

ENROLLED ACT NO. 90, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2009 GENERAL SESSION

AN ACT relating to suspension of drivers' licenses for nonpayment of child support; modifying procedures related to actions suspending driver's licenses for nonpayment of child support; repealing certain appeal procedures for a person whose driving privileges have been suspended for nonpayment of child support; providing for temporary driving privileges as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 20-6-111(a)(intro), (ii), (b), (f)(intro), (i), (ii) and by creating a new paragraph (iii), (h), (j)(intro), by creating new paragraphs (iv) through (vi), (n)(i), (ii) and by creating a new subsection (o) and 31-7-105(d)(intro) and (f)(iv) are amended to read:

20-6-111. Driver's license suspension; nonpayment of child support; administrative hearings.

(a) When an obligor is in arrears in a court ~~order~~ ordered child support obligation, the department or court may:

(ii) Obtain ~~an administrative or a~~ court ordered withholding, suspension or restriction of the license unless the obligor pays the entire arrearage or enters into a payment plan approved by the department.

(b) The court, on motion of the department or on its own motion, may direct the department of transportation to withhold, suspend or restrict the license and the department or the court shall send certified copies of the court order to the obligor, at the obligor's last known address, and to the department of transportation

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instructing that the department of transportation notify the obligor of the license withholding, suspension or restriction in accordance with the licensing procedures, and that the withholding, suspension or restriction shall remain in effect until the department of transportation is notified by the department or the court that the obligor is in compliance with the court order or has entered into a payment plan approved by the department. ~~The department of transportation shall if requested by the obligor, conduct a record review and advise the court if a probationary or conditional license is appropriate. No hearing or appeal shall be permitted under the Wyoming Administrative Procedure Act for a license withheld, suspended or restricted pursuant to a court order.~~

(f) ~~If~~ The department determines may determine that a driver's license suspension may be better achieved through an administrative suspension, if the obligor owes more than five thousand dollars (\$5,000.00) in unpaid child support and the obligor has not made a child support payment either voluntarily or through income withholding for a period of at least ninety (90) consecutive days prior to the determination. The department ~~may~~ shall notify the ~~department of transportation by electronic data transfer and any~~ obligor by certified mail, with return receipt requested, or by personal service ~~or by certified mail, restricted delivery if notification by certified mail was unsuccessful,~~ that the obligor is in arrears in a child support obligation and that the obligor's driver's license as defined in W.S. 31-7-102(a)(xxv) shall be suspended by the department of transportation ~~ninety (90)~~ sixty (60) days after the date ~~of the obligor receives~~ the notice unless the obligor:

(i) Pays the entire arrearage ~~stated in the notice owed;~~ or

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(ii) Enters into a payment plan approved by the department;~~;- or~~

(iii) Is in full compliance with a court ordered payment plan.

(h) Any ~~order suspension~~ arising ~~out of a hearing~~ under subsection ~~(g)~~ (f) of this section may be appealed to the district court. The person whose license or driving privilege is affected may file a ~~petition for a review of the record~~ request for a hearing in the district court in the county where the ~~person resides or in the case of a nonresident in Laramie county or the county where the~~ child support order was issued. The person shall have ~~thirty (30)~~ sixty (60) days from the date of service of the written order notice of intent to suspend in which to file the ~~petition for review~~ request for hearing. A timely request for hearing shall stay imposition of any suspension under subsection (f) of this section. The district court shall immediately set the matter for determination. ~~upon thirty (30) days written notice to the department.~~

(j) Before the license or driving privilege of any person is to be withheld, suspended or restricted under this article, the department shall advise the licensee in the notice required under subsection (f) of this section of his right to appeal to district court for any dispute involving:

(iv) The amount of current child support owed or arrearage;

(v) The identity of the alleged obligor named in the notice of suspension;

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(vi) The willfulness of any action or inaction of the obligor that contributed to the nonpayment of child support. As used in this paragraph, "willfulness" means without justifiable excuse.

(n) The discretion to modify any order of suspension under this section to allow driving privileges is limited as follows:

(i) A person whose driving privileges have been suspended for nonpayment of child support may be granted limited driving privileges by the district court or the department of transportation for a period not to exceed one hundred twenty (120) days;

(ii) A person granted limited driving privileges under this subsection by the district court or the department of transportation shall not be granted an extension of such privileges for twelve (12) months after the limited driving privileges expire unless the person has subsequently made full payment on his child support obligation in arrears, or is in full compliance with a payment plan approved by the department ~~+~~ or ordered by a court.

(o) After the obligor has paid his child support arrearages in full or has entered into a payment plan with the department, the department shall notify the department of transportation immediately and request the department of transportation to return the driver's license of that obligor pursuant to this section.

31-7-105. Administrative hearings.

(d) Except for driving privileges that have been suspended for nonpayment of child support, before

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suspending, revoking, canceling or denying the license or driving privilege of any person under this act or disqualifying a person from driving a commercial motor vehicle pursuant to W.S. 31-7-305 and 31-7-307, the department shall immediately advise the licensee in writing:

(f) Upon receipt of a timely request, the department shall conduct a review of its records and issue an order granting or denying limited driving privileges. The discretion to continue or modify any order of suspension or denial to allow driving privileges is limited as follows:

(iv) A person whose driving privileges have been suspended for nonpayment of child support may be granted limited driving privileges for a period not to exceed one hundred twenty (120) days upon ~~receipt of the notice required under W.S. 20-6-111(n)(iii)~~ request of the individual to the department after receipt of the notice of suspension of driving privileges pursuant to W.S. 20-6-111. A person granted limited driving privileges under this paragraph shall not be granted an extension of such privileges for twelve (12) months after the limited driving privileges expire unless the person has subsequently made full payment on his child support obligation in arrears, or is in full compliance with a payment plan approved by the department of family services;

Section 2. W.S. 20-6-111(g), (j)(i) through (iii), (k), (m) and (n)(iii) is repealed.

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Section 3. This act is effective July 1, 2009.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk