

# HOUSE BILL REPORT

## SSB 5195

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**As Passed House:**  
April 4, 2011

**Title:** An act relating to requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions.

**Brief Description:** Requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Kline, Regala and Hargrove).

**Brief History:**

**Committee Activity:**

Judiciary: 3/2/11, 3/10/11 [DP].

**Floor Activity:**

Passed House: 4/4/11, 94-0.

**Brief Summary of Substitute Bill**

- Provides that the prosecuting attorney may require certain violations of Driving While License Suspended or Revoked in the third degree to be referred to the prosecutor's office for consideration of filing an information or entry into a pre-charge diversion program.

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**HOUSE COMMITTEE ON JUDICIARY**

**Majority Report:** Do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

**Staff:** Edie Adams (786-7180).

**Background:**

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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.*

A person's driver's license may be suspended or revoked for a variety of reasons, including a conviction for certain motor vehicle-related offenses, failing to maintain liability insurance, and failing to respond to a traffic infraction or appear at a requested hearing.

It is a crime for a person to drive a motor vehicle in this state while that person's privilege to drive is suspended or revoked. There are three degrees of the crime of Driving While License Suspended or Revoked (DWLS), which are dependent on the reason the person's license was suspended or revoked. First-degree DWLS involves driving after the license was revoked for being an habitual traffic offender. Second-degree DWLS involves driving following the suspension or revocation of a license for driving under the influence of alcohol or drugs or other relatively serious traffic offenses.

Third-degree DWLS (DWLS 3) is a misdemeanor offense and involves driving after a license is suspended or revoked for secondary reasons such as: (1) failure to respond to a notice of traffic infraction; (2) failure to appear at a requested hearing; (3) violation of a written promise to appear in court; or (4) failure to comply with the terms of a notice of traffic infraction or citation, in addition to a variety of other behaviors. According to the Administrative Office of the Courts, there are approximately 102,000 DWLS 3 cases filed annually in the courts.

Criminal charges are generally brought by the prosecutor by the filing of an information. However, under both a statute and court rule, a law enforcement officer can directly file a criminal charge against a person who is alleged to have committed a misdemeanor or gross misdemeanor offense by filing with the court a criminal citation and notice to appear. Criminal charges for DWLS 3 are often initiated by law enforcement officers in this manner.

Some cities and counties have established diversion programs or relicensing programs for persons who have DWLS 3 offenses to assist drivers with suspended or revoked licenses in paying their outstanding fines and regaining their licenses. In 2009 legislation was enacted that authorized courts to participate in or provide relicensing diversion programs to persons who commit DWLS 3 due to failure to respond to a notice of traffic infraction, failure to appear at a requested hearing, violation of a promise to appear in court, or failure to comply with the terms of a notice of traffic infraction or citation. The legislation established eligibility requirements and provided that 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.

#### **Summary of Bill:**

The prosecuting attorney may require that certain violations of the crime of DWLS 3 be referred to the prosecutor's office for a determination of whether to file an information or enter into a pre-charge diversion program for the offense. This provision applies to DWLS 3 offenses where the person's license was suspended or revoked due to 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 the terms of a notice of traffic infraction.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill gives prosecutors discretion to file DWLS 3 charges rather than having them filed automatically. It only applies to DWLS 3 cases that are based on failure to pay tickets or failure to appear at hearings. Some DWLS 3 cases do belong in court and the prosecutor can file charges in those cases. The majority of the cases are more appropriately dealt with in relicensing programs to help people get their licenses back so they are insurable.

Although there will be an increase cost for prosecutors who elect to do this, overall the bill will save money by decreasing the need for expensive court hearings and public defender costs. More importantly it will allow courts and prosecutors to focus their resources on domestic violence and other important public safety cases. The volume of DWLS 3 cases results in a huge drain on our resources; they represent 30 percent of the caseload in district courts. The City of Seattle is doing something similar and they have reduced the number of cases filed in court by 67 percent.

(Opposed) None.

**Persons Testifying:** Senator Kline, prime sponsor; Brain Enslow, Washington State Association of Counties; and Tom McBride, Washington Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** None.