

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.

It summarizes laws that are contained in state statutes, state administrative regulations, and case law. For those who want to do further research, you will find citations at the end of this publication where the information summarized can be found.

Am I required to have automobile insurance?

Yes, unless liability insurance is not required for your vehicle. Liability insurance is not required for vehicles registered as antique vehicles, collectors' vehicles, motorcycles, mopeds and motor-driven cycles.

What is 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 cannot 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 are not insurable through regular channels. Ask your insurance agent or broker to contact the Washington Automobile Insurance Plan for additional details and information.

How do I prove that I have insurance?

The insurance company should give you an identification card for this purpose.¹ It is best to keep the card in your car so you do not forget.

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

The officer can give you a ticket that carries a fine of over \$500.² The officer will presume that you do not have insurance if he or she asks to see your insurance identification card and you fail to produce it. Do not 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 will be found guilty of driving without insurance. If you had insurance, 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 could not 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 cannot afford to pay the fine all at once, and you may be given more time to pay it.⁵ (*Effective July 1, 2005, a payment plan is required if the court determines that you cannot immediately pay the amount of the fine in full.*)

Can I lose my license if I fail to pay the fine for driving without insurance?

Yes, if you receive your ticket on or after July 1, 2005.

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 (e.g., you were mistakenly identified as the driver or you have paid the fine).

As we have already mentioned, if you cannot pay the fine all at once, inform the court and try to obtain a payment plan that you can afford. As long as your payments are current, you will not lose your license.

What if I have no insurance and I am 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 inform 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 do not 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 am in an accident, what should I do?

If anyone is injured or there is \$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 own report. You can get a report form from any police department. Be sure to answer each question completely and accurately. If a police officer comes to the scene, you should make sure he or she fully understands your explanation of what happened. If there are any witnesses, write down their names, addresses, and telephone numbers so you can ask them to come to any hearing that might later be held.

If you are insured you should 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 do not agree with the outcome of the document review or interview, you can request a hearing.⁷ If you do not 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 Department of Licensing, Hearings/Interviews, P.O. Box 9031, Olympia, WA 98507-9031 or fax it to (360) 664-8492. If you appeal by the deadline stated in the notice (20 days from the date the notice of suspension was mailed), your license will not 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 to have an interview, the interview can either be in person or by phone. Whether you choose an interview or a paper review of the case, you can send a written statement to the Department about matters you feel the Department should consider when it conducts its review. A form *Affidavit* you can use to make 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," but this step is not your hearing. The hearing officer will review whether there is 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 (e.g., reduce the amount of security you are asked to deposit). Sometimes, but not often, the hearing officer reverses the decision to suspend your license, in which case the notice of suspension should be cancelled.

Requesting a hearing. You will receive a written decision and a form to request a hearing. If you decide you want a hearing, the deadline for requesting one is 15 days following the mailing of the decision made based on the document review or interview. If you request a hearing before the appeal deadline, you will not lose your license pending the results of the hearing. If you decide not to appeal or do not 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 affirm, modify, or reverse the decision you are appealing. If the decision affirms 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 are 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 the four choices that are 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 furnish proof that you have obtained insurance.¹⁰ Proof of insurance is most commonly 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 have deposited will be returned to you if a lawsuit has not 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 found in a *Contact List* you will receive along with the notice of suspension.¹¹

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

A third way to 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 is identified in the *Contact List*, and returned to the Department.¹²

Agreements usually involve an admission of liability (that is, you admit owing money) and an agreement to pay, either in one payment (a lump sum) or in installments. Try to get payments you can afford to make if you cannot pay a lump sum.

Make sure you can stick to the agreement you make. If you miss a payment, and the Department is notified about the missed payment, it will issue a new notice suspending your license effective 30 days from the date of this new notice.

4. Obtain a court order. A fourth way to avoid losing your license is to send the Department a certified copy of a court order that finds that you are 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 to other parties 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. Some debts will not be dischargeable, such as traffic tickets or damage caused by drunk driving. Even after a bankruptcy, you will still need to show "financial responsibility" before you get a license. That means that although the past debt will not stop you from getting a license, you must show you are currently insured.

If you file bankruptcy you will need to do it for all your debt; you cannot do it just for what you owe from the auto accident. Because bankruptcy affects your overall financial picture in both

good and bad ways, you should attempt 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 documentation 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 do are not able to 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 will need to pay a reissue fee. However, even after three years, you will not be able to get your license restored if you are 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 cannot pay the judgment at once, provided you give notice to the other side in the lawsuit. If the court allows you to make payments and you are current in your payments, the Department of Licensing will not suspend your license or will restore a license that has already been suspended.¹⁵

You will need to provide proof of insurance. If your license has already been suspended, you will 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 46.29.060

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)