ignition interlock driver's license or petitioning the court for a deferred prosecution. Clarifies that courts are required to order only persons convicted of an alcohol-related DUI or physical control to apply for an ignition interlock driver's license and have an ignition interlock device installed.

A one-time deferred prosecution for a first time DUI offender who does not need alcohol or drug treatment is allowed under certain circumstances. The person must: (1) be evaluated to determine that he or she does not need treatment; (2) have no prior offenses; (3) apply for an ignition interlock drivers license and have an ignition interlock device installed in his or her car for a period of one year; and (4) satisfy the conditions in RCW 10.05.140 – including having proof of insurance. The court may order supervision during the period of the deferral.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed; except section 2, regarding implied consent; section 4, regarding the offense of driving while license suspended; sections 5, 6, and 7, regarding temporary restricted licenses; and sections 10-13, regarding penalties associated with driving under the influence of any liquor or drugs, which take effect January 1, 2009.

Staff Summary of Public Testimony on Engrossed Second Substitute (Judiciary): PRO: This bill is partially the result of the international ignition interlock symposium which was held last summer in Seattle. The three interventions that have been shown to be successful in reducing driving while intoxicated are: (1) zero tolerance; (2) sobriety checkpoints; and (3) the use of technology. This bill employs the technology of ignition interlock devices. People are allowed to legally drive when their regular driver's license is suspended or revoked due to driving while intoxicated if they apply and obtain the ignition interlock driver's license created by this bill.

OTHER: Alcohol and drug treatment programs cannot require a person to sign a release of information in order to obtain the person's case history. It is a violation of federal law. In addition, the authorization could not be made irrevocable.

Persons Testifying (Judiciary): PRO: Representative Goodman, prime sponsor.

OTHER: Melissa Johnson, Association of Alcoholism and Addiction Programs.

Staff Summary of Public Testimony on Recommended Amendments (Transportation):
PRO: We have no concerns with this version of the bill.

OTHER: We have concerns about the amendments added in the Senate Judiciary Committee's version, but not on the version heard in the Senate Transportation Committee. Language dealing with deferred prosecution should follow professional guidelines and be evidence-based.

Persons Testifying (Transportation): PRO: Melissa Johnson, Association of Alcoholism and Addictions Programs.

OTHER: Dave Harris, Chemical Dependency Professionals of Washington State.