

# SENATE BILL REPORT

## SB 5732

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As of February 11, 2009

**Title:** An act relating to traffic infractions for drivers whose licenses or privileges are suspended or revoked.

**Brief Description:** Concerning traffic infractions for drivers whose licenses or privileges are suspended or revoked.

**Sponsors:** Senators Kline, McCaslin, Regala and Hargrove.

**Brief History:**

**Committee Activity:** Judiciary: 2/11/09.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Lidia Mori (786-7755)

**Background:** It is unlawful for any person to drive a motor vehicle in this state while that person's privilege to drive is suspended or revoked. Persons can have their drivers' license suspended for failure to respond to a notice of a traffic infraction or for failure to appear at a requested hearing for a traffic infraction. In Washington, there are approximately 102,000 cases of driving with license suspended in the third degree (DWLS 3) filed annually and approximately 45,000 convictions for this offense.

DWLS 3 is a misdemeanor and it can be committed under a variety of circumstances. A person commits DWLS 3 by driving a motor vehicle when the person's driver's license is suspended or revoked because the person has (1) failed to respond to a notice of traffic infraction; (2) failed to appear at a requested hearing; (3) violated a written promise to appear in court; or (4) failed to comply with the terms of a notice of traffic infraction or citation. There are also several other behaviors which constitute DWLS 3.

The vast majority of courts of limited jurisdiction in Washington do not offer an option of a relicensing diversion program to people who are arrested and/or charged with DWLS 3. The Office of Public Defense conducted a recent survey of the district and municipal courts to determine how they deal with DWLS 3 cases. Approximately 17 percent of the courts that responded offer some sort of relicensing programs. The remainder of the courts handle the cases in the traditional way, with the involvement of a prosecutor, possibly a public defender, and the typical court procedures associated with a criminal case.

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*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.*

Current law directs the Department of Licensing to furnish a certified abstract of a person's driving record to the person named in the abstract. Currently, most courts of limited jurisdiction do not give a copy of a person's driver's abstract to the person named in the abstract.

**Summary of Bill:** A first offense of driving a motor vehicle with a suspended or revoked driver's license that is due to the person's failure to respond to a notice of traffic infraction, failure to appear at a requested hearing, violation of a written promise to appear in court, or failure to comply with a traffic infraction or citation is cited as a traffic infraction. A second such offense is a misdemeanor.

When a person commits DWLS 3 due to failure to appear at a requested hearing or failure to respond or pay a traffic infraction, a court or prosecuting attorney will give a certified abstract of a person's driving record to the person named in the record, in addition to a list of the person's unpaid traffic offense-related fines and contact information for each jurisdiction or collection agency to which the money is owed. This is required in jurisdictions that do not have a relicensing diversion program. A fee of up to \$20 may be imposed by the court.

The superior courts or courts of limited jurisdiction are authorized to participate or provide relicensing diversion programs to persons who commit a second offense of DWLS 3 due to failure to appear at a requested hearing or failure to respond or pay a traffic infraction in counties with a population of less than 30,000 or cities with a population of less than 20,000. Eligibility is limited to violators with not more than three warrants for failure to appear in the last ten years or no more than four violations in the last ten years of DWLS 3 for failure to appear or failure to pay in response to a traffic infraction. The diversion option may be offered at the discretion of the prosecuting attorney before charges are filed or by the court after charges are filed. Participants for whom charges are filed may be charged a fee of up to \$100 to support administration of the program. Counties with a population of 30,000 or more or cities with a population of 20,000 or more must participate or provide a relicensing diversion program to people who commit a second offense of DWLS 3 due to failure to appear at a requested hearing or failure to respond or pay a traffic infraction. The same eligibility requirements and possible fee apply as in those counties or cities with optional relicensing diversion programs. A relicensing diversion program assists drivers with suspended or revoked licenses to regain their license and insurance and to pay their outstanding fines.

Counties and cities with relicensing diversion programs will annually provide the Administrative Office of the Courts (AOC) with information regarding eligibility criteria used for their programs, the number of participants, how many regain their drivers' licenses and insurance, and the total amount of fines collected. The costs of the programs and other information as determined by the office will also be provided. The information is analyzed by AOC and it will recommend a best practices model for relicensing diversion programs.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

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