



STATE OF WASHINGTON
DEPARTMENT OF LICENSING
PO Box 9020 • Olympia, Washington 98507-9020

August 25, 2022

Erin L. Lennon
Clerk of the Supreme Court
supreme@courts.wa.gov

RE: Comments to Proposed Court Rules

Dear Ms. Lennon:

The Department of Licensing is providing the following comments in response to the proposed IRLJ rule changes that were published for comment in March 2022.

Background

On June 2, 2021, and amended on October 14, 2021, the Thurston County Superior Court entered an order in a lawsuit relevant to these court rules, *Pierce et al. v. DOL*. The court ordered the rescission of all non-criminal moving violation suspensions under RCW 46.20.289 because the "the department cannot determine from existing records DOL records who among those individuals failed to pay or appear due to indigency." The remedy was over-inclusive, in part, because the information exchanged between courts and the Department of Licensing had not differentiated between the types of non-compliance found in RCW 46.20.289. All unresolved tickets had been reported by courts as an "FTA/FTP."

Going forward, the Department recommends that the rules provide additional direction to courts about reporting unresolved traffic violations. The department recommends that the rules should explicitly state 1) the necessary conditions that must occur before a court reports an unresolved ticket to the Department of Licensing; and, 2) the specific manner in which the non-compliance should be reported. These proposed changes are intended to ensure Department records are accurate and complete.

Comment to Proposed New Rule IRLJ 3.5:

- (a) The proposed rule is not sufficiently specific about when non-compliance with a payment plan can be reported to the Department of Licensing.

The GR 9 coversheet summarizes the legislative changes in ESSB 5226 as follows: "[D]rivers are still punished with a license suspension if they fail to respond entirely or pay an

installment of their payment plan and then fail to appear at a subsequent court hearing for the infraction.” The department suggests that the proposed rule should reflect the summary by specifically stating that a person’s inability to pay by itself is not a basis for reporting to the Department. However, a failure to appear at the hearing provided in subsection (f) should be reported to the department of licensing for the purposes of suspending the driver’s license.

- (b) A “failure to appear” is the same term used for an unresolved ticket under IRLJ 3.2. (See table #1 below). Duplication of the same term for two different types of non-compliance could create future confusion about how the person was non-compliant. The Department suggests that courts should be required to report the information to the Department as a “failure to attend a hearing regarding non-payment on an installment plan”

To address the issues described in (a) and (b), the new court rule could instead provide that “A court shall not notify the Department of Licensing of a person’s non-payment of a fine. A court shall provide notice to the Department of Licensing when a person fails to appear for a hearing under subsection (f) of the rule. The court’s notification to the Department of Licensing must indicate that the person failed to attend a hearing regarding non-payment on an installment plan.”

Comment to Proposed Changes to Rule IRLJ 2.5:

The text of the amended rule should prescribe the necessary conditions for reporting an infraction the Department and prescribe that courts report the infraction as a “failure to respond” to the Department.

For example, the court rule could provide that “after an order is entered as described in this rule, a court may provide notice to the Department of Licensing. The court’s notification to the Department of Licensing must indicate that the person failed to respond.”

Comment to Proposed Changes to Rule IRLJ 3.2:

The text of the amended rule should explicitly state the necessary conditions for reporting an infraction as a “failure to appear” and prescribe that the infraction should be reported as a “failure to appear.”

For example, the court rule could provide that “after an order is entered as described in IRLJ 2.5(b) rule, a court may provide notice to the Department of Licensing. The court’s notification to the Department of Licensing must indicate that the person failed to appear.

Types of Unresolved Civil Traffic Citations that should be reported to DOL after January 1, 2023

The following table summarizes the three different types of unresolved civil traffic infractions that may now be reported to the Department of Licensing and the specific electronic “code” that have been proposed to automate the process of updating Department of Licensing records.

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Type of Unresolved Ticket	Description	Authority for Reporting to DOL	Electronic Code Proposed for Exchanging Information
Fail to Appear	Fail to appear at a hearing requested by the driver	RCW 46.63.070(6)(b) IRLJ 3.2	A
Fail to Attend a Hearing on Non-Payment of Installment Plan	Failure to appear at a hearing set by the court after non-payment on an installment plan	RCW 46.20.289 IRLJ 3.5	The department believes courts are likely to use the "A" code to transmit this information which could lead to confusion about the specific basis for the license suspension
Fail to Respond		RCW 46.63.070(6)(a) IRLJ 2.5	R

Thank you for your consideration of the Department's comments. Please let me know if you have any questions.

Sincerely,

/s/

Schuyler Rue
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Washington State Department of Licensing
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cc: Dirk Marler, Administrative Office of the Courts
Dionne Padilla-Huddleston, Attorney General's Office

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To: [Linford, Tera](#)
Subject: FW: Comments to Proposed Rules
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From: Rue, Schuyler (DOL) <SRue@DOL.WA.GOV>
Sent: Thursday, August 25, 2022 8:27 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Padilla-Huddleston, Dionne (ATG) <Dionne.PadillaHuddleston@atg.wa.gov>; Benfield, Brad (DOL) <BBENFIELD@DOL.WA.GOV>; Marler, Dirk <Dirk.Marler@courts.wa.gov>
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Good morning:

Attached are comments IRLJ changes that were proposed in March 2022.

Thank you,

Schuyler Rue

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