

WAC 308-101-040 Eligibility for hearing. (1) A person is eligible for a hearing whenever the department proposes an adverse action against the driving privilege and the opportunity for a hearing or an interview is required by law. A person is also eligible for a hearing in the following circumstances:

(2) **HTO stay hearings:** A habitual traffic offender is eligible for a stay hearing under RCW 46.65.060 so long as the following conditions have been met:

(a) There is an alcohol/drug assessment on file completed after the last drug or alcohol related offense on the driving record;

(b) The person is not revoked for a violation of a stay or probation previously granted under RCW 46.65.060 or 46.65.080;

(c) If a stay has previously been denied after a hearing, there is evidence of alcoholism or drug addiction (substance dependence) with new treatment information.

(3) **HTO reinstatement hearings:** A habitual traffic offender is eligible for a reinstatement hearing if all of the following conditions have been met:

(a) At least four years have elapsed since the beginning of the habitual traffic offender revocation or if a habitual traffic offender stay has been violated, at least four years have elapsed since the date of the new revocation notice;

(b) The person submits a declaration stating that he or she has not driven within two years prior to the request for a hearing. A record of any traffic infraction or conviction is conclusive evidence that a person drove within the past two years;

(c) Any period of additional revocation imposed following a habitual traffic offender reinstatement probation violation must be completed;

(d) If there has been a previous denial of a petition for reinstatement by a hearings examiner, at least one year has elapsed since the denial unless a shorter time is ordered by the hearings examiner.

(4) **HTO reinstatement without a hearing:** The department may grant a habitual traffic offender a reinstatement without a hearing if the person is eligible for a hearing under subsection (4) of this section and at the time of the request for a hearing:

(a) There are no other suspensions or revocations in effect;

(b) There are no vehicular homicide or vehicular assault convictions on the driver's record; and

(c) There is no more than one alcohol or drug-related incident on the driver's record. An alcohol or drug-related incident shall include an alcohol-related offense as defined in RCW 46.01.260, or an incident for which a sworn report was received under RCW 46.20.308 or 46.25.120, or similar incidents involving drugs and alcohol (including minor in possession laws), so long as the same incident is not counted more than once.

[Statutory Authority: RCW 46.01.110. WSR 18-11-098, § 308-101-040, filed 5/21/18, effective 9/4/18.]