



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

MARGARET M. O'NEILL BUILDING
410 FEDERAL STREET, SUITE 1
DOVER, DE 19901

VOICE: (302) 739-3620
TTY/TDD: (302) 739-3699
FAX: (302) 739-6704

MEMORANDUM

DATE: June 28, 2018

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Nicholas J. Fina, Ed.D. ^{NJ/25} Chairperson
State Council for Persons with Disabilities

RE: HB 438 – Removing Ability of JP Court to Order Suspension or Revocation of
Driving Permits and Licenses as Part of Truancy Proceedings (Amendment to 14
Del Code §3730)

HB 438 removes the ability of JP Court to order the suspension or revocation of driving permits and licenses, or a hunting license, as part of truancy proceedings. The proposed legislation Reported Out of the House Education Committee on 6/6/18.

One can assume that the basis for this amendment is the understanding that removing a driver's license can have many unintended consequences (see attached article). A fair number of states have "No Pass, No Drive" policies and laws that penalize tenants and dropouts by removing driving privileges, passed in the late 2000s. It is worth noting that children are generally truant by choice, but they are not expelled by choice. In any case, removal of a driver's license will likely prevent a student from getting to school, to an alternative program or to employment. For that reason, the SCPD is endorsing this legislation.

Thank you for your consideration and please contact SCPD if you have any questions regarding our comments and position on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council



States are taking away your driver's license in the name of 'social engineering'

You can lose your license over things like jaywalking, library fines and truancy – and even minor infractions can lead to jail time.

By Tina Griego October 22, 2014 [✉ Email the author](#)

Every once in a while, someone would come into Jud McMillin's office in Brookville, Ind., and complain they'd been out boating on the nearby reservoir and had been ticketed for drinking beer. The Indiana state representative is a conservative Republican in a conservative state and, as such, has a particular interest in crime and punishment. He was a former prosecutor in Ohio and then went back to his hometown and into private practice.

Few people have sympathy for drunk boating – it's a public safety issue. No, what started to grate on McMillin was the penalty: Driver's license suspension. From his point of view, the state, like others, seemed to be all too willing to suspend driver's licenses for offenses that didn't have anything to do with highway safety.

Fail to pay child support? Possible driver's license suspension. Unpaid parking tickets or court fines? Face driver's license suspension. Marijuana possession unrelated to driving? Driver's license suspension. A juvenile could lose a license with school expulsion or for being "recklessly" in a tavern.

In Indiana, driver's license suspension was mandatory for some non-driving related offenses. A person who kept driving under a suspended license was looking at ever-increasing fines and mandatory minimum jail or prison sentences. According to the executive director of the state's Public Defender Council, "200 people whose most serious offense is repeated driving without a license" are sitting in Indiana prisons.

"I'm in rural Indiana," McMillin said. "We don't have public transit. We have folks who want to take care of themselves, take care of their work, and because they got stuck with an offense that had nothing to do with driving, their licenses are suspended. So what do they do? They drive anyway. "I've seen folks who are sitting in prison for up to eight years who did nothing but keep driving on a suspended license, and the next thing you know, taxpayers are paying \$58 a day because a guy wanted to get to work."

Indiana is far from alone in this practice, which numerous studies have shown disproportionately affects low-income workers and, in urban areas, young black and Latino men. Over the past couple of decades, states have dramatically expanded the use of suspension to deter or enforce all manner of offenses. Some of this is about cash flow: fees, fines, penalties. If the person paying is guilty of some infraction, all the better.

But the policy may be more the result of the example set by the federal government, which demands that states employ driver's license suspension for even the smallest drug-related convictions or risk losing part of their federal highway funds. Federal policy also mandates that states include suspension as a tool to force parents who owe child support to pay up. In Arizona, failure to appear in court can result in immediate and indefinite driver's license suspension until a fine is paid. Kiting checks in Arkansas can get your license suspended. Vandalism, prostitution and truancy can result in a suspended license in California. In New York, advocating for the overthrow of the government can cost you your license for a minimum of six months. T

he examples, part of a voluminous report released last year by the American Association of Motor Vehicle Administrators, are varied and strangely fascinating as an insight into what offenses are deemed to threaten public order enough to warrant the suspension of the one privilege that is, for millions of Americans, a necessity.

"If you don't pay for gas at gas station, truancy, jay walking, failure to curb your dog, library fines, all kind of things can result in you losing your license," said Kevin Lewis, director of driver programs for the motor vehicle administrators' association. "It's a document no one wants to give up so it's an easy target to use to try and cure social ills, and has become a tool of social engineering."

In 2002, 29 percent of suspended drivers nationally lost their licenses for "social non-conformance" reasons unrelated to driving, according to the association's February 2013 report. By 2006, such drivers made up 39 percent of all suspended drivers. It's old data — and extrapolated from a sample of eight "geographically and demographically representative" states — but Lewis said states just keep adding more infractions that have nothing to do with highway safety to the list.

The report, citing various studies, blasts such suspensions as ineffective, time-consuming and expensive. Most drivers with suspended licenses will continue driving, the report says. But those who pose the greatest highway-safety risk — the suspended drivers most likely to crash into you — lost their licenses for highway safety-related reasons, such as driving while intoxicated.

As for the rest, the report argues, there is scant evidence that suspending a driver's license is an effective way to force people to, say, pay child support or stop throwing trash out the car window or to stay in school. (Child support enforcement officers across the country have just jumped to their feet in protest, prepared to rattle off the documented millions their departments have collected thanks to suspension.)

That driver's license suspension does work as a tool to deter some and coerce compliance from others is why states keep using it — despite "tons of unintended consequences," said Jon Carnegie, executive director of the Alan M. Voorhees Transportation Center at Rutgers University. And politically, McMillin said, license suspension is popular among those who argue that if a punishment doesn't have teeth, people will continue to break the law.

"I can explain how it happened," McMillin said of Indiana. "We wrote our criminal code in 1977, and since then, what happened was you had legislators who would show up with some anecdotal story where they didn't feel justice had been served. It was a tearjerker of a story and the argument was that suspension would prevent whatever offense it was in the future and punish those doing it now, whether it was good policy or not."

In 2013 in Wisconsin, a whopping 56 percent of driver's license suspensions — or more than 235,000 suspensions — were the result of the failure to pay a traffic ticket on time. The law allows courts to impose up to a two-year suspension. "The reality is people who can pay the fines will pay right away," said Nichole Yunk Todd, director of policy and research for Wisconsin Community Services Inc., which runs the state's Center for Driver's License Recovery and Employability in Milwaukee.

"Someone can't pay, it doesn't matter how long you suspend them, and we've seen people lose their cars and, certainly, lose their jobs."

One eye-opening study of non-driving-related suspensions, published in 2006 by the New Jersey Motor Vehicles Affordability and Fairness Task Force, found that the vast majority of non-highway safety-related suspensions in that state were indirectly related to driving: failure to appear in court on a parking ticket or moving violation or municipal ordinance summons, failure to comply with court-ordered summons, and the biggie: failure to pay a state insurance surcharge, a kind of bad-driver fee. Low-income, younger drivers, a group that would include those who could not afford the fines or could not take time off work or find child care to appear in court, bore the brunt of the consequences: four in 10 lost a job as a result of suspension, and of those, 45 percent could not find another job because of suspension. Of those who did find other work, almost 90 percent reported they were earning less.

Besides the cost to the individual, "driver's license policies overlook the impact of suspension on the larger community and the economy," said Margy Waller, executive director of the Washington-based Mobility Agenda, which has studied this issue. "In order for employers to have access to a full range of employees, they need workers who can drive, who can get to work on time. And in our society today, people need access to driving not just to work, but to participate in civic life, to volunteer, to participate in school activities, to go to worship service." The issue has been gaining traction beyond groups concerned by policies that disproportionately impact the poor.

Law enforcement, judges and lawmakers on both sides of the aisle are calling for change. A handful of states, including Florida and Wisconsin, have recently made or attempted changes to reduce non-highway-related suspensions. Most states have provisions to allow drivers to petition for a restricted license to allow people to get to work — though the circumstances under

6/11/2018


States are taking away your driver's license in the name of 'social engineering' - The Washington Post

which such licenses are granted are limited. And, as of 2010, according to the federal Government Accountability Office, at least 30 states had opted out of the federal mandate requiring suspensions for drug-related convictions.

In Indiana, McMillin sponsored a bill this year that eliminates many automatic license suspensions for non-traffic offenses, creates a restricted license that relies on driver monitoring technology, and generally gives judges more discretion in license suspension. "If we are going to tell people, 'The government isn't going to take care of you and you need to take care of yourself,' then we better give them a chance to do so," he said. "We can't slam shut every door of opportunity."

The bill passed with bipartisan support and the governor's endorsement and takes effect in January.

 **0 Comments**

Tina Griego is a reporter for Storyline. Previously, Tina was a city columnist for the Rocky Mountain News and the Denver Post for a combined 12 years.  Follow @tinagriego