



Reducing Suspended Drivers and Alternative Reinstatement Sample Legislation

From Appendix A of Reducing Suspended Drivers and Alternative Reinstatement Best Practices, Edition 3 (May 2021)

Introduction

The following Preamble and Definitions were prepared by the 2013 SRWG. Several strategies were added by the 2018 SDAR WG for Jurisdictions to use as a starting template for discussing a specific legislative proposal. Although it may not be possible to repeal all non-driving suspensions in one legislative sweep, jurisdictions should attempt to remove as many as possible, even if it requires multiple legislative sessions to accomplish.

§ 1: Preamble

1. Highway safety is the primary goal of driver licensing and sanctioning laws.
2. Suspending a driving privilege is an effective deterrent and enforcement tool for compliance with highway safety laws and regulations.
3. Suspending a driving privilege has also been used as an enforcement tool for compliance with non-highway safety-related laws and regulations.
4. The increase in legislated non-highway safety-related suspensions has diluted the effectiveness of driving sanctions, created inefficiencies and inequities, and increased the burden on law enforcement, driver licensing authorities and the criminal justice system.
5. On average, 39 percent of license suspensions are for non-highway safety related reasons.
6. Drivers suspended for highway safety related reasons are three times more likely to be involved in a crash than a driver suspended for non-highway safety related reasons.
7. Maintaining full valid driving privileges should be contingent on compliance with highway safety-related laws.
8. Suspending driving privileges for civil, criminal, or administrative offenses that involve neither the operation of a motor vehicle, nor the knowledge, skills, or physical qualifications to drive, is not related to highway safety.
9. To best serve highway safety, penalties for non-highway safety related reasons should avoid the suspension or revocation of driving privileges.
10. Alternatives exist to suspension or revocation of driving privileges for non-highway safety related reasons.
11. These alternatives should be used in lieu of suspending the driving privilege of a person for a non-highway safety related reason.

§ 2: Definitions

“Failure to Appear” means the failure of a person who has received a summons for an offense to either appear in court to answer the charge or to comply with an alternative method of appearance permitted by the court.

“Failure to Pay” means the failure of a person who has been convicted of an offense or found liable for a traffic violation to pay any court fines, costs, or restitution ordered by the court of conviction pursuant to the judgment of the court.

“Highway Safety Related Suspension” means any driving privilege suspension which is issued because of an individual’s operation of a motor vehicle, or the knowledge, skills, or physical qualifications to operate a motor vehicle, or maintaining the financial responsibility required for the operation of a motor vehicle.

“Mandated Suspension” means any driving privilege suspension which 1) is not a highway safety related suspension and 2) the jurisdiction is either required to impose by federal law (for American jurisdictions) or an act of parliament (for Canadian jurisdictions) or which, if the jurisdiction were not to impose the suspension, would result in the loss of funding.

“Non-Highway Safety Related Suspension” means a driving privilege suspension which is not a mandated suspension or a highway safety related suspension.

§ 3: Suspensions

1. Jurisdictions should repeal statutes imposing a non-highway safety related suspension, and should repeal jurisdictional statutes imposing a mandated suspension if and when Congress (for American jurisdictions) or Parliament (for Canadian jurisdictions) repeals the mandate requiring the suspension.
2. Jurisdictions should repeal statutes imposing a suspension for failure to appear or failure to pay when the underlying offense for which the person failed to appear or pay is not directly related to the operation of a motor vehicle.

§ 4: Failure to Pay

1. Any person whose driving privilege is at risk of suspension for failure to pay should be able, prior to the suspension taking affect, to apply to an appropriate authority to determine whether it is appropriate to impose the suspension in light of the facts of the case and the individual’s personal circumstances.
2. For those individuals suspended for failure to pay, states should make available alternative methods of reinstatement other than payment in full of the obligation. Such methods could include payment plans, participation in community service, or other alternative methods approved by the appropriate authority.

§ 5: Waiver of Reinstatement Fees

1. Jurisdictions should consider waiving driving privilege reinstatement fees for those individuals who are indigent.
2. Jurisdictions should develop guidelines for determining which drivers are indigent. Such guidelines could include the use of objective measures for determining indigence—for example, whether the person receives certain social services benefits.
3. Jurisdictions which do not currently evaluate indigence are encouraged to consult with their jurisdiction’s social services agency or with other jurisdictions which do, to develop an effective evaluation program.