

# SENATE BILL REPORT

## SSB 5195

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As Passed Senate, February 9, 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: 1/19/11, 1/26/11 [DPS].

Passed Senate: 2/09/11, 46-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5195 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Kohl-Welles and Roach.

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

**Background:** Driving while license suspended or revoked (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.

There are approximately 100,000 cases of DWLS 3 filed annually. Because DWLS 3 is a criminal offense, every driver that is either cited and released, or booked into custody is given a court date. In prosecuting the case, the prosecutor must provide discovery to the defense attorney, subpoena the Department of Licensing to establish the status of the defendant's driving privilege, and subpoena the law enforcement officer who noticed the

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driving behavior. Many of these defendants are eligible for a public defender due to the defendant's economic status.

**Summary of Substitute Bill:** Violations of driving while license suspended in the third degree due to a 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 the terms of a notice of traffic infraction or citation may be referred to the prosecutor's office so a determination can be made as to whether to file an information or divert the case for entry into a precharge diversion program.

**Appropriation:** None.

**Fiscal Note:** Requested on January 18, 2011.

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

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

**Staff Summary of Public Testimony on Original Bill:** PRO: Seattle is using the policy contained in this bill and it has reduced third degree driving while license suspended (DWLS-3) cases by one third. Does it make sense to try to collect a fine of maybe a couple hundred dollars, when there's no clear public safety risk, and we would spend much more than that to try to collect it? Defendants in DWLS-3 cases need to be led to the payment window by a real person; it doesn't work to just tell them to pay their tickets. Seattle used to have such a person but, due to budget cuts, the person is gone. DWLS-3 cases are crushing the misdemeanor courts in this state. All this bill would do is make it clear the prosecutor makes the decision to go forward, rather than the police officer. In one-third of these cases, the prosecutor may say we'll let the court deal with the underlying ticket rather than deal with a new case. There are 300,000 misdemeanor cases in Washington; 100,000 are for DWLS-3. What this bill allows prosecutors to do is what they already do in other cases.

CON: These people fail to signal before a turn, maybe have a tail light out, they aren't a risk to the public. One-third of misdemeanor cases are DWLS-3 and we're putting people behind bars for not having the money to pay their tickets. It's a waste of money to chase these people who can't pay their fines.

OTHER: There are some concerns about having the prosecuting attorney have to review every DWLS case. We don't want to overwhelm prosecuting attorneys in counties where there's only one prosecuting attorney. We would like to have language letting the prosecuting attorney waive this review.

**Persons Testifying:** PRO: Peter Holmes, Richard Greene, Seattle City attorneys; Brian Enslow, WA State Assn. of Counties; Bob Boruchowitz, WA Defender Assn.; WA Assn. of Criminal Defense Lawyers.

CON: Tom McBride, WA Assn. of Prosecuting Attorneys; Arthur West.

OTHER: Candice Bock, Assn. of WA Cities.