



Driving While License Suspended in the Third Degree

Overview: The Vancouver City Attorney’s Office is committed to advancing our understanding of who is, and is not, benefitting from the institutions our society has created. Where possible, the City Attorney’s Office seeks opportunities to lawfully balance inequities that exist and repair inequities in our systems. To this end, beginning **January 2021**, the City Attorney’s Office will be piloting changes to City’s prosecution practices relative to the crime of “Driving While License Suspended in the Third Degree” (DWS-III). (RCW 46.20.342(1)(c)).

What is DWS-III: DWS-III cases generally arise in instances where someone has received a ticket for a moving violation (e.g., speeding or rolling through a stop sign) and then fails to pay the ticket or show up in court to contest it. When this happens, the District Court notifies Washington State Department of Licensing (DOL). DOL sends the driver a notice that their license may be suspended and if the individual fails to timely respond, their driver’s license is suspended by the state. The next time this individual gets in their car and drives, they are committing the misdemeanor Driving While License Suspended in the Third Degree (DWS-III). (RCW 46.20.342(1)(c)). The problem is that prosecution trends increasingly suggest that this charge disproportionately impacts community members who are Black, Indigenous and People of Color, as well as those who are of lower financial means.

Creation of a Pre-Citation Diversion Program: In response to this information, the City Attorney’s Office has decided to focus its efforts on educating and empowering unlicensed drivers to reinstate their driver’s licenses through creation of a pre-citation DWS-III diversion program.

Goals: The City Attorney’s Office Pre-Citation Diversion Program is designed to incentivize two things: (1) education and reinstatement of driving privileges, or alternatively, (2) lifestyle changes that result in no new offenses (e.g., rideshares, use of transit, or other choices that eliminate the need for unlicensed driving.)

Requirements: Qualifying drivers will be invited to participate in the City’s DWS-III pre-citation diversion program. Drivers who choose to participate will be deemed to complete the DWS-III pre-citation diversion program if they satisfy one (or both) of two conditions: (i) the driver works to successfully reinstate their license; or (ii) the driver remains free from new DWS-III referrals for 6 months from the date of their agreement to enter the program.

Eligibility: Individuals will be eligible for participation in the City Attorney's Office DWS-III pre-citation diversion program if they have been referred for prosecution of DWS-III (RCW 46.20.342(1)(c)(iv)) for driving on or after January 1, 2021, and:

- ✓ The incident did not involve a collision or accident;
- ✓ The driver does not have a Commercial Driver's License and was not operating a commercial vehicle during the incident in question;
- ✓ The driver's license is not suspended in another state;
- ✓ The driver has no more than 4 convictions in the past 10 years preceding entry into the diversion program;
- ✓ The driver has no active warrants and no felony convictions with a nexus to traffic safety (such as vehicular homicide).

Revised Prosecution Standards: The City recognizes that some individuals may choose not to participate in the DWS-III Pre-Citation Diversion Program, and others may fail to timely respond to the invitation to participate. With this in mind, Revised 2021 Prosecution Standards will call for the use of civil infractions (rather than criminal charges) where appropriate, for those who qualify for, but choose not to participate in the DWS-III Pre-Citation Diversion Program.

City Attorney's Commitment Regarding Prosecutions: The City Attorney's Office recognizes that the decision to bring and maintain criminal charges is impactful, and we approach this with the utmost care, temperance and restraint. We will never advance or maintain a criminal charge on account of any individual's race, color, national origin, sex, sexual orientation, gender identity, gender expression, religion, or creed. It is the intent of the City Attorney's Office that the changes described above will help balance one source of potential inequity that exists within our legal system while maintaining Citywide efforts to improve traffic safety. The City Attorney's Office plans to study the results of these program changes after one year and evaluate the need for further program refinements. For more information please contact:

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