

2008 DUI LEGISLATIVE UPDATE FOR PEOPLE ACCUSED OF WASHINGTON STATE DUI

Questions and Answers for People Accused of Washington State DUI:

The Ignition Interlock License

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April 22, 2008

If you have been accused of a Washington State DUI, there is some relief in sight. In a radical departure from past policy the Washington State Legislature Passed a bill that helps people accused of a Washington State DUI -- House Bill 3254. It lessens the impact of DUI convictions and administrative suspensions by creating an "Ignition Interlock License" or "IIL". This new type of license effectively does away with all DUI license suspensions if you install an ignition interlock on your personal vehicle.

This article discusses the history of the bill and provides questions and answers to some of the more common issues people accused of a Washington State DUI should be aware of. This law becomes effective January 1, 2009.

Please note, since you are reading this, you are probably not a Washington State licensed attorney. DUI law is very complicated in Washington State, it is highly advisable to contact an attorney about your DUI charges and not to try and handle the case yourself. We are happy to help if you have questions about Washington State DUI law.

HISTORY OF HB 3254

This law was originally introduced as an “Ignition Interlock License bill.” The idea behind it was to keep the driving public legally licensed and insured. It takes a practical look at a problem in society – the reality that people with a DUI related license suspension will drive whether or not properly licensed. To cure this, it makes all DUI offenders who have lost, or will lose, their license eligible to drive once they install an ignition interlock on their car and purchase “SR 22” insurance. With the backing of groups such as MADD, this idea caught on fast and the bill rapidly progressed through both houses.

On the eve of the bill making it out of committee Senator Hargrove added an amendment creating a sweeping change in DUI law and policy. His amendment allowed first offense DUI offenders to petition for a deferred prosecution – even if they are not alcoholics, drug addicts, or suffer from mental health problems. To do this, the bill required an alcohol, drug and mental health evaluation, an ignition interlock for a year, SR 22 insurance and no criminal law violations during the five year probationary period. At the end of five years, the case would be dismissed if all conditions were met. This section did not change other parts of the deferred prosecution statute.

This bill passed out of committee and was approved unanimously by both houses. It was sent to the governor, where there was a lot of lobbying to veto the section amending deferred prosecutions. The deferred prosecution section was vetoed by the governor, but with her request to have it studied for future legislation. Fortunately the Ignition Interlock section

was signed into law. This new law promises to provide a lot of relief to people accused of DUI beginning in January, 2009.

IGNITION INTERLOCK LICENSE – A NEW BREED OF LICENSE

(effective January 1, 2009)

What is an Ignition Interlock License (IIL)?

An IIL is a new type of driver's license. If you lose your Washington State license because of a DUI conviction or an administrative hearing under 46.20.308 you can receive this IIL license from the DOL. The main requirement for this license is an ignition interlock on all vehicles driven by you – except it is not necessary on work vehicles driving during working hours for purposes of work. There will be a fund set up to help indigent people pay for an IIL. There will be no waiting periods for it – you should not have any time without a license – refusals, first offenses, second offenses, etc. You will be required to have SR22 insurance.

I have been arrested for DUI, will I be able to continue to drive?

Yes. Under the new IIL program there you will be able to continue driving. You can effectively get around both the Washington State DUI criminal and administrative suspensions if you receive an IIL. It does not matter if you have a prior Washington State DUI suspension or if you refused the breath test – you still will be eligible for an IIL.

What must I do to get an IIL?

To receive an IIL you must send in an application to the Department of Licensing. There will be a fee for the application, as well as a monthly fee of \$20 to help fund indigent

citizens. You will also need to have an ignition interlock installed on any vehicle you drive (except work vehicles driven during working hours). You will also need SR 22 insurance. You are eligible for an IIL if your privilege to drive is not otherwise suspended and you do not have any vehicular assaults or vehicular homicides within the past seven years.

Should I request an administrative hearing under RCW 46.20.308?

Yes. You should still request a DOL administrative hearing. The upside to requesting the hearing is that you may win this hearing – saving a hit on the DOL abstract and preventing the need for an IIL and SR 22 insurance. There is really no downside to requesting the hearing (other than the \$200 hearing request fee). If after reviewing the police report it looks like you are going to lose the hearing, then you can just apply for an IIL. Once the IIL is granted you will lose the right to the hearing and any appeal.

How long do I have to request an administrative hearing under RCW 46.20.308?

This has now changed – 20 days (no longer 30) is the new time period.

My license was suspended/revoked from an administrative hearing, can you I get an IIL?

Yes, you can still apply for and receive an IIL. Once the IIL is received, you lose any right to an appeal of the 46.20.308 hearing.

When should I request an IIL?

You should request an IIL at the earliest possible time. DOL has a history of taking a long time in processing applications for ORLs. It seems to makes sense to get the IIL application in early.

Will I need "SR 22" insurance to obtain an IIL?

Yes.

Will I need an ignition interlock on my work vehicle?

No, it is not necessary on "vehicles owned by a person's employer and driven as a requirement of employment during working hours." There is a new requirement for the employer to provide a declaration stating that your work requires you to operate a vehicle owned by the employer during working hours.

I do not own a car, will I need an IIL?

No, not under the administrative suspension pursuant to 46.20.308. You would need to wait out the suspension.

If you are convicted of DUI, the court will order you to obtain an IIL. If you do not have a car, the court "shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system." You will be required to pay for this. In

my opinion, you may be better off buying a cheap car and putting an IID on it than having an alcohol detecting bracelet.

How long will it take to get an IIL?

This will be up to the Department of Licensing. If history with the ORL is any guide, expect it to take at least 2-4 weeks for the DOL to process this request.

What happens if I violate the terms of my IIL?

It is a criminal offense punishable by up to 6 months in jail and up to a \$250 fine.

How long will I need to have an IIL?

For suspensions under 46.20.308, it will be for the length of the suspension.

For criminal conviction suspensions it will be 1, 5 or 10 years going up each level based on prior IID orders.

I have a Commercial Driver's License, will the IIL license help me keep driving my Commercial Vehicle?

No. Unfortunately those with a CDL will not benefit from the IIL. You must still "win" your DOL hearings and avoid a DUI/Physical Control conviction to avoid CDL disqualification.

HB 3254 - Summary Bill

§	RCW	Summary
2	46.20.308	<ul style="list-style-type: none"> • Suspension/Revocation = IIL immediately • Waive 46.20.308 hearing/appeal if receive an IIL • 20 days (no longer 30) to apply for a .308 hearing
6	46.20.391	<ul style="list-style-type: none"> • Can no longer apply for an ORL with a DUI conviction (no need b/c IIL)
8	46.20.410	<ul style="list-style-type: none"> • Violating terms of IIL is a criminal offense
9	46.20.___	<ul style="list-style-type: none"> • If convicted of DUI/Phys. control can apply for an IIL • Waive 46.20.308 hearing if receive an IIL • IID must be on all vehicles “operated” (not owned) • No IID on employer vehicles if 9A.72.085 declaration from boss to DOL • Day to day credit for IID requirements from a conviction • 46.29 insurance required • All suspensions (2nd, 3rd, ref., etc.) qualify for IIL, (except veh. hom/asslt. occurring w/i 7 yrs.)
10	46.20.___	<ul style="list-style-type: none"> • IID fund for indigent defendants
12	46.20.720	<ul style="list-style-type: none"> • If convicted of DUI/phys.con., or DP, court must order IIL application • No IID on employer vehicles if 9A.72.085 declaration from boss to DOL
14	46.61.5055	<ul style="list-style-type: none"> • It is a felony DUI if prior out of state comparable offense • Court <u>must</u> order IIL with a DUI/phys.con. conviction – 1,5, or 10 yrs • No IID on employer vehicles if 9A.72.085 declaration from boss to DOL • No IID if not in area, or no vehicle; if no IID then alcohol monitoring (“breathalyzer” device, transdermal, or “other technology”).
20	46.61.502	<ul style="list-style-type: none"> • Felony DUI if prior out of state comparable offense
21	46.61.504	