

Mandatory Auto Insurance and Auto Accident Financial Responsibility

Introduction

This publication answers questions about Washington's mandatory insurance law and explains the laws that apply if you have an accident while driving without insurance.

◆ We summarize laws found in state statutes, state administrative regulations, and case law. If you want to do further research, you'll find citations at the end of this publication where the information summarized can be found.

Am I required to have automobile insurance?

Yes, with a few exceptions. Liability insurance is not required for:

- vehicles registered as antique vehicles;
- collectors' vehicles;
- motorcycles;
- mopeds; AND
- motor-driven cycles.

What's the minimum amount of insurance I must have?

You must have at least \$25,000 per person, \$50,000 per accident, and \$10,000 for property damage. Any agent who writes a policy for your car should write a policy with at least this minimum coverage.

What if I can't get insurance?

If you can't find a company that will insure you, you may be able to get coverage under the Washington Automobile Insurance Plan (sometimes called *assigned risk*). Under this plan, companies write policies for persons who aren't insurable through regular channels. Ask your insurance agent or broker to contact the Washington Automobile Insurance Plan for more details and information.

How do I prove that I have insurance?

The insurance company should give you an identification card for proof.¹ Keep the card in your car's glove compartment so you don't forget it.

What if I have no insurance and I'm stopped by a law enforcement officer?

The officer can give you a ticket that carries a fine of over \$250.² The officer will presume that you have no insurance if s/he asks to see your insurance identification card and you don't produce it.

◆ Don't provide false evidence of insurance. You can be charged with a crime if you do.³

If you receive a ticket, it will explain your options. You have 15 days to respond. You can pay the ticket, request a hearing to explain the circumstances, or request a hearing to contest the ticket. Requesting a hearing to explain the circumstances is admitting the violation and you'll be found guilty of driving without insurance. If you

did have insurance at the time you were stopped, contest the ticket.

If you show the court a letter from your insurance company saying you had insurance at the time you received your ticket, the ticket must be dismissed.⁴ If you show the judge you tried to get insurance but couldn't afford it because of your income, the court may reduce the fine or require community service instead of a fine.

If the court fines you, payment of the fine is due immediately. Let the judge know if you can't afford to pay the fine all at once. If the court agrees that you can't immediately pay the amount of the fine in full, the court must enter into a payment plan with you.⁵

Can I lose my license if I don't pay the fine for driving without insurance?

Yes. The Department of Licensing will send you a notice that suspends your license in 45 days for not paying the fine. You can appeal the suspension within 15 days, but only to correct mistakes. (Examples: you were mistakenly identified as the driver, or you've already paid the fine.)

Remember: if you can't pay the fine all at once, tell the court so you can try to get a payment plan that you can afford. As long as your payments are current, you won't lose your license.

What if I have no insurance and I'm in an accident?

You could have your license suspended if the accident resulted in bodily injury to any person, or if it resulted in at least \$700 damage to the property of any person.⁶

The Department will send you a notice of suspension if it decides within 180 days of the accident that a *reasonable possibility* exists that a court would hold you responsible for the accident. This notice

will inform you that the Department intends to suspend your license in 60 days. It will also tell you how you can avoid having your license suspended, and of your right to appeal the decision to suspend it.

Make sure the Department has your current address. If you move and you don't update your address, you may not receive the notice, may not learn that your license is being suspended, and may lose out on your rights to appeal.

If I'm in an accident and I have no insurance, what should I do?

If anyone's injured or there's \$700 in property damages, you must file an accident report within 24 hours. You should file a report even if a police officer was at the scene and filed his/her own report. You can get a report form from any police department. You must answer each question completely and accurately. If a police officer comes to the scene, make sure s/he fully understands your explanation of what happened. Write down the names, addresses, and telephone numbers of any witnesses so you can ask them to come to any hearing that might later be held.

If you're insured, call your insurance provider.

If the Department of Licensing has sent me a notice of suspension, what can I do if I disagree with it?

You can appeal by requesting a document review or interview. If you don't agree with the outcome of the document review or interview, you can request a hearing.⁷ If you don't agree with the outcome of the hearing, you can appeal the hearing decision to superior court.

How do I appeal the proposed suspension of my driver's license with the Department of Licensing?

Requesting a document review or interview. Complete the *Notice of Right to Document Review or Interview* form that comes with the notice of suspension. Mail it to the address on the form, or contact the Department at hearings@dol.wa.gov. If you appeal by the deadline stated in the notice (20 days from the date the notice of suspension was mailed), your license won't be suspended pending the outcome of the review or interview. If you fail to appeal by the deadline, you lose your right to appeal, and the suspension will occur on the date stated in the notice of suspension unless suspension is avoided by one of the methods we described earlier.

You can choose to either have a personal interview or a review of the case solely based on the papers in the file. If you choose an interview, it can either be in person or by phone. Whether you choose an interview or a paper review, you should send a written statement to the Department about matters you want the Department to consider when it conducts its review. A form *Affidavit* for your use in making a statement is included with the *Notice of Right to Document Review or Interview*.

The person who interviews you or reviews the paperwork is called a "hearing officer." However, this step isn't a hearing. The hearing officer will review whether there's a *reasonable possibility* that a court will hold you responsible for the amount estimated by the Department. The hearing officer may decide that the notice of suspension should remain in effect or the officer may decide to modify the notice (example: reduce the amount of security you're asked to deposit). Sometimes, the hearing officer reverses the decision to suspend your license, in which

case the notice of suspension should be cancelled.

Requesting a hearing. You'll receive a written decision and a form to request a hearing. If you decide you want a hearing, you must request one 15 days following the mailing of the decision from the document review or interview. If you request a hearing before the appeal deadline, you won't lose your license pending the results of the hearing. If you decide not to appeal or if you don't appeal on time, the decision of the Department based on its document review or interview is final.

The hearing will be conducted by a different hearing officer and is tape-recorded. You may offer your own testimony, the testimony of witnesses, or present documents or other evidence. You can be represented by an attorney.

The hearing officer will send you a written decision. The officer can uphold, modify, or reverse the decision you're appealing. If the decision upholds the Department's proposed suspension of your license, the order of suspension will have an effective date of 30 days after the date of mailing of the decision.

Requesting reconsideration or appealing to court. You can seek reconsideration of the hearing decision, if you're dissatisfied with it, or you can appeal the hearing decision to Superior Court.⁸ You can appeal to court without seeking reconsideration.⁹ Appeals to court are subject to strict deadlines and strict requirements. The rules are complicated and the court's power to change the decision is limited.

What can I do to avoid having my license suspended if I lose my appeal or decide not to appeal?

You have four choices, described below. You also can consider filing for bankruptcy.

1. Deposit security and obtain future insurance. One way to avoid having your license suspended is to deposit with the Department of Licensing the amount of money the Department estimates you may owe because of the accident, and to provide proof that you've obtained insurance.¹⁰ Proof of insurance is also referred to as an SR-22 insurance certificate. The notice of suspension states how much money you must deposit. Forms and instructions on how to deposit security are available from the Department on request.

The money you've deposited will be returned to you if no lawsuit has been started against you within 3 years of the accident.

2. Obtain a statement releasing you from liability in the accident. Another way to avoid having your license suspended is to provide the Department a written statement signed by all the other parties releasing you from liability for the accident. The list of the other people and insurance companies who must provide this statement is in a *Contact List* you'll receive along with the notice of suspension.¹¹

3. Reach an agreement with the other people involved in the accident.

You can also avoid losing your license is to reach an agreement with the others involved in the accident. The agreement must be in writing, signed by you and everyone else who's identified in the *Contact List*, and returned to the Department.¹²

Agreements usually involve an admission of liability (you admit owing money) and an agreement to pay, either in one payment (a lump sum) or in installments. If you can't pay a lump sum, try to get payments you can afford to make.

Make sure you can stick to your agreement. If you miss a payment, and the Department is notified about this, it will issue a new

notice suspending your license effective 30 days from the date of this new notice.

4. Obtain a court order. You can also avoid losing your license by sending the Department a certified copy of a court order that finds that you're not responsible to the others involved in the accident for their injuries or property damages.¹³

Can I avoid having my license suspended by filing for bankruptcy?

A bankruptcy may help you avoid having your license suspended or get it back if already suspended, especially if you have no other options. Through bankruptcy, you may be able to discharge some or all of the debts you owe as a result of being uninsured at the time of an accident. Discharging your debt means you no longer owe it and you can no longer be denied your license solely based upon that debt.

◆ Note: Some debts aren't dischargeable, such as traffic tickets or damage caused by drunk driving.

Even after a bankruptcy, you must still show "financial responsibility" before you can get a license. That means that although the past debt won't stop you from getting a license, you must show you're currently insured.

If you file bankruptcy, you'll need to do it for all your debt. You can't do it just for what you owe from the auto accident.

◆ Bankruptcy affects your overall financial picture in both good and bad ways. Try to consult a bankruptcy attorney before choosing this option. More detailed information on bankruptcy is available at www.washingtonlawhelp.org

How can I get my license restored if the suspension goes into effect?

You can have your license restored by posting security and providing proof of financial responsibility for the future (SR-22 insurance certificate), obtaining a release from the other parties, entering into an agreement with the other parties, or obtaining a court order (including a bankruptcy order in certain cases).

If you can't meet any of the requirements stated above, you may apply to get your license back after three years from the date of the accident. You'll need to pay a reissue fee. However, even after three years, you won't be able to get your license restored if you're still being sued based on the accident or if you have an unpaid court judgment based on the accident.¹⁴

If my license is being suspended because I have an unpaid court judgment based on the accident, what can I do?

You can ask the court to allow you to make payments if you can't pay the judgment all at once, provided you give notice to the other side in the lawsuit. If the court allows you to make payments and you're current in your payments, the Department of Licensing won't suspend your license or if your license was already suspended it will restore your license.¹⁵

You'll need to provide proof of insurance. If your license has already been suspended, you'll also need to pay a reissue fee.

The Department also has discretion to allow you to keep your license if those who obtained the judgment against you consent in writing.¹⁶

What if I was the owner, but not the driver, of the car involved in the accident?

Both you and the driver may face license suspension. Owners are usually, but not always, legally responsible for accidents caused by others who drive their cars. For example, you should be able to avoid having your license suspended if you can prove that the driver was driving without your permission.¹⁷

What can happen if I get caught driving with a license suspended under the Financial Responsibility Act?

Driving while your license is suspended under the Financial Responsibility Act is a crime.¹⁸ Upon a first conviction the punishment can be jail time of up to 90 days and a fine of up to \$1000.¹⁹

Your car might be impounded. For more information on what to do if your car has been impounded, please refer to our publication, *What to Do If Your Vehicle Has Been Towed*.

Your car's registration might be cancelled and its plates taken away if you were the driver *and* registered owner of the uninsured car that was involved in the accident.²⁰

Can I get a temporary license so that I can drive back and forth to work?

Yes. You must pay a license fee of \$100 and furnish proof that you have insurance. The license can take 7 to 10 working days to process after the application has been received.

The temporary license will describe the reasons why the license is being issued and will set out in detail the specific hours of the day you may drive to and from your home,

the days of the week you can use the license, and the general routes over which you may travel.²¹

For further information contact Customer Service at the Department of Licensing at 360-902-3900.

Can I get a temporary license to meet needs besides going back and forth to work?

Yes. A temporary license may also be issued if you need it to travel to and from

school, to fulfill court-ordered community service, to undergo continuing health care or to provide care to another who is dependent on you, to receive substance abuse treatment or to participate in meetings with groups such as Alcoholics Anonymous, to participate in programs that assist people enrolled in a WorkFirst program to become gainfully employed, or to participate in an apprenticeship, on-the-job training, or welfare-to-work program.²²

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¹ [WAC 308-106-020](#)

² [RCW 46.63.110](#); [RCW 3.62.090](#)

³ [RCW 46.30.040](#)

⁴ [RCW 46.30.020\(2\)](#)

⁵ [RCW 46.63.110](#)

⁶ [RCW 46.52.030](#)

⁷ The procedural rules the Department uses in administering the Financial Responsibility Act are found in [Chapter 308-102](#) of the Washington Administrative Code.

⁸ [RCW 34.05.510](#) through [.598](#)

⁹ [RCW 34.05.470\(5\)](#)

¹⁰ [RCW 46.29.070](#) and [.250](#)

¹¹ [RCW 46.29.120](#)

¹² [RCW 46.29.140](#)

¹³ [RCW 46.29.130](#)

¹⁴ [RCW 46.29.170](#)

¹⁵ [RCW 46.29.400](#)

¹⁶ [RCW 46.29.350](#)

¹⁷ [RCW 46.29.080\(8\)](#)

¹⁸ [RCW 46.20.342 \(c\)](#)

¹⁹ [RCW 9A.20.021\(3\)](#)

²⁰ [RCW 46.29.605](#)

²¹ [RCW 46.20.391](#) and [.394](#)

²² [RCW 46.20.391\(2\)](#)