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SENATE BILL 5732

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State of Washington                      61st Legislature                      2009 Regular Session

By Senators Kline, McCaslin, Regala, and Hargrove

Read first time 01/29/09. Referred to Committee on Judiciary.

1            AN ACT Relating to traffic infractions for drivers whose licenses  
2 or privileges are suspended or revoked; amending RCW 46.20.342; adding  
3 a new section to chapter 46.20 RCW; and prescribing penalties.

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

5            **Sec. 1.** RCW 46.20.342 and 2008 c 282 s 4 are each amended to read  
6 as follows:

7            (1) It is unlawful for any person to drive a motor vehicle in this  
8 state while that person is in a suspended or revoked status or when his  
9 or her privilege to drive is suspended or revoked in this or any other  
10 state. Any person who has a valid Washington driver's license is not  
11 guilty of a violation of this section.

12            (a) A person found to be an habitual offender under chapter 46.65  
13 RCW, who violates this section while an order of revocation issued  
14 under chapter 46.65 RCW prohibiting such operation is in effect, is  
15 guilty of driving while license suspended or revoked in the first  
16 degree, a gross misdemeanor. Upon the first such conviction, the  
17 person shall be punished by imprisonment for not less than ten days.  
18 Upon the second conviction, the person shall be punished by  
19 imprisonment for not less than ninety days. Upon the third or

1 subsequent conviction, the person shall be punished by imprisonment for  
2 not less than one hundred eighty days. If the person is also convicted  
3 of the offense defined in RCW 46.61.502 or 46.61.504, when both  
4 convictions arise from the same event, the minimum sentence of  
5 confinement shall be not less than ninety days. The minimum sentence  
6 of confinement required shall not be suspended or deferred. A  
7 conviction under this subsection does not prevent a person from  
8 petitioning for reinstatement as provided by RCW 46.65.080.

9 (b) A person who violates this section while an order of suspension  
10 or revocation prohibiting such operation is in effect and while the  
11 person is not eligible to reinstate his or her driver's license or  
12 driving privilege, other than for a suspension for the reasons  
13 described in (c) of this subsection, is guilty of driving while license  
14 suspended or revoked in the second degree, a gross misdemeanor. This  
15 subsection applies when a person's driver's license or driving  
16 privilege has been suspended or revoked by reason of:

17 (i) A conviction of a felony in the commission of which a motor  
18 vehicle was used;

19 (ii) A previous conviction under this section;

20 (iii) A notice received by the department from a court or diversion  
21 unit as provided by RCW 46.20.265, relating to a minor who has  
22 committed, or who has entered a diversion unit concerning an offense  
23 relating to alcohol, legend drugs, controlled substances, or imitation  
24 controlled substances;

25 (iv) A conviction of RCW 46.20.410, relating to the violation of  
26 restrictions of an occupational driver's license, a temporary  
27 restricted driver's license, or an ignition interlock driver's license;

28 (v) A conviction of RCW 46.20.345, relating to the operation of a  
29 motor vehicle with a suspended or revoked license;

30 (vi) A conviction of RCW 46.52.020, relating to duty in case of  
31 injury to or death of a person or damage to an attended vehicle;

32 (vii) A conviction of RCW 46.61.024, relating to attempting to  
33 elude pursuing police vehicles;

34 (viii) A conviction of RCW 46.61.500, relating to reckless driving;

35 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a  
36 person under the influence of intoxicating liquor or drugs;

37 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;

38 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;

1 (xii) A conviction of RCW 46.61.527(4), relating to reckless  
2 endangerment of roadway workers;

3 (xiii) A conviction of RCW 46.61.530, relating to racing of  
4 vehicles on highways;

5 (xiv) A conviction of RCW 46.61.685, relating to leaving children  
6 in an unattended vehicle with motor running;

7 (xv) A conviction of RCW 46.61.740, relating to theft of motor  
8 vehicle fuel;

9 (xvi) A conviction of RCW 46.64.048, relating to attempting,  
10 aiding, abetting, coercing, and committing crimes;

11 (xvii) An administrative action taken by the department under  
12 chapter 46.20 RCW; or

13 (xviii) A conviction of a local law, ordinance, regulation, or  
14 resolution of a political subdivision of this state, the federal  
15 government, or any other state, of an offense substantially similar to  
16 a violation included in this subsection.

17 (c) A person who violates this section when his or her driver's  
18 license or driving privilege is, at the time of the violation,  
19 suspended or revoked solely because (i) the person must furnish proof  
20 of satisfactory progress in a required alcoholism or drug treatment  
21 program, (ii) the person must furnish proof of financial responsibility  
22 for the future as provided by chapter 46.29 RCW, (iii) the person has  
23 failed to comply with the provisions of chapter 46.29 RCW relating to  
24 uninsured accidents, (iv) ~~((the person has failed to respond to a  
25 notice of traffic infraction, failed to appear at a requested hearing,  
26 violated a written promise to appear in court, or has failed to comply  
27 with the terms of a notice of traffic infraction or citation, as  
28 provided in RCW 46.20.289, (v))~~) the person has committed an offense in  
29 another state that, if committed in this state, would not be grounds  
30 for the suspension or revocation of the person's driver's license,  
31 ~~((~~(vi)~~))~~ (v) the person has been suspended or revoked by reason of one  
32 or more of the items listed in (b) of this subsection, but was eligible  
33 to reinstate his or her driver's license or driving privilege at the  
34 time of the violation, ~~((~~or~~-(vii))~~) (vi) the person has received  
35 traffic citations or notices of traffic infraction that have resulted  
36 in a suspension under RCW 46.20.267 relating to intermediate drivers'  
37 licenses, or (vii) the person has committed a violation under (d) of

1 this subsection, or any combination of (c)(i) through (vii) of this  
2 subsection, is guilty of driving while license suspended or revoked in  
3 the third degree, a misdemeanor.

4 (d) It is a traffic infraction for any person to violate this  
5 section when his or her driver's license or driving privilege is, at  
6 the time of the violation, suspended or revoked solely because the  
7 person has failed to respond to a notice of traffic infraction, failed  
8 to appear at a requested hearing, violated a written promise to appear  
9 in court, or has failed to comply with the terms of a notice of traffic  
10 infraction or citation, as provided in RCW 46.20.289. Violation of  
11 this section is a misdemeanor if a person has a previous traffic  
12 infraction for violating this section when his or her driver's license  
13 or driving privilege is, at the time of the violation, suspended or  
14 revoked solely because the person has failed to respond to a notice of  
15 traffic infraction, failed to appear at a requested hearing, violated  
16 a written promise to appear in court, or has failed to comply with the  
17 terms of a notice of traffic infraction or citation, as provided in RCW  
18 46.20.289.

19 (2) Upon receiving a record of conviction of any person or upon  
20 receiving an order by any juvenile court or any duly authorized court  
21 officer of the conviction of any juvenile under this section, the  
22 department shall:

23 (a) For a conviction of driving while suspended or revoked in the  
24 first degree, as provided by subsection (1)(a) of this section, extend  
25 the period of administrative revocation imposed under chapter 46.65 RCW  
26 for an additional period of one year from and after the date the person  
27 would otherwise have been entitled to apply for a new license or have  
28 his or her driving privilege restored; or

29 (b) For a conviction of driving while suspended or revoked in the  
30 second degree, as provided by subsection (1)(b) of this section, not  
31 issue a new license or restore the driving privilege for an additional  
32 period of one year from and after the date the person would otherwise  
33 have been entitled to apply for a new license or have his or her  
34 driving privilege restored; or

35 (c) Not extend the period of suspension or revocation if the  
36 conviction was under subsection (1)(c) of this section. If the  
37 conviction was under subsection (1)(a) or (b) of this section and the

1 court recommends against the extension and the convicted person has  
2 obtained a valid driver's license, the period of suspension or  
3 revocation shall not be extended.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20 RCW  
5 to read as follows:

6 (1)(a) A person who violates RCW 46.20.342(1)(d) in a jurisdiction  
7 that does not have a relicensing diversion program shall be provided  
8 with a certified abstract of his or her driving record by the court or  
9 the prosecuting attorney, in addition to a list of his or her unpaid  
10 traffic offense related fines and the contact information for each  
11 jurisdiction or collection agency to which money is owed.

12 (b) A fee of up to twenty dollars may be imposed by the court in  
13 addition to any fee required by the department for provision of the  
14 driving abstract.

15 (2)(a) Superior courts or courts of limited jurisdiction in  
16 counties with a population less than thirty thousand or cities with a  
17 population less than twenty thousand are authorized to participate or  
18 provide relicensing diversion programs to persons who violate RCW  
19 46.20.342(1)(d).

20 (b) Eligibility for the diversion program shall be limited to  
21 violators with no more than three warrants for failure to appear in the  
22 last ten years or no more than four violations of RCW 46.20.342(1)(d)  
23 in the last ten years.

24 (c) The diversion option may be offered at the discretion of the  
25 prosecuting attorney before charges are filed, or by the court after  
26 charges are filed.

27 (d) A relicensing diversion program that is structured to occur  
28 after charges are filed may charge participants a one-time fee of up to  
29 one hundred dollars, which is not subject to chapters 3.50, 3.62, and  
30 35.20 RCW, and shall be used to support administration of the program.  
31 The fee of up to one hundred dollars shall be included in the total to  
32 be paid by the participant in the relicensing diversion program.

33 (3)(a) Superior courts or courts of limited jurisdiction in  
34 counties with a population of thirty thousand or more or cities with a  
35 population of twenty thousand or more are required to participate or  
36 provide relicensing diversion programs to persons who violate RCW  
37 46.20.342(1)(d).

1 (b) Eligibility for the diversion program shall be limited to  
2 violators with no more than three warrants for failure to appear in the  
3 last ten years or no more than four violations of RCW 46.20.342(1)(d)  
4 in the last ten years.

5 (c) The diversion option may be offered at the discretion of the  
6 prosecuting attorney before charges are filed, or by the court after  
7 charges are filed.

8 (d) A relicensing diversion program that is structured to occur  
9 after charges are filed may charge participants a one-time fee of up to  
10 one hundred dollars, which is not subject to chapters 3.50, 3.62, and  
11 35.20 RCW, and shall be used to support administration of the program.  
12 The fee of up to one hundred dollars shall be included in the total to  
13 be paid by the participant in the relicensing diversion program.

14 (4) A relicensing diversion program shall be designed to assist  
15 suspended drivers to regain their license and insurance and pay  
16 outstanding fines.

17 (5)(a) Counties and cities that operate relicensing diversion  
18 programs shall provide information to the administrative office of the  
19 courts on an annual basis regarding the eligibility criteria used for  
20 the program, the number of referrals from law enforcement, the number  
21 of participants accepted into the program, the number of participants  
22 who regain their driver's license and insurance, the total amount of  
23 fines collected, the costs associated with the program, and other  
24 information as determined by the office.

25 (b) The administrative office of the courts is directed to compile  
26 and analyze the data required to be submitted in this section and  
27 develop recommendations for a best practices model for relicensing  
28 diversion programs.

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