

NO. 94284-6

**SUPREME COURT
OF THE STATE OF WASHINGTON**

STEPHEN CHRISS JOHNSON,

Petitioner,

v.

WASHINGTON STATE DEPARTMENT OF
LICENSING and PAT KOHLER, in her official
capacity,

Respondents.

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

This Court should deny Johnson's petition for discretionary review because the Court of Appeals properly affirmed summary judgment dismissal of his case under a straightforward application of an unambiguous statute. The Court of Appeals held former RCW 46.20.289 authorized the Department of Licensing to twice suspend Johnson's driving privilege, and subsequent statutory amendments did not reverse the suspension. *Johnson v. Dep't of Licensing*, No. 74131-4, slip op. (Wash. Ct. App. February 21, 2017). Further appellate review of an unambiguous statute is unwarranted because Johnson has not shown that interpretation of the amendments presents an issue of substantial public interest under RAP 13.4(b).

II. COUNTERSTATEMENT OF THE ISSUES

For the reasons set forth below, the issues raised in Johnson's Petition for Review are not appropriate for review by this Court under RAP 13.4(b)(4). If review is granted, the issues would be:

1. Effective June 1, 2013, the Legislature ended the requirement that the Department suspend the driver's licenses of persons who fail to pay penalties or fines associated with non-moving violations. Absent any legislative intent that the amendments apply retroactively or mandate that the Department release previously imposed suspensions, was the Department required to reinstate drivers previously suspended for non-moving violations?
2. In *State v. Johnson*, 179 Wn.2d 534, 315 P.3d 1090 (2014), the Washington Supreme Court held that the failure to pay a traffic infraction penalty is a failure to "comply with the terms of a notice of traffic infraction or citation under [former] RCW 46.20.389," and thus Johnson's conviction for driving while license suspended in the third degree was valid under former RCW 46.20.342(1)(c)(iv) (2008). Based on *Johnson*, and given that driving with a suspended license is a moving violation for which Johnson has not paid the fine, does Johnson's claim fail because he failed to comply with the terms of a notice of traffic infraction or citation?
3. A person may qualify for a writ of prohibition only when there is no other plain, speedy, or adequate remedy. Prior to a suspension for a failure to pay a penalty or fine from a traffic infraction or citation, a person may request administrative review. If a suspension is imposed, the suspension ends when the Department receives a certificate of adjudication from the court that imposed the fine. Has Johnson shown that he lacks a plain, speedy, or adequate remedy when he could have requested an administrative review before the Department or applied for a certificate of adjudication in his existing Lewis County District Court cases?

III. COUNTERSTATEMENT OF THE CASE

Johnson's driver's license was suspended and has not been reinstated for failing to pay penalties and fines associated with two

separate traffic matters.¹ Clerk's Papers (CP) 26. In 2007, law enforcement cited Johnson for driving without a valid license. CP 26, 32; *Johnson*, slip op. at 2. The Lewis County District Court found Johnson committed the traffic infraction and imposed a \$260 penalty. CP 32; *Johnson*, slip op. at 2. When Johnson failed to pay the penalty, the district court notified the Department that Johnson had failed to make a required payment of a fine or court cost. CP 26; *Johnson*, slip op. at 2. The Department issued Johnson a Notice of Suspension indicating that his driver's license would be suspended absent a request for an administrative review. CP 35; *Johnson*, slip op. at 2-3. The record does not indicate that Johnson requested an administrative review or paid the penalty. The suspension went into effect on November 1, 2007. CP 29; *Johnson*, slip op. at 3.

Despite the suspension of his driver's license, Johnson continued to drive. He was criminally cited in 2009 for driving while license suspended in the third degree, a moving violation. CP 33 (copy of citation sent to Department), CP 93-94 (copy of citation issued to Johnson); *Johnson*, slip op. at 3. Johnson was convicted of the crime and did not pay the \$805.50 fine imposed by Lewis County District Court. CP 26-27, 36;

¹ For purposes of RCW 46.20.289 and this briefing, a notice of infraction is a civil notice imposing penalties for traffic violations. RCW 46.63.020, .110. A citation is a criminal traffic violation that may result in imposition of fines. RCW 46.64.015.

Johnson, slip op. at 4. The district court notified the Department that Johnson had failed to make a required payment of a fine or court cost. CP 26; *Johnson*, slip op. at 4. In 2009, the Department issued another notice of suspension to Johnson for his failure to pay the fine for this crime, indicating that this separate suspension would go into effect absent a request for administrative review. CP 36; *Johnson*, slip op. at 4. The record does not indicate that Johnson requested an administrative review of his driver's license suspension, as was his right under RCW 46.20.245. The suspension went into effect on November 12, 2009. CP 26, 27, 29; *Johnson*, slip op. at 4.

Johnson appealed the driving while license suspended conviction to this Court, arguing his conduct did not constitute a crime under the driving while license suspended statute, former RCW 46.20.342(1)(c)(iv) (2008). *Johnson*, 179 Wn.2d at 542. He argued that he was not guilty of the crime because a suspension for a failure to comply with the terms of a notice of traffic infraction did not include a suspension for a failure to pay the penalty. *Id.* at 542–44. The Court upheld the conviction, reasoning that a failure to pay a fine was a failure to comply with the terms of a notice of traffic infraction, which is one option for proving the crime of driving while license suspended under former RCW 46.20.342(1)(c). *Id.* at 558.

At the time the Department suspended Johnson's license in 2007 and 2009, the Department was directed by the Legislature to suspend a driver's license upon receiving notice from a court of a driver's failure to pay a traffic infraction of any kind, both moving and non-moving. Former RCW 46.20.289 (2005)²; *Johnson*, slip op. at 5. In 2012, the Legislature amended RCW 46.20.289 and RCW 46.63.110(6) and directed the Department to suspend a driver's license upon notice from a court of failure to pay a fine or penalty for moving violations only. Laws of 2012, ch. 82, § 3 (amending RCW 46.20.289)³; Laws of 2012, ch. 82, § 1 (amending RCW 46.63.110)⁴. The amendments to RCW 46.20.289 took effect on June 1, 2013.⁵ Laws of 2012, ch. 82, § 6. The law also required the Department to define a moving violation by rule. RCW 46.20.289; Laws of 2012, ch. 82, § 4. The Department defined a moving violation to include driving with a suspended license under RCW 46.20.342 (Johnson's 2009 offense), but to not include the infraction of driving without a valid driver's license (Johnson's 2007 offense). WAC 308-104-160.

² Attached hereto as Appendix A.

³ Attached hereto as Appendix B.

⁴ Attached hereto as Appendix B.

⁵ The legislature amended RCW 46.20.289 again in 2016, but the amendment does not affect the analysis. Laws of 2016, ch. 203, § 6; *see Johnson*, slip op. at 10 n.11.

In June 2013, Johnson petitioned for a writ of prohibition directing the Department and its director (collectively, Respondents) to reinstate Johnson's driver's license and seeking an award of damages. CP 5. The case was stayed pending a decision in *State v. Johnson*, 179 Wn.2d 534. After a decision was issued in that case, the superior court granted Respondents' motion for summary judgment and decided that the 2007 suspension remained valid because the Legislature had not directed the Department to reinstate drivers' licenses that had already been suspended for failure to pay non-moving violations prior to the amendments. CP 247-48. The superior court also ruled that the 2009 suspension was valid because Johnson's failure to pay his driving while license suspended fine authorized suspension under this Court's holding in *State v. Johnson*. CP 248.

Johnson sought direct review by this Court, but his petition was denied. The Court of Appeals issued an unpublished decision holding the plain and unambiguous language of former RCW 46.20.289 authorized the Department to twice suspend Johnson's license. *Johnson*, slip op. at 11-12. The court further held that the 2012 amendments did not change the requirements for releasing a driver's license that was suspended before the effective date of the 2012 amendments, and Johnson's suspensions were

therefore still proper since he had not met the release requirements.
Johnson, slip op. at 11-12.

IV. ARGUMENT WHY REVIEW SHOULD BE DENIED

Johnson asks this Court to review the superior court's order because he claims it involves an issue of substantial public interest under RAP 13.4(b)(4). Pet. for Rev. 9. It does not. In an unremarkable analysis of plain statutory language, the Court of Appeals properly applied former RCW 46.20.289 to determine the Department acted within its statutory authority in 2007 and 2009 to suspend Johnson's driving privilege. The Court also properly held the amendments to RCW 46.20.289 did not authorize the Department to release suspensions that were properly imposed prior to the amendments.

In addition, Johnson's 2009 suspension based on his failure to pay a fine for a moving violation was proper at the time it was imposed and the subsequent amendments had no effect on this suspension. A different reading of former RCW 46.20.289 would reach absurd results. And this Court has previously analyzed RCW 46.20.289 and upheld the conviction underlying Johnson's 2009 suspension. *See Johnson*, 179 Wn.2d at 558. No further appellate guidance is necessary on the validity of Johnson's suspensions. Johnson does not allege any conflicts with this Court's precedent or other Court of Appeals opinions. *Cf.* RAP 13.4(b)(1), (2).

In seeking review, Johnson essentially argues that the Court of Appeals' application of an unambiguous statute is unfair to him and similarly situated drivers. Johnson's quarrel is with the amendments to RCW 46.20.289 that he would like to be more expansive. But review by this Court is not the appropriate forum for seeking a remedy to that objection. The court's application of the plain language of former RCW 46.20.289, and its holding that the conditions for releasing suspensions were neither amended nor met, do not raise an issue of substantial public interest that should be determined by this Court. The Court should deny review.

A. The Plain and Unambiguous Language of Former RCW 46.20.289 Authorized Johnson's 2007 Suspension, and the Subsequent Statutory Amendment Is Not an Issue of Substantial Public Interest Where the Reinstatement Requirements Were Not Changed

Johnson does not dispute that the 2007 suspension of his driving privilege based on his failure to pay the fine for a non-moving violation was proper when imposed. Pet. for Rev. 4, 12. Rather, he asserts that his 2007 suspension is no longer valid because the 2012 legislative amendments limiting new suspensions to failure to pay for moving violations also reinstated pre-existing suspensions for non-moving violations, despite the absence of any statutory language supporting this theory. Pet. for Rev. 10-13. And, he asserts this is an issue of substantial

public interest because the Department is acting outside its authority in continuing to suspend his license and the licenses of similarly situated drivers. Pet. for Rev. at 9. He is incorrect. This Court's further review of the plain and unambiguous language of former RCW 46.20.289 and its amendments is unnecessary.

Former RCW 46.20.289 set forth a two step-process to suspend and then reinstate a driver's license. *Johnson*, slip op. at 10. First, a suspension is triggered when the Department receives notice from a court that a person has failed to comply with the terms of notice of traffic infraction or citation. Second, the statute states the suspension remains in effect until the Department receives a "certificate from the court showing that the case has been adjudicated." Former RCW 46.20.289 (2005); *Johnson*, slip op. at 10. The 2012 amendments did not change this two-step process; it simply limited the first step—suspensions—to incidents of non-compliance related to moving traffic offenses only.⁶ Compare former RCW 46.20.289 (2005) with RCW 46.20.289 (2012); see *Johnson*, slip op. at 10-11.

The Court of Appeals properly held that the amendments did not change the second step: "the legislature did not change the requirements

⁶ After June 1, 2013, courts stopped sending notice to the Department for non-compliance with non-moving violations, and the Department only initiated new suspensions for non-compliance with moving violations.

DOL must follow to reinstate a driver's license that had been suspended before the effective date of the 2012 amendments. Specifically, the legislature did not change the language that states the suspension shall remain in effect until DOL has received a certificate from the court.” *Johnson*, slip op. at 11. Thus the authority that existed in 2007 to suspend Johnson's license was not changed by the statutory amendments, and the suspension continues until the statutory requirements are met for the suspension to be lifted. *Johnson*, slip op. at 11-12.

Johnson complains that the Court of Appeals ignored the question of the Department's authority to suspend and instead focused on the procedure for reinstatement. Pet. for Rev. 12-13. But it is Johnson who ignores the plain language of RCW 46.20.289 to argue that the amendments to RCW 46.20.289 are prospective *and* release his suspension for failure to pay a non-moving violation. Pet. for Rev. 9 (“This petition . . . demonstrates . . . that as of the effective date of the Act, the Department no longer has statutory authority to continue to withhold the driving privilege for failure to pay for a nonmoving violation.”). In aid of this argument, Johnson relies on the fiction—entirely divorced from statutory language—that his suspension is continually renewing. Pet. for Rev. 12 (“Just as with the coercive penalty of civil contempt, every day

the driver has a new opportunity to comply. . . . If the driver fails to pay, the suspension continues one more day.”).

This is a misapprehension of the law and the Court’s holding. Here, the triggering event for the suspension took place in 2007 when, after receiving notice from the district court, the Department was required to suspend Johnson’s driver’s license for failure to pay the fine. Former RCW 46.20.289 (2005). The statute unambiguously directs the Department *not* to reinstate a license unless specific events occur. *Id.* Absent any legislative mandate or creation of a new remedy, the Department has no authority or obligation to reinstate Johnson’s 2007 suspension until DOL receives a certificate from the court showing the case had been adjudicated, which it has not received. Former RCW 46.20.289 (2005); RCW 46.20.289 (2012); *see Johnson*, slip op. at 11-12.

This Court should disregard Johnson’s illogical argument that “there is no longer anything in the statute to dictate authority or procedure for releasing nonmoving violation suspensions” since the reinstatement procedure only applies to “a suspension under this section.” Pet. for Rev. 13. The amendments—by their own language—only prevent new suspensions for non-moving violations after the effective date of the amendments. They do not release pre-existing suspensions for non-moving violations, like Johnson’s 2007 suspension. The Court of Appeals

properly declined to indulge in Johnson's fiction that his suspension is continually renewing and properly held that "under the plain language of the statute, the 2007 suspension remains in effect." *Johnson*, slip op. at 12.

The Legislature has not directed or expressed any intention that the Department reinstate pre-existing non-moving suspensions. Johnson has not, and cannot, establish that further review by this Court of the plain language application of an unambiguous statute is necessary. His petition should therefore be denied.

B. Whether Johnson was Appropriately Suspended in 2009 for His Failure to Pay a Criminal Traffic Fine is Not an Issue of Substantial Public Interest Because the Application of RCW 46.20.289 to This Suspension is Plain and Unambiguous

Johnson asserts the Department also lacked authority to suspend his license in 2009. Pet. for Rev. 14-15. But, as above, the Court of Appeals correctly disposed of this argument by holding that "the plain and unambiguous statute gives DOL the authority to suspend a driver's license for failure to pay a criminal traffic citation." *Johnson*, slip op. at 12. Johnson does not, and cannot, establish that further review of a plain and unambiguous statute is an issue of substantial public importance for three reasons.

First, as further addressed in Section C below, the Court should not even consider Johnson's argument that his license suspension was

improper because he failed to challenge his suspension through the administrative appeals process when it occurred. *See* RCW 46.20.245, former RCW 46.20.289 (2005). Therefore, a writ of prohibition is inappropriate.

Second, Johnson's claim can be dismissed if *either* the 2007 or 2009 suspension was appropriate. The Court of Appeals correctly ruled the 2007 suspension was proper and that it continues to be in effect because Johnson still has not paid the fine. *Johnson*, slip op. at 11-12. Thus, even if the 2009 suspension was invalid, Johnson's license would still be suspended based on the ongoing validity of the 2007 suspension. The summary judgment dismissal order can be affirmed on the validity of the 2007 suspension alone.

Third, the 2009 suspension was valid when imposed because Johnson failed to comply with the terms of a citation for a moving violation.⁷ At the time Johnson's 2009 suspension went into effect, former RCW 46.20.289 provided:

The department shall suspend all driving privileges of a person 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, failed to appear at a requested hearing, violated a written promise to appear in court for a notice of

⁷ The 2012 amendments to RCW 46.20.289 have no effect on this suspension because the suspension arose from a moving violation. WAC 308-104-160

infraction, or *has failed to comply with the terms of a notice of traffic infraction or citation*. . . .

(Emphasis added). The phrase “failed to comply with the terms of a notice of traffic infraction or citation” was intended as a catch-all provision requiring a person to resolve all obligations attendant to a violation of the traffic laws. *See Johnson*, 179 Wn.2d at 551 (“‘[F]ail[ure] to comply with the terms of a notice of traffic infraction’ includes the failure to pay monetary penalties imposed by a court following an unsuccessful challenge to the notice of traffic infraction.”). The cross-reference to the infraction provisions found in RCW 46.63.110(6)—while not directly applicable to a criminal citation—is a related statute that provides important context to the legislature’s meaning of the phrase. Based on that statute, the legislative scheme demonstrates the intent with respect to criminal traffic citations that a person fulfills both appearance *and* monetary obligations connected with any traffic violation to avoid a license suspension.

Johnson narrowly construes a failure to comply with a citation to not include a person’s failure to pay a fine, but only a failure to appear based exclusively on the cross-reference to RCW 46.64.025. *Pet. for Rev.* 14-15. But this Court rejected a similar argument in *Johnson*, 179 Wn.2d at 542-48. Although *Johnson* correctly points out that the *Johnson* court

relied in part on statutory cross-references regarding imposition of a fine for infractions, the reasoning remains that failure to comply with an infraction includes failure to pay a fine imposed at a hearing on the infraction. *Id.* Similarly, failure to comply with the terms of a citation should include failure to pay a fine imposed at a hearing on the citation. Johnson's interpretation, on the other hand, would lead to absurd results. According to his interpretation, the Legislature intended suspensions for non-payment of obligations for less serious infractions but did not intend suspensions for non-payment of more serious offenses like DUIs and reckless driving. Courts avoid constructions of statutes that yield unlikely or absurd results. *State v. Huffman*, 185 Wn. App. 98, 340 P.3d 903, 905 (2014) (citation omitted).

Johnson has failed to comply with the terms of a citation for a moving violation and thus is not entitled to have his license reinstated. The Court of Appeals' holding affirming the dismissal of his writ petition was correct and needs no further review.

C. The Court Should Deny Johnson's Petition as a Writ of Prohibition Was Not Proper

Although the Court of Appeals did not address the issue, it could have affirmed the dismissal of the writ petition on the alternative grounds that Johnson could not demonstrate all of the necessary requirements for a

writ. This Court could affirm on this ground if it accepts review. *See State v. Bobic*, 140 Wn.2d 250, 257, 996 P.2d 610 (2000) (court can affirm on any basis supported in the record below).

A writ is an extraordinary remedy. *See City of Kirkland v. Ellis*, 82 Wn. App. 819, 827, 920 P.2d 206 (1996). To be entitled to a writ, a person must demonstrate an (1) absence or excess of jurisdiction, or (2) an absence of a plain, speedy, and adequate remedy. RCW 7.16.290; *Skagit Cty. Pub. Hosp. Dist. No. 304 v. Skagit Cty. Pub. Hosp. Dist. No. 1*, 177 Wn.2d 718, 722-23, 305 P.3d 1079 (2013). The absence of either one precludes the issuance of the writ. *Kreidler v. Eikenberry*, 111 Wn.2d 828, 838, 766 P.2d 438 (1989).

Even assuming that the Department has incorrectly interpreted RCW 46.20.289 and the 2012 amendments to it, the Department has not acted in excess of its jurisdiction. A statutory writ of prohibition arrests an action in excess of a state actor's jurisdiction, but it is "not a proper remedy, however, where the only allegation is that the actor is exercising jurisdiction in an erroneous manner."⁸ *Brower v. Charles*, 82 Wn. App. 53, 59, 914 P.2d 1202 (1996).

⁸ The Court's jurisprudence on subject matter jurisdiction is helpful in defining jurisdiction for the purpose of obtaining a writ: "A tribunal lacks subject matter jurisdiction when it attempts to decide a type of controversy over which it has no authority to adjudicate." *Marley v. Dep't of Labor & Indus.*, 125 Wn.2d 533, 539, 886 P.2d 189 (1994). "[T]he focus must be on the words 'type of controversy.' If the type of

Generally, the Department has jurisdiction to take actions against drivers' licenses by virtue of RCW 46.01.040. That section provides that the Department is "vested with all powers, functions, and duties with respect to and including . . . [d]rivers' licenses as provided in chapter 46.20 RCW." RCW 46.01.040. The amendments to RCW 46.20.289 did not alter the type of controversies the Department may adjudicate, i.e., license suspensions. The defects alleged by Johnson go to something other than jurisdiction—they go to the statutory interpretation of RCW 46.20.289. The Department's decision to not adopt Johnson's interpretation of RCW 46.20.289, whether erroneous or not, is not an action that exceeds the Department's general authority to administer the driving privilege. The amendments to RCW 46.20.289 are not jurisdictional, because they do not change the type of controversy the Department decides.

While a writ or prohibition is not the correct action to clarify the interpretation of RCW 46.20.289, the Department's lack of action is reviewable under other procedures available to Johnson. Johnson had other plain, speedy, and adequate remedies and thus cannot obtain a writ.

controversy is within the subject matter jurisdiction, then all other defects or errors go to something other than subject matter jurisdiction." *Id.* (citing Robert J. Martineau, *Subject Matter Jurisdiction as a New Issue on Appeal: Reining in an Unruly Horse*, 1988 BYU L. Rev. 1, 28 (1988)). "Courts do not lose subject matter jurisdiction merely by interpreting the law erroneously." *Marley*, 125 Wn.2d at 539.

When Johnson was notified by the Department in 2009 of his second suspension for non-payment of a fine stemming from a criminal citation, Johnson could have requested an administrative review before the Department under RCW 46.20.245.

Under RCW 46.20.245, the issues to be addressed are:

- (i) Whether the records relied on by the department identify the correct person; and
- (ii) Whether the information transmitted from the court or other reporting agency or entity regarding the person accurately describes the action taken by the court or other reporting agency or entity.

Here, the action taken by the court was transmittal of a notice to the Department that there had been a failure to make a required payment of fine and costs in a traffic matter. CP 26, 30. Based on that information, the Department proposed suspending Johnson's driving privilege. CP 35. In the present suit, Johnson asserts that the information the Department received from the Lewis County District Court does not show that he failed to comply with the terms of a citation. Pet. for Rev. 15. Accordingly, Johnson had the opportunity to argue that the information the Department received from the court was inaccurate because it did not contain a factual description that matched the exact statutory language, i.e. that his failure to pay the fine was a "failure to comply with the terms of a citation." Johnson could have submitted records in support of his legal

argument that he had appeared at a trial, but had not paid a fine after the trial. *See* RCW 46.20.245(2)(a) (administrative review is limited to “an internal review of documents and records *submitted* or available to the department” (emphasis added)). Johnson would have been entitled to judicial review of an adverse determination. *See* RCW 46.20.245(2)(e). Johnson’s current argument that RCW 46.20.289 does not authorize suspensions for non-payment of criminal fines could have been made on administrative appeal in 2009.

Johnson also had an alternative remedy to address his 2007 suspension. Under RCW 46.20.289, the only way to end a suspension for failing to pay a fine or penalty is to have the court in which the non-payment occurred transmit a certificate of adjudication to the Department. After the 2012 amendments were enacted, Johnson could have made a motion to Lewis County District Court requesting transmittal of a certificate of adjudication of his 2007 suspension for failure to pay a non-moving violation on the basis that a suspension was allegedly no longer authorized by the amendments. Johnson could have appealed any adverse decision. Both of these remedies would have provided an adequate and speedy manner in which to contest his suspensions. Johnson, therefore, did not meet the elements for an issuance of a writ, and the dismissal of his

petition could have been affirmed on that basis. For this additional reason, Johnson has not demonstrated an issue of substantial public interest requiring further review by this Court, and his petition for review should be denied.

V. CONCLUSION

The Court of Appeals properly interpreted RCW 46.20.289 and the statutory amendments to hold that the suspensions of Johnson's license remain valid. Johnson has not shown that his appeal implicates an issue of public interest requiring Supreme Court review, as required under RAP 13.4(b)(4). The Department respectfully asks the Court to decline review.

RESPECTFULLY SUBMITTED this 19th day of May, 2017.

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PROOF OF SERVICE

I, Jennifer Bancroft, hereby state and declare as follows:

1. That I am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, and not a party to the above-entitled action.


2. That on the 19th day of May 2017, I caused to be served by mailing a true and correct copy of Respondent's Brief, with proper postage affixed thereto to:

KEVIN HOCHHALTER
CUSHMAN LAW OFFICE
924 CAPITOL WAY S
OLYMPIA, WA 98501
Courtesy copy sent via e-mail to:
kevinhochhalter@cushmanlaw.com

Electronically filed with Supreme Court to:
supreme@courts.wa.gov

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON that the foregoing is true and correct.

DATED this 19th day of May 2017, in Seattle, Washington.



Jennifer Bancroft, Legal Assistant

APPENDIX A

RCW 46.20.289 and RCW 46.63.110 at the time of Johnson's 2007 Suspension

Laws of 2005 ch. 288, § 5
Laws of 2007 ch. 199, § 28

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1854

Chapter 288, Laws of 2005

59th Legislature
2005 Regular Session

DRIVING PRIVILEGE--REVOCATION

EFFECTIVE DATE: 7/01/05

Passed by the House March 11, 2005
Yeas 93 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 11, 2005
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 4, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1854** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 4, 2005 - 3:56 p.m.

**Secretary of State
State of Washington**

1 notice of infraction or a determination made by a court pursuant to
2 this chapter. Payment of a monetary penalty made pursuant to RCW
3 46.63.070(2) is deemed equivalent to such a finding.

4 **Sec. 4.** RCW 46.20.285 and 2001 c 64 s 6 are each amended to read
5 as follows:

6 The department shall (~~forthwith~~) revoke the license of any driver
7 for the period of one calendar year unless otherwise provided in this
8 section, upon receiving a record of the driver's conviction of any of
9 the following offenses, when the conviction has become final:

10 (1) For vehicular homicide the period of revocation shall be two
11 years. The revocation period shall be tolled during any period of
12 total confinement for the offense;

13 (2) Vehicular assault. The revocation period shall be tolled
14 during any period of total confinement for the offense;

15 (3) Driving a motor vehicle while under the influence of
16 intoxicating liquor or a narcotic drug, or under the influence of any
17 other drug to a degree which renders the driver incapable of safely
18 driving a motor vehicle, for the period prescribed in RCW 46.61.5055;

19 (4) Any felony in the commission of which a motor vehicle is used;

20 (5) Failure to stop and give information or render aid as required
21 under the laws of this state in the event of a motor vehicle accident
22 resulting in the death or personal injury of another or resulting in
23 damage to a vehicle that is driven or attended by another;

24 (6) Perjury or the making of a false affidavit or statement under
25 oath to the department under Title 46 RCW or under any other law
26 relating to the ownership or operation of motor vehicles;

27 (7) Reckless driving upon a showing by the department's records
28 that the conviction is the third such conviction for the driver within
29 a period of two years.

30 **Sec. 5.** RCW 46.20.289 and 2002 c 279 s 4 are each amended to read
31 as follows:

32 The department shall suspend all driving privileges of a person
33 when the department receives notice from a court under RCW
34 46.63.070(6), 46.63.110(~~(+5)~~) (6), or 46.64.025 that the person has
35 failed to respond to a notice of traffic infraction, failed to appear
36 at a requested hearing, violated a written promise to appear in court,

1 or has failed to comply with the terms of a notice of traffic
2 infraction or citation, other than for a standing, stopping, or parking
3 violation, provided that the traffic infraction or traffic offense is
4 committed on or after the effective date of this act. A suspension
5 under this section takes effect (~~((thirty days after the date the~~
6 ~~department mails notice of the suspension))~~ pursuant to the provisions
7 of section 1 of this act, and remains in effect until the department
8 has received a certificate from the court showing that the case has
9 been adjudicated, and until the person meets the requirements of RCW
10 46.20.311. In the case of failure to respond to a traffic infraction
11 issued under RCW 46.55.105, the department shall suspend all driving
12 privileges until the person provides evidence from the court that all
13 penalties and restitution have been paid. A suspension under this
14 section does not take effect if, prior to the effective date of the
15 suspension, the department receives a certificate from the court
16 showing that the case has been adjudicated.

17 **Sec. 6.** RCW 46.20.324 and 1965 ex.s. c 121 s 31 are each amended
18 to read as follows:

19 Unless otherwise provided by law, a person shall not be entitled to
20 a driver improvement interview or formal hearing ((as hereinafter
21 provided)) under the provisions of RCW 46.20.322 through 46.20.333 when
22 the person:

23 (1) (~~When the action by the department is made mandatory by the~~
24 ~~provisions of this chapter or other law)) Has been granted the
25 opportunity for an administrative review, informal settlement, or
26 formal hearing under section 1 of this act, RCW 46.20.308, 46.25.120,
27 46.25.125, 46.65.065, 74.20A.320, or by rule of the department; or~~

28 (2) (~~When the person)) Has refused or neglected to submit to an
29 examination as required by RCW 46.20.305.~~

30 **Sec. 7.** RCW 46.20.334 and 1972 ex.s. c 29 s 4 are each amended to
31 read as follows:

32 Unless otherwise provided by law, any person denied a license or a
33 renewal of a license or whose license has been suspended or revoked by
34 the department ((except where such suspension or revocation is
35 mandatory under the provisions of this chapter)) shall have the right
36 within thirty days, after receiving notice of the decision following a

CERTIFICATION OF ENROLLMENT

ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1001

Chapter 199, Laws of 2007

60th Legislature
2007 Regular Session

AUTO THEFT

EFFECTIVE DATE: 07/22/07

Passed by the House April 17, 2007
Yeas 83 Nays 15

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 4, 2007
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved April 27, 2007, 1:54 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1001** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 30, 2007

**Secretary of State
State of Washington**

1 (c) Financial support for the procurement of equipment and
2 technologies for use by law enforcement agencies for the purpose of
3 enforcing motor vehicle theft laws; and

4 (d) Financial support for programs that are designed to educate and
5 assist the public in the prevention of motor vehicle theft.

6 (3) The costs of administration shall not exceed ten percent of the
7 moneys in the account in any one year so that the greatest possible
8 portion of the moneys available to the authority is expended on
9 combating motor vehicle theft.

10 (4) Prior to awarding any moneys from the Washington auto theft
11 prevention authority account for motor vehicle theft enforcement, the
12 auto theft prevention authority must verify that the financial award
13 includes sufficient funding to cover proposed activities, which
14 include, but are not limited to: (a) State, municipal, and county
15 offender and juvenile confinement costs; (b) administration costs; (c)
16 law enforcement costs; (d) prosecutor costs; and (e) court costs, with
17 a priority being given to ensuring that sufficient funding is available
18 to cover state, municipal, and county offender and juvenile confinement
19 costs.

20 (5) Moneys expended from the Washington auto theft prevention
21 authority account under subsection (2) of this section shall be used to
22 supplement, not supplant, other moneys that are available for motor
23 vehicle theft prevention.

24 (6) Grants provided under subsection (2) of this section constitute
25 reimbursement for purposes of RCW 43.135.060(1).

26 **Sec. 28.** RCW 46.63.110 and 2005 c 413 s 2, 2005 c 320 s 2, and
27 2005 c 288 s 8 are each reenacted and amended to read as follows:

28 (1) A person found to have committed a traffic infraction shall be
29 assessed a monetary penalty. No penalty may exceed two hundred and
30 fifty dollars for each offense unless authorized by this chapter or
31 title.

32 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is
33 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
34 five hundred dollars for each offense. No penalty assessed under this
35 subsection (2) may be reduced.

36 (3) The supreme court shall prescribe by rule a schedule of
37 monetary penalties for designated traffic infractions. This rule shall

1 also specify the conditions under which local courts may exercise
2 discretion in assessing fines and penalties for traffic infractions.
3 The legislature respectfully requests the supreme court to adjust this
4 schedule every two years for inflation.

5 (4) There shall be a penalty of twenty-five dollars for failure to
6 respond to a notice of traffic infraction except where the infraction
7 relates to parking as defined by local law, ordinance, regulation, or
8 resolution or failure to pay a monetary penalty imposed pursuant to
9 this chapter. A local legislative body may set a monetary penalty not
10 to exceed twenty-five dollars for failure to respond to a notice of
11 traffic infraction relating to parking as defined by local law,
12 ordinance, regulation, or resolution. The local court, whether a
13 municipal, police, or district court, shall impose the monetary penalty
14 set by the local legislative body.

15 (5) Monetary penalties provided for in chapter 46.70 RCW which are
16 civil in nature and penalties which may be assessed for violations of
17 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
18 are not subject to the limitation on the amount of monetary penalties
19 which may be imposed pursuant to this chapter.

20 (6) Whenever a monetary penalty, fee, cost, assessment, or other
21 monetary obligation is imposed by a court under this chapter it is
22 immediately payable. If the court determines, in its discretion, that
23 a person is not able to pay a monetary obligation in full, and not more
24 than one year has passed since the later of July 1, 2005, or the date
25 the monetary obligation initially became due and payable, the court
26 shall enter into a payment plan with the person, unless the person has
27 previously been granted a payment plan with respect to the same
28 monetary obligation, or unless the person is in noncompliance of any
29 existing or prior payment plan, in which case the court may, at its
30 discretion, implement a payment plan. If the court has notified the
31 department that the person has failed to pay or comply and the person
32 has subsequently entered into a payment plan and made an initial
33 payment, the court shall notify the department that the infraction has
34 been adjudicated, and the department shall rescind any suspension of
35 the person's driver's license or driver's privilege based on failure to
36 respond to that infraction. "Payment plan," as used in this section,
37 means a plan that requires reasonable payments based on the financial

1 ability of the person to pay. The person may voluntarily pay an amount
2 at any time in addition to the payments required under the payment
3 plan.

4 (a) If a payment required to be made under the payment plan is
5 delinquent or the person fails to complete a community restitution
6 program on or before the time established under the payment plan,
7 unless the court determines good cause therefor and adjusts the payment
8 plan or the community restitution plan accordingly, the court shall
9 notify the department of the person's failure to meet the conditions of
10 the plan, and the department shall suspend the person's driver's
11 license or driving privilege until all monetary obligations, including
12 those imposed under subsections (3) and (4) of this section, have been
13 paid, and court authorized community restitution has been completed, or
14 until the department has been notified that the court has entered into
15 a new time payment or community restitution agreement with the person.

16 (b) If a person has not entered into a payment plan with the court
17 and has not paid the monetary obligation in full on or before the time
18 established for payment, the court shall notify the department of the
19 delinquency. The department shall suspend the person's driver's
20 license or driving privilege until all monetary obligations have been
21 paid, including those imposed under subsections (3) and (4) of this
22 section, or until the person has entered into a payment plan under this
23 section.

24 (c) If the payment plan is to be administered by the court, the
25 court may assess the person a reasonable administrative fee to be
26 wholly retained by the city or county with jurisdiction. The
27 administrative fee shall not exceed ten dollars per infraction or
28 twenty-five dollars per payment plan, whichever is less.

29 (d) Nothing in this section precludes a court from contracting with
30 outside entities to administer its payment plan system. When outside
31 entities are used for the administration of a payment plan, the court
32 may assess the person a reasonable fee for such administrative
33 services, which fee may be calculated on a periodic, percentage, or
34 other basis.

35 (e) If a court authorized community restitution program for
36 offenders is available in the jurisdiction, the court may allow
37 conversion of all or part of the monetary obligations due under this

1 section to court authorized community restitution in lieu of time
2 payments if the person is unable to make reasonable time payments.

3 (7) In addition to any other penalties imposed under this section
4 and not subject to the limitation of subsection (1) of this section, a
5 person found to have committed a traffic infraction shall be assessed:

6 (a) A fee of five dollars per infraction. Under no circumstances
7 shall this fee be reduced or waived. Revenue from this fee shall be
8 forwarded to the state treasurer for deposit in the emergency medical
9 services and trauma care system trust account under RCW 70.168.040; and

10 (b) A fee of ten dollars per infraction. Under no circumstances
11 shall this fee be reduced or waived. Revenue from this fee shall be
12 forwarded to the state treasurer for deposit in the Washington auto
13 theft prevention authority account.

14 (8)(a) In addition to any other penalties imposed under this
15 section and not subject to the limitation of subsection (1) of this
16 section, a person found to have committed a traffic infraction other
17 than of RCW 46.61.527 shall be assessed an additional penalty of twenty
18 dollars. The court may not reduce, waive, or suspend the additional
19 penalty unless the court finds the offender to be indigent. If a court
20 authorized community restitution program for offenders is available in
21 the jurisdiction, the court shall allow offenders to offset all or a
22 part of the penalty due under this subsection (8) by participation in
23 the court authorized community restitution program.

24 (b) Eight dollars and fifty cents of the additional penalty under
25 (a) of this subsection shall be remitted to the state treasurer. The
26 remaining revenue from the additional penalty must be remitted under
27 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
28 under this subsection to the state treasurer must be deposited as
29 provided in RCW 43.08.250. The balance of the revenue received by the
30 county or city treasurer under this subsection must be deposited into
31 the county or city current expense fund. Moneys retained by the city
32 or county under this subsection shall constitute reimbursement for any
33 liabilities under RCW 43.135.060.

34 (9) If a legal proceeding, such as garnishment, has commenced to
35 collect any delinquent amount owed by the person for any penalty
36 imposed by the court under this section, the court may, at its
37 discretion, enter into a payment plan.

APPENDIX B

2012 Amendments to RCW 46.20.289 and RCW 46.63.110

Laws of 2012 ch. 82, § 1, 3

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6284

Chapter 82, Laws of 2012

62nd Legislature
2012 Regular Session

NONSAFETY CIVIL TRAFFIC INFRACTIONS--PROCESS

EFFECTIVE DATE: 06/07/12 (Contingent) - Except sections 1-3 and 5
which take effect 06/01/13.

Passed by the Senate February 11, 2012
YEAS 35 NAYS 11

BRAD OWEN

President of the Senate

Passed by the House March 8, 2012
YEAS 69 NAYS 29

FRANK CHOPP

Speaker of the House of Representatives

Approved March 23, 2012, 12:11 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6284** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 23, 2012

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6284

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Senate Transportation (originally sponsored by Senators Kline, Harper, Litzow, Kohl-Welles, Keiser, and Hargrove)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to reforming Washington's approach to certain
2 nonsafety civil traffic infractions by authorizing a civil collection
3 process for unpaid traffic fines and removing the requirement for law
4 enforcement intervention for the failure to appear and pay a traffic
5 ticket; amending RCW 46.63.110, 46.20.391, 46.20.289, and 46.64.025;
6 adding a new section to chapter 46.20 RCW; and providing an effective
7 date.

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

9 **Sec. 1.** RCW 46.63.110 and 2010 c 252 s 5 are each amended to read
10 as follows:

11 (1) A person found to have committed a traffic infraction shall be
12 assessed a monetary penalty. No penalty may exceed two hundred and
13 fifty dollars for each offense unless authorized by this chapter or
14 title.

15 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is
16 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
17 five hundred dollars for each offense. No penalty assessed under this
18 subsection (2) may be reduced.

1 (3) The supreme court shall prescribe by rule a schedule of
2 monetary penalties for designated traffic infractions. This rule shall
3 also specify the conditions under which local courts may exercise
4 discretion in assessing fines and penalties for traffic infractions.
5 The legislature respectfully requests the supreme court to adjust this
6 schedule every two years for inflation.

7 (4) There shall be a penalty of twenty-five dollars for failure to
8 respond to a notice of traffic infraction except where the infraction
9 relates to parking as defined by local law, ordinance, regulation, or
10 resolution or failure to pay a monetary penalty imposed pursuant to
11 this chapter. A local legislative body may set a monetary penalty not
12 to exceed twenty-five dollars for failure to respond to a notice of
13 traffic infraction relating to parking as defined by local law,
14 ordinance, regulation, or resolution. The local court, whether a
15 municipal, police, or district court, shall impose the monetary penalty
16 set by the local legislative body.

17 (5) Monetary penalties provided for in chapter 46.70 RCW which are
18 civil in nature and penalties which may be assessed for violations of
19 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
20 are not subject to the limitation on the amount of monetary penalties
21 which may be imposed pursuant to this chapter.

22 (6) Whenever a monetary penalty, fee, cost, assessment, or other
23 monetary obligation is imposed by a court under this chapter, it is
24 immediately payable and is enforceable as a civil judgment under Title
25 6 RCW. If the court determines, in its discretion, that a person is
26 not able to pay a monetary obligation in full, and not more than one
27 year has passed since the later of July 1, 2005, or the date the
28 monetary obligation initially became due and payable, the court shall
29 enter into a payment plan with the person, unless the person has
30 previously been granted a payment plan with respect to the same
31 monetary obligation, or unless the person is in noncompliance of any
32 existing or prior payment plan, in which case the court may, at its
33 discretion, implement a payment plan. If the court has notified the
34 department that the person has failed to pay or comply and the person
35 has subsequently entered into a payment plan and made an initial
36 payment, the court shall notify the department that the infraction has
37 been adjudicated, and the department shall rescind any suspension of
38 the person's driver's license or driver's privilege based on failure to

1 respond to that infraction. "Payment plan," as used in this section,
2 means a plan that requires reasonable payments based on the financial
3 ability of the person to pay. The person may voluntarily pay an amount
4 at any time in addition to the payments required under the payment
5 plan.

6 (a) If a payment required to be made under the payment plan is
7 delinquent or the person fails to complete a community restitution
8 program on or before the time established under the payment plan,
9 unless the court determines good cause therefor and adjusts the payment
10 plan or the community restitution plan accordingly, the court (~~shall~~
11 ~~notify the department of the person's failure to meet the conditions of~~
12 ~~the plan, and the department shall suspend the person's driver's~~
13 ~~license or driving privilege~~) may refer the unpaid monetary penalty,
14 fee, cost, assessment, or other monetary obligation for civil
15 enforcement until all monetary obligations, including those imposed
16 under subsections (3) and (4) of this section, have been paid, and
17 court authorized community restitution has been completed, or until the
18 (~~department has been notified that the~~) court has entered into a new
19 time payment or community restitution agreement with the person. For
20 those infractions subject to suspension under RCW 46.20.289, the court
21 shall notify the department of the person's failure to meet the
22 conditions of the plan, and the department shall suspend the person's
23 driver's license or driving privileges.

24 (b) If a person has not entered into a payment plan with the court
25 and has not paid the monetary obligation in full on or before the time
26 established for payment, the court (~~shall notify the department of the~~
27 ~~delinquency. The department shall suspend the person's driver's~~
28 ~~license or driving privilege~~) may refer the unpaid monetary penalty,
29 fee, cost, assessment, or other monetary obligation to a collections
30 agency until all monetary obligations have been paid, including those
31 imposed under subsections (3) and (4) of this section, or until the
32 person has entered into a payment plan under this section. For those
33 infractions subject to suspension under RCW 46.20.289, the court shall
34 notify the department of the person's delinquency, and the department
35 shall suspend the person's driver's license or driving privileges.

36 (c) If the payment plan is to be administered by the court, the
37 court may assess the person a reasonable administrative fee to be

1 wholly retained by the city or county with jurisdiction. The
2 administrative fee shall not exceed ten dollars per infraction or
3 twenty-five dollars per payment plan, whichever is less.

4 (d) Nothing in this section precludes a court from contracting with
5 outside entities to administer its payment plan system. When outside
6 entities are used for the administration of a payment plan, the court
7 may assess the person a reasonable fee for such administrative
8 services, which fee may be calculated on a periodic, percentage, or
9 other basis.

10 (e) If a court authorized community restitution program for
11 offenders is available in the jurisdiction, the court may allow
12 conversion of all or part of the monetary obligations due under this
13 section to court authorized community restitution in lieu of time
14 payments if the person is unable to make reasonable time payments.

15 (7) In addition to any other penalties imposed under this section
16 and not subject to the limitation of subsection (1) of this section, a
17 person found to have committed a traffic infraction shall be assessed:

18 (a) A fee of five dollars per infraction. Under no circumstances
19 shall this fee be reduced or waived. Revenue from this fee shall be
20 forwarded to the state treasurer for deposit in the emergency medical
21 services and trauma care system trust account under RCW 70.168.040;

22 (b) A fee of ten dollars per infraction. Under no circumstances
23 shall this fee be reduced or waived. Revenue from this fee shall be
24 forwarded to the state treasurer for deposit in the Washington auto
25 theft prevention authority account; and

26 (c) A fee of two dollars per infraction. Revenue from this fee
27 shall be forwarded to the state treasurer for deposit in the traumatic
28 brain injury account established in RCW 74.31.060.

29 (8)(a) In addition to any other penalties imposed under this
30 section and not subject to the limitation of subsection (1) of this
31 section, a person found to have committed a traffic infraction other
32 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
33 penalty of twenty dollars. The court may not reduce, waive, or suspend
34 the additional penalty unless the court finds the offender to be
35 indigent. If a court authorized community restitution program for
36 offenders is available in the jurisdiction, the court shall allow
37 offenders to offset all or a part of the penalty due under this

1 subsection (8) by participation in the court authorized community
2 restitution program.

3 (b) Eight dollars and fifty cents of the additional penalty under
4 (a) of this subsection shall be remitted to the state treasurer. The
5 remaining revenue from the additional penalty must be remitted under
6 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
7 under this subsection to the state treasurer must be deposited in the
8 state general fund. The balance of the revenue received by the county
9 or city treasurer under this subsection must be deposited into the
10 county or city current expense fund. Moneys retained by the city or
11 county under this subsection shall constitute reimbursement for any
12 liabilities under RCW 43.135.060.

13 (9) If a legal proceeding, such as garnishment, has commenced to
14 collect any delinquent amount owed by the person for any penalty
15 imposed by the court under this section, the court may, at its
16 discretion, enter into a payment plan.

17 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
18 hundred fifty dollars for the first violation; (b) five hundred dollars
19 for the second violation; and (c) seven hundred fifty dollars for each
20 violation thereafter.

21 **Sec. 2.** RCW 46.20.391 and 2010 c 269 s 2 are each amended to read
22 as follows:

23 (1) Any person licensed under this chapter who is convicted of an
24 offense relating to motor vehicles for which suspension or revocation
25 of the driver's license is mandatory, other than vehicular homicide,
26 vehicular assault, driving while under the influence of intoxicating
27 liquor or any drug, or being in actual physical control of a motor
28 vehicle while under the influence of intoxicating liquor or any drug,
29 may submit to the department an application for a temporary restricted
30 driver's license. The department, upon receipt of the prescribed fee
31 and upon determining that the petitioner is eligible to receive the
32 license, may issue a temporary restricted driver's license and may set
33 definite restrictions as provided in RCW 46.20.394.

34 (2) (a) A person licensed under this chapter whose driver's license
35 is suspended administratively due to failure to appear or pay a traffic
36 ticket under RCW 46.20.289; a violation of the financial responsibility

1 laws under chapter 46.29 RCW; or for multiple violations within a
2 specified period of time under RCW 46.20.291, may apply to the
3 department for an occupational driver's license.

4 ~~(b) ((If the suspension is for failure to respond, pay, or comply
5 with a notice of traffic infraction or conviction, the applicant must
6 enter into a payment plan with the court.~~

7 ~~(e))~~ An occupational driver's license issued to an applicant
8 described in (a) of this subsection shall be valid for the period of
9 the suspension or revocation.

10 (3) An applicant for an occupational or temporary restricted
11 driver's license who qualifies under subsection (1) or (2) of this
12 section is eligible to receive such license only if:

13 (a) Within seven years immediately preceding the date of the
14 offense that gave rise to the present conviction or incident, the
15 applicant has not committed vehicular homicide under RCW 46.61.520 or
16 vehicular assault under RCW 46.61.522; and

17 (b) The applicant demonstrates that it is necessary for him or her
18 to operate a motor vehicle because he or she:

19 (i) Is engaged in an occupation or trade that makes it essential
20 that he or she operate a motor vehicle;

21 (ii) Is undergoing continuing health care or providing continuing
22 care to another who is dependent upon the applicant;

23 (iii) Is enrolled in an educational institution and pursuing a
24 course of study leading to a diploma, degree, or other certification of
25 successful educational completion;

26 (iv) Is undergoing substance abuse treatment or is participating in
27 meetings of a twelve-step group such as Alcoholics Anonymous that
28 requires the petitioner to drive to or from the treatment or meetings;

29 (v) Is fulfilling court-ordered community service responsibilities;

30 (vi) Is in a program that assists persons who are enrolled in a
31 WorkFirst program pursuant to chapter 74.08A RCW to become gainfully
32 employed and the program requires a driver's license;

33 (vii) Is in an apprenticeship, on-the-job training, or welfare-to-
34 work program; or

35 (viii) Presents evidence that he or she has applied for a position
36 in an apprenticeship or on-the-job training program for which a
37 driver's license is required to begin the program, provided that a

1 license granted under this provision shall be in effect for no longer
2 than fourteen days; and

3 (c) The applicant files satisfactory proof of financial
4 responsibility under chapter 46.29 RCW; and

5 (d) Upon receipt of evidence that a holder of an occupational
6 driver's license granted under this subsection is no longer enrolled in
7 an apprenticeship or on-the-job training program, the director shall
8 give written notice by first-class mail to the driver that the
9 occupational driver's license shall be canceled. If at any time
10 before the cancellation goes into effect the driver submits evidence of
11 continued enrollment in the program, the cancellation shall be stayed.
12 If the cancellation becomes effective, the driver may obtain, at no
13 additional charge, a new occupational driver's license upon submittal
14 of evidence of enrollment in another program that meets the criteria
15 set forth in this subsection; and

16 (e) The department shall not issue an occupational driver's license
17 under (b) (iv) of this subsection if the applicant is able to receive
18 transit services sufficient to allow for the applicant's participation
19 in the programs referenced under (b) (iv) of this subsection.

20 (4) A person aggrieved by the decision of the department on the
21 application for an occupational or temporary restricted driver's
22 license may request a hearing as provided by rule of the department.

23 (5) The director shall cancel an occupational or temporary
24 restricted driver's license after receiving notice that the holder
25 thereof has been convicted of operating a motor vehicle in violation of
26 its restrictions, no longer meets the eligibility requirements, or has
27 been convicted of or found to have committed a separate offense or any
28 other act or omission that under this chapter would warrant suspension
29 or revocation of a regular driver's license. The department must give
30 notice of the cancellation as provided under RCW 46.20.245. A person
31 whose occupational or temporary restricted driver's license has been
32 canceled under this section may reapply for a new occupational or
33 temporary restricted driver's license if he or she is otherwise
34 qualified under this section and pays the fee required under RCW
35 46.20.380.

36 **Sec. 3.** RCW 46.20.289 and 2005 c 288 s 5 are each amended to read
37 as follows:

1 The department shall suspend all driving privileges of a person
2 when the department receives notice from a court under RCW
3 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to
4 respond to a notice of traffic infraction for a moving violation,
5 failed to appear at a requested hearing for a moving violation,
6 violated a written promise to appear in court for a notice of
7 infraction for a moving violation, or has failed to comply with the
8 terms of a notice of traffic infraction or citation for a moving
9 violation, or when the department receives notice from another state
10 under Article IV of the nonresident violator compact under RCW
11 46.23.010 or from a jurisdiction that has entered into an agreement
12 with the department under RCW 46.23.020, other than for a standing,
13 stopping, or parking violation, provided that the traffic infraction or
14 traffic offense is committed on or after July 1, 2005. A suspension
15 under this section takes effect pursuant to the provisions of RCW
16 46.20.245, and remains in effect until the department has received a
17 certificate from the court showing that the case has been adjudicated,
18 and until the person meets the requirements of RCW 46.20.311. In the
19 case of failure to respond to a traffic infraction issued under RCW
20 46.55.105, the department shall suspend all driving privileges until
21 the person provides evidence from the court that all penalties and
22 restitution have been paid. A suspension under this section does not
23 take effect if, prior to the effective date of the suspension, the
24 department receives a certificate from the court showing that the case
25 has been adjudicated.

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

28 The department of licensing in consultation with the administrative
29 office of the courts must adopt and maintain rules, by November 1,
30 2012, in accordance with chapter 34.05 RCW that define a moving
31 violation for the purposes of this act. "Moving violation" shall be
32 defined pursuant to Title 46 RCW. Upon adoption of these rules, the
33 department must provide written notice to affected parties, the chief
34 clerk of the house of representatives, the secretary of the senate, the
35 office of the code reviser, and others as deemed appropriate by the
36 department.

1 **Sec. 5.** RCW 46.64.025 and 2006 c 270 s 4 are each amended to read
2 as follows:

3 Whenever any person served with a traffic citation willfully fails
4 to appear (~~((for a scheduled court hearing))~~) at a requested hearing for
5 a moving violation or fails to comply with the terms of a notice of
6 traffic citation for a moving violation, the court in which the
7 defendant failed to appear shall promptly give notice of such fact to
8 the department of licensing. Whenever thereafter the case in which the
9 defendant failed to appear is adjudicated, the court hearing the case
10 shall promptly file with the department a certificate showing that the
11 case has been adjudicated. For the purposes of this section, "moving
12 violation" is defined by rule pursuant to section 4 of this act.

13 NEW SECTION. **Sec. 6.** Except for section 4 of this act, this act
14 takes effect June 1, 2013. If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 2012, in the transportation appropriations act,
17 this act is null and void.

Passed by the Senate February 11, 2012.

Passed by the House March 8, 2012.

Approved by the Governor March 23, 2012.

Filed in Office of Secretary of State March 23, 2012.