## HB 1282 - H AMD 158 By Representative Irwin

## NOT CONSIDERED 12/23/2019

- 1 Strike everything after the enacting clause and insert the 2 following:
- 3 "Sec. 1. RCW 46.20.289 and 2016 c 203 s 6 are each amended to 4 read as follows:
- 5 <u>(1)</u> The department shall suspend all driving privileges of a person:
- 7 (a) (i) When the department receives notice from a court under RCW ((46.63.070(6), 46.63.110(6), or)) 46.64.025 that the person has 8 9 ((failed to respond to a notice of traffic infraction for a moving violation, failed to appear at a requested hearing for a moving 10 11 violation, violated a written promise to appear in court for a notice of infraction for a moving violation, or has)) failed to comply with 12 the terms of a ((notice of traffic infraction,)) traffic-related 13 14 criminal complaint  $((\tau))$  or <u>criminal</u> citation ((for a moving))15 violation,));
  - (ii) Upon the expiration date of that person's driver's license under RCW 46.20.181, if the person's driver's license and driving privileges have been in provisional status under subsection (4) of this section for ninety days or longer and if the department has not received (A) a certificate from the court showing that the case has been adjudicated, or (B) notification from the court that the person has entered into a payment plan as described under RCW 46.63.110(6), provided the department has not also received notice from the court of the person's subsequent failure to meet the conditions of the plan; or
  - (iii) When the person's driver's license and driving privileges are in provisional status for any length of time and the person receives a notice and warning of driver's license and driving privileges suspension from a law enforcement officer under subsection (5) of this section and the department has not received (A) a certificate from the court showing that the case has been adjudicated, or (B) notification from the court that the person has

1617

1819

2021

22

23

2425

26

27

28

29

30

entered into a payment plan as described under RCW 46.63.110(6), provided the department has not also received notice from the court of the person's subsequent failure to meet the conditions of the plan within ninety days of receiving the notice of driver's license and driving privileges suspension; or

- (b) When the department receives notice from another state under Article IV of the nonresident violator compact under RCW 46.23.010 or from a jurisdiction that has entered into an agreement with the department under RCW 46.23.020, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005.
- (2) A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges in accordance with subsection (1)(a) of this section until the person provides evidence from the court that all penalties and restitution have been paid.
- (3) A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.
- (4) (a) When the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction for a moving violation, failed to appear at a requested hearing for a moving violation, violated a written promise to appear in court for a notice of infraction for a moving violation, or has failed to comply with the terms of a notice of traffic infraction or citation for a moving violation that is not classified as a criminal offense, the department must place the person's driver's license and driving privileges in provisional status.
- (b) The department must remove a person's driver's license and driving privileges from provisional status when the department has received a certificate from the court showing that the case has been adjudicated.
- (c) The renewal of a person's driver's license under RCW
  40 46.20.181 is only permitted when a person's driver's license and
  Code Rev/AI:amh
  2 H-2287.2/19 2nd draft

- driving privileges are in provisional status if the department receives notification from the court that the person has entered into a payment plan as described under RCW 46.63.110(6) and the department has not also received notice from the court of the person's subsequent failure to meet the conditions of the plan.
- 6 (5) When a law enforcement officer issues a citation under RCW 7 46.63.030(1) (a), (b), or (c) to a person whose driver's license and driving privileges are in provisional status under subsection (4) of 8 this section, the law enforcement officer must issue a notice in-9 person informing the person of the provisional status of the person's 10 driver's license and driving privileges and providing a warning of 11 12 the pending suspension of the person's driver's license and driving privileges. The notice and warning of pending driver's license and 13 14 driving privileges suspension must provide notification that the person has ninety days for the case to be adjudicated or for the 15 person to enter into a payment plan as described under RCW 16 17 46.63.110(6). This subsection is not applicable to a person whose driver's license and driving privileges are in provisional status and 18 19 who is enrolled in a payment plan under RCW 46.63.110(6) and is in 20 compliance with its terms.
  - (6) When the department notifies a driver's license holder whose driver's license and driving privileges are in provisional status that the person's driver's license is required to be renewed under RCW 46.20.181, the department must include a notice and warning of pending driver's license and driving privileges suspension with the renewal notification provided. The notice and warning of pending driver's license and driving privileges suspension must provide notification to the person that, before the person's driver's license can be renewed, the case must be adjudicated or the person must enter into a payment plan as described under RCW 46.63.110(6). The notification to a person whose driver's license and driving privileges are in provisional status and who is enrolled in a payment plan under RCW 46.63.110(6) and is in compliance with its terms must clearly state that the person's driver's license and driving privileges are not subject to suspension as long as the person remains compliant with the terms of the payment plan.
  - (7) A driver's license in provisional status is a valid driver's license under this chapter and all of the rights and restrictions applicable to a driver's license issued under this chapter remain

2

4

5

2122

23

24

25

26

2728

29

30

3132

33

34

35 36

37

- 1 applicable to a driver's license in provisional status except as
- 2 specified in this section.

1415

1617

- 3 **Sec. 2.** RCW 46.20.291 and 2016 c 203 s 5 are each amended to 4 read as follows:
- The department is authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:
- 8 (1) Has committed an offense for which mandatory revocation or 9 suspension of license is provided by law;
- 10 (2) Has, by reckless or unlawful operation of a motor vehicle, 11 caused or contributed to an accident resulting in death or injury to 12 any person or serious property damage;
  - (3) Has been convicted of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws or a disregard for the safety of other persons on the highways;
- 18 (4) Is incompetent to drive a motor vehicle under RCW 19 46.20.031(3);
- (5) Has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction, criminal complaint, or citation, ((as)) and has met the additional criteria for driver's license and driving privileges suspension provided in RCW 46.20.289(1)(a), where applicable;
  - (6) Is subject to suspension under RCW 46.20.305 or 9A.56.078;
- 28 (7) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.0921; or
- 30 (8) Has been certified by the department of social and health 31 services as a person who is not in compliance with a child support 32 order or a residential or visitation order as provided in RCW 33 74.20A.320.
- 34 **Sec. 3.** RCW 46.20.342 and 2015 c 149 s 1 are each amended to 35 read as follows:
- 36 (1) It is unlawful for any person to drive a motor vehicle in 37 this state while that person is in a suspended or revoked status or 38 when his or her privilege to drive is suspended or revoked in this or Code Rev/AI:amh

  4 H-2287.2/19 2nd draft

any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

1

2

19

2021

22

23

2425

26

2728

29

30

33

34

35

36

37

- (a) A person found to be a habitual offender under chapter 46.65 3 RCW, who violates this section while an order of revocation issued 4 under chapter 46.65 RCW prohibiting such operation is in effect, is 5 6 guilty of driving while license suspended or revoked in the first 7 degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. 8 Upon the second conviction, the person shall be punished by 9 imprisonment for not less than ninety days. Upon the third or 10 11 subsequent conviction, the person shall be punished by imprisonment 12 for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when 13 both convictions arise from the same event, the minimum sentence of 14 confinement shall be not less than ninety days. The minimum sentence 15 16 of confinement required shall not be suspended or deferred. A 17 conviction under this subsection does not prevent a person from 18 petitioning for reinstatement as provided by RCW 46.65.080.
  - (b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:
- 31 (i) A conviction of a felony in the commission of which a motor 32 vehicle was used;
  - (ii) A previous conviction under this section;
  - (iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;
- 39 (iv) A conviction of RCW 46.20.410, relating to the violation of 40 restrictions of an occupational driver's license, a temporary Code Rev/AI:amh 5 H-2287.2/19 2nd draft

- 1 restricted driver's license, or an ignition interlock driver's license;
- 3 (v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;
- 5 (vi) A conviction of RCW 46.52.020, relating to duty in case of 6 injury to or death of a person or damage to an attended vehicle;
- 7 (vii) A conviction of RCW 46.61.024, relating to attempting to 8 elude pursuing police vehicles;
- 9 (viii) A conviction of RCW 46.61.212(4), relating to reckless 10 endangerment of emergency zone workers;
- 11 (ix) A conviction of RCW 46.61.500, relating to reckless driving;
- 12 (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;
- 14 (xi) A conviction of RCW 46.61.520, relating to vehicular 15 homicide;
- 16 (xii) A conviction of RCW 46.61.522, relating to vehicular 17 assault;
- 18 (xiii) A conviction of RCW 46.61.527(4), relating to reckless 19 endangerment of roadway workers;
- 20 (xiv) A conviction of RCW 46.61.530, relating to racing of 21 vehicles on highways;
- 22 (xv) A conviction of RCW 46.61.685, relating to leaving children 23 in an unattended vehicle with motor running;
- 24 (xvi) A conviction of RCW 46.61.740, relating to theft of motor 25 vehicle fuel;
- 26 (xvii) A conviction of RCW 46.64.048, relating to attempting, 27 aiding, abetting, coercing, and committing crimes;
- 28 (xviii) An administrative action taken by the department under 29 chapter 46.20 RCW;
- 30 (xix) A conviction of a local law, ordinance, regulation, or 31 resolution of a political subdivision of this state, the federal 32 government, or any other state, of an offense substantially similar 33 to a violation included in this subsection; or
- (xx) A finding that a person has committed a traffic infraction under RCW 46.61.526 and suspension of driving privileges pursuant to RCW 46.61.526 (4)(b) or (7)(a)(ii).
- 37 (c) A person who violates this section when his or her driver's
  38 license or driving privilege is, at the time of the violation,
  39 suspended or revoked solely because (i) the person must furnish proof
  40 of satisfactory progress in a required alcoholism or drug treatment
  Code Rev/AI:amh
  6 H-2287.2/19 2nd draft

- program, (ii) the person must furnish proof of financial 1 responsibility for the future as provided by chapter 46.29 RCW, (iii) 2 the person has failed to comply with the provisions of chapter 46.29 3 RCW relating to uninsured accidents, (iv) the person has failed to 4 respond to a notice of traffic infraction, failed to appear at a 5 6 requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction 7 or citation((, as)) and has met the additional criteria for driver's 8 license and driving privileges suspension provided 9 46.20.289(1)(a), where applicable, (v) the person has committed an 10 offense in another state that, if committed in this state, would not 11 12 be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of 13 one or more of the items listed in (b) of this subsection, but was 14 eligible to reinstate his or her driver's license or driving 15 16 privilege at the time of the violation, (vii) the person has received 17 traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' 18 licenses, or (viii) the person has been certified by the department 19 of social and health services as a person who is not in compliance 20 with a child support order as provided in RCW 74.20A.320, or any 21 22 combination of (c)(i) through (viii) of this subsection, is guilty of 23 driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not 24 25 considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition 26 27 interlock driver's license but did not obtain such a license.
  - (2) Upon receiving a record of conviction <u>or infraction</u> of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction <u>or infraction</u> of any juvenile under this section, the department shall:

29

30 31

32

33

34

35

36

37

3839

- (a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or
- (b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an Code Rev/AI:amh

  7 H-2287.2/19 2nd draft

- additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or
- 4 (c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.
- 10 **Sec. 4.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read 11 as follows:
  - (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.
- 16 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) 17 is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) 18 is five hundred dollars for each offense. No penalty assessed under 19 this subsection (2) may be reduced.
  - (3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.
  - (4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.
  - (5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of

1415

20

21

22

2324

25

2627

28

2930

31

32

33

3435

36

37

motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

- (6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial the court shall notify the department ((infraction)) person has ((been adjudicated)) entered into a payment plan, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.
- (a) (i) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges if the criteria provided in

1

2

4

5

7

8

10 11

12

13

14

1516

17

18

19

2021

22

2324

25

26

27

2829

30 31

32

33

34

3536

37

38

- 1 RCW 46.20.289 for driver's license and driving privileges suspension 2 are met.
  - (ii) The court must notify the department when a person whom it notified the department entered into a payment plan completes the terms of the payment plan and satisfies the obligations to the court for which the payment plan was established.
  - (b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges if the criteria provided in RCW 46.20.289 for driver's license and driving privileges suspension are met.
  - (c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.
  - (d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.
  - (e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.
  - (7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

- (a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;
- (b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and
- 9 (c) A fee of two dollars per infraction. Revenue from this fee 10 shall be forwarded to the state treasurer for deposit in the 11 traumatic brain injury account established in RCW 74.31.060.
  - (8) (a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.
  - (b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.
  - (9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.
- 37 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two 38 hundred fifty dollars for the first violation; (b) five hundred 39 dollars for the second violation; and (c) seven hundred fifty dollars 40 for each violation thereafter.

## EFFECT: (1) Strikes the bill in its entirety.

- (2) Modifies the criteria for suspending a person's driver's license, when he or she fails to respond to a notice of traffic infraction, fails to appear at a requested hearing, violates a written promise to appear in court, or fails to comply with the terms of a notice of traffic infraction or citation (noncriminal only) by establishing a provisional status for driver's licenses and driving privileges for these individuals and requiring the Department of Licensing (DOL) and/or law enforcement officers to provide specific forms of notice to a person with a driver's license in provisional status before his or her driver's license can be suspended.
- (3) Requires a person's driver's license remain in provisional status until the department is notified by a court that the person's case has been adjudicated.
- (4) Disallows driver's license renewals for individuals whose driver's licenses are in provisional status for 90 days or longer (by the time of driver's license expiration) and who are not in compliance with the terms of a court payment plan at the time of renewal, and requires the DOL to suspend a person's driving privileges if his or her driver's license is in provisional status if he or she is out of compliance with a payment plan at the time of the driver's license's expiration.
- (5) Mandates that, when the DOL notifies a driver's license holder whose driver's license is in provisional status that the person's driver's license is coming up for renewal, the DOL include a notice and warning of the pending driver's license and driving privileges suspension with the renewal notification provided that includes notification that the person's case must be adjudicated or the person must enter into a payment plan before renewal, and inform those driver's license holders who are in compliance with a payment plan that their driver's licenses are not subject to suspension as long as they remain in compliance with the payment plan.
- (6) Mandates that the DOL suspend a person's driver's license when it is in provisional status and when the person receives a notice and warning of driver's license suspension from a law enforcement officer in person while being cited for a traffic infraction if the person's case is not adjudicated or if the person does not enter into a payment plan within 90 days of receiving the notice.
- (7) Requires that a law enforcement officer who issues a citation in person to an individual whose driver's license and driving privileges are in provisional status and who is not in compliance with a court payment plan also issue a notice informing the individual of the provisional status of the person's driver's license and driving privileges that includes a warning of the pending suspension of the person's driver's license if the person's case is not adjudicated or if the person does not enter into a payment plan within 90 days.
- (8) Clarifies that a driver's license in provisional status is a valid driver's license with all of the rights and restrictions applicable to other driver's licenses, except as specified above.

(9) Requires a court to notify the DOL when a person whom it notified the DOL entered into a payment plan completes the terms of the payment plan.

--- END ---