Supreme Court No. 96697-4

SUPREME COURT
OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON,
Respondent,

v.

ERICA C. MAGALLON ALVAREZ,
Petitioner.

ANSWER TO PETITION FOR REVIEW

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I. ISSUES PRESENTED FOR REVIEW

Does a Washington State Patrol Trooper who observes a vehicle drive over a fog line, strike a rumble strip and drive with both right-side wheels off the roadway have reasonable, articulable suspicion of a traffic violation?

II. STATEMENT OF THE CASE

Defendant Erica Magallon Alvarez was charged with one count of Driving Under the Influence arising from a contact with Trooper Jarryd Bivins on October 10, 2015.

Washington State Patrol Trooper Jarryd Bivins graduated from the WSP Academy, which involved 1,040 hours of basic law enforcement training, including a NHTSA training course specific to recognizing and apprehending impaired drivers and standard training on enforcement of traffic laws. CP 79-80. As of December 17, 2015, he had been employed in a patrol capacity in Washington State for 14 months. CP 79. During the Academy, on a weekly basis they reviewed the rules of the roadway and were tested on applying the rules correctly in presented situations. CP 80.

On October 10, 2015, Trooper Bivins was on routine traffic patrol in Benton County, Washington. CP 80-81. At approximately 0212 hours, Trooper Bivins was patrolling eastbound I-82 near MP 84 when he observed a red two-door passenger car traveling in the right lane that

drove over the right fog line onto the rumble strips. CP 81-82. When the vehicle crossed the fog line, Trooper Bivins observed both right-side tires were clearly over the fog line by a tire-width to a tire-width and a half, such that they no longer contacted the fog line, but instead were on the rumble strips, making a distinct audible noise. CP 82. At the time the defendant drove over the fog line, there were no obstructions in the lane of travel or in the shoulder, the defendant's vehicle was not coming to a stop in the shoulder, and the vehicle was not reentering from a stopped position in the shoulder. CP 82-83. The location where the defendant's vehicle crossed the fog line is part of a limited access highway that is not designated by the Washington Department of Transportation pursuant to RCW 46.61.428 for permitting slow moving vehicles to drive on the shoulder. CP 83. Trooper Bivins initiated a traffic stop for wheels off roadway infractions. CP 85, 87. When Trooper Bivins initiated the traffic stop, he did not suspect the driver was impaired. CP 85. Upon contact, the defendant exhibited a number of indicators consistent with impairment and was ultimately arrested for DUI. CP 86-87.

Subsequently, this matter came before the District Court on December 17, 2015, on the defendant's Motion to Suppress. CP 49-57. The District Court entered its written findings on January 21, 2016, granting the defendant's motion and dismissing the DUI charge. CP 17-19.

The State timely appealed that same day. CP 5-6. On August 4, 2016, the Superior Court affirmed the District Court's decision and the State timely sought discretionary review before the Court of Appeals. CP 157-65. Division III stayed the decision on granting review pending the outcome of an identical Division I case, *State v. Kocher*, 199 Wn. App. 336, 400 P.3d 328 (2017), and after the *Kocher* opinion was issued, accepted review of the case. Agreeing with *Kocher*, Division III found "Trooper Bivens had reasonable suspicion to stop Ms. Alvarez for violating the wheels off roadway statute, RCW 46.61.670." *State v. Alvarez*, 430 P.3d 673, 675 (Wash. Ct. App. 2018).

III. ARGUMENT

A grant of discretionary review by the Supreme Court of a decision of the Court of Appeals will only be accepted:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
> (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
> (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
> (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b).

Here, discretionary review should not be granted because the Court of Appeals decision is in agreement with other decisions

of the Court of Appeals, and the decision does not involve an issue of public interest. RAP 13.4(b)(1), (4).

A. The decision of the Court of Appeals is consistent with other published decisions of the Court of Appeals.

1. The decision is consistent with Division I ruling in *Kocher* and *Huffman* and consistent with Division III ruling in *Brooks*.

Recently, both Division Three and Division One issued opinions interpreting RCW 46.61.670. Division One looked at the statute in *Kocher*, 199 Wn. App. 336, and Division Three addressed the statute in *State v. Brooks,* 2 Wn. App. 2d 371, 409 P.3d 1072, *review denied,* 190 Wn.2d 1026, 421 P.3d 457 (2018).

First, in *Kocher*, a trooper observed Kocher driving in the far-right lane southbound on I-5 and as traffic to the vehicle's front and left came to a stop, she drove two wheels of her vehicle over the fog line for approximately 200 feet and was stopped by the trooper. 199 Wn. App. at 338. The unanimous opinion first declined to construe the statute finding that "RCW 46.61.670 is explicit" as to what is unlawful and that "[u]nder the plain language of this statute, it is a traffic infraction, except in certain situations not relevant here, to drive a vehicle 'on a public highway with one wheel or all of the wheels off the roadway.'" *Id.* at 342-43. The Court specifically found that "driving over the fog line is a traffic infraction unless one of the enumerated exceptions in this statute applies." *Id.* at 344.

In *Kocher*, the trooper observed her drive over the fog line and thus Division One found the stop was lawful. *Id.*

Second, in *Brooks*, a trooper observed Brooks driving through the neutral area separating the highway from the highway onramp. *Brooks*, 2 Wn. App. at 373. Division III, declining to find the statutory language ambiguous, applied the relevant statutory text to set forth a useful two-part inquiry to decide what falls under the legislature's definition of a roadway.

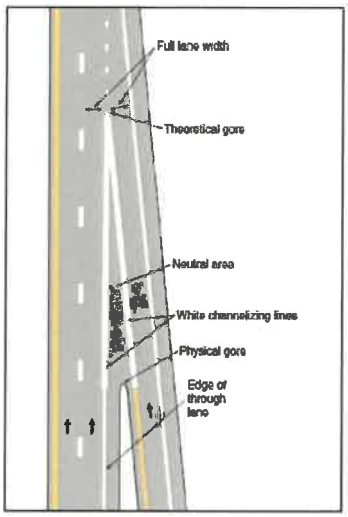
> The statutory definition of a roadway involves a two-part inquiry. First, we ask whether a given portion of highway meets the triggering definition of a roadway. In other words, is the area improved, designed, or ordinarily used for vehicular travel? If not, the inquiry ends. The area is not a roadway. But if at least one of the three triggering definitions applies, we go on to ask whether the area is excluded from the scope of a roadway because the area constitutes a sidewalk or shoulder. If neither exclusion applies, then the area in question falls under the legislature's definition of a roadway.

Id. at 375. Applying this inquiry, this Court found the neutral area was not improved, designed, or ordinarily used for vehicular travel. *Id.* at 375-76. Thus, the Court found Brooks drove with wheels off roadway in violation of RCW 46.61.670 by driving through the neutral area. *Id.*

In the decision in this case, Division Three utilized the analysis in *Brooks* and found that the area right of the fog line was not designed or ordinarily used for travel. *State v. Alvarez*, 430 P.3d 673, 675 (Wash. Ct.

App. 2018). This is entirely consistent and intuitive. Looking at the below Figure 1 taken from the *Brooks* opinion, 2 Wn. App. at 373,

Figure 1



the "neutral area" which was not part of the roadway under *Brooks* is preceded by the area right of the fog line (noted on the diagram as "edge of through lane") which forms the shoulder for miles highway. By finding that both the area right of the fog line and the neutral area are both not part of the roadway under RCW 46.61.670, both *Brooks* and *Alvarez* are in complete agreement. Plus, in all practicality it makes sense because shoulders regularly begin and end at neutral areas.

Furthermore, by agreeing that "RCW 46.61.670 prohibits driving with one or more wheels across the fog line," *Alvarez*, at 675, the Court reached the exact same conclusion Division One reached in *Kocher*, 199

Wn. App. at 344 ("[D]riving over the fog line is a traffic infraction unless one of the enumerated exceptions in [the] statute applies.").

Finally, the Division Three opinion in *Alvarez* is in complete agreement with *Kocher* and *Huffman* on one important point: the inapplicability of RCW 46.61.140(1) and the *Prado*[1] line of cases. In *Huffman*, the Court held that while both Section 100 and Section 140 govern lane travel, neither is superfluous, and both must be given effect. *State v. Huffman*, 185 Wn. App. 98, 105-107, 340 P.3d 903 (2014). "[T]he two statutes do not cancel each other out. The statutes' plain meanings are clear; RCW 46.61.100 requires drivers to stay on the right half of the road unless an exception applies, and RCW 46.61.140 requires drivers to drive within a single lane as nearly as practicable." *See* Appendices D, E; *Huffman*, 185 Wn. App. at 106. "Based on the plain reading of the two statutes and their different objectives, we find that the 'as nearly as practicable' qualifying language from Section 140 does not apply to RCW 46.61.100." *Huffman*, 185 Wn. App. at 107. Applying this same analysis to RCW 46.61.670, both Division Three in *Alvarez* and Division One in *Kocher* rejected reading "nearly as practicable" from RCW 46.61.140 into RCW 46.61.670. *Alvarez*, at 676 ("Such minor lane

[1] *State v. Prado*, 145 Wn. App. 646, 186 P.3d 1186 (2008).

deviations are different from the circumstance here where a vehicle's wheels momentarily leave the designated roadway."); *Kocher*, 199 Wn. App. at 345 ("The *Huffman* court rejected this argument. And we hold likewise. We will not, in the guise of construing the statute, add language to RCW 46.61.670 that the legislature chose not to put there.").

Accordingly, the opinion here in *Alvarez* is not in conflict with other opinions but instead agrees with *Kocher*, *Brooks*, and *Huffman*.

2. *Prado* and *Jones* are not in conflict as they do not apply to RCW 46.61.670.

The petitioner's reliance on the *Prado* and *Jones*[2] line of cases is inapt. Those cases exclusively interpret Section 140 and its qualifying language. By their own holdings, they do not apply indiscriminately throughout the traffic code.

In *Prado*, where the driver drove briefly over a lane dividing line into the adjacent lane, the only asserted basis for the stop was RCW 46.61.140, and the Court's analysis focused exclusively on the statute's qualification, "as nearly as practicable." The *Prado* court concluded that "the circumstances here do not create a traffic violation *under the statute*." *Prado*, 145 Wn. App at 649 (emphasis added); *see also Huffman*, 185 Wn.

[2] *State v. Jones*, 186 Wn. App. 786, 347 P.3d 483 (2015).

App. at 107 ("Our decision in *Prado* is limited to its facts which involved only a violation of RCW 46.61.140, not RCW 46.61.100.").

Similarly, in *Jones*, the only asserted basis for the traffic stop was RCW 46.61.140. While Jones was alleged to have crossed the fog line by one inch on three occasions, the State never argued a violation of RCW 46.61.670—not at the trial court, nor on appeal. *Jones,* 186 Wn. App. at 793 ("The State presented no evidence of . . . any other traffic infraction); *see also* Br. of Resp't, *Jones*, 186 Wn. App. (the State's brief never mentioned RCW 46.61.670); *see also Kocher*, 199 Wn. App. at 345 (rejecting the application of *Jones* to an RCW 46.61.670 violation). Furthermore, in *Jones* the incursion was only by an inch, which would still leave the tire mostly on the fog line and in the lane of travel, and not yet completely across it and onto the shoulder, thus making it less clear whether an entire wheel ever left the roadway violating RCW 46.61.670. In the defendant's case, of course, the testimony was quite clear she drove off the roadway and was stopped for violating RCW 46.61.670. *E.g.*, CP 85 ("the vehicle's wheels were definitely off the roadway").

Accordingly, here where the defendant's vehicle wheels clearly left the roadway by driving over the fog line onto the shoulder, the Division III decision finding Trooper Bivins had reasonable suspicion of a violation of RCW 46.61.670 does not conflict with *Jones* or *Prado*.

B. The Court of Appeals decision does not implicate a matter of public interest where the statute is clear and unambiguous.

1. The plain language of RCW 46.61.670 requires drivers to keep all wheels on "the roadway," and off the shoulder.

RCW 46.61.670 is clear and unambiguous. It prohibits a person from driving with "one wheel or all of the wheels off the roadway," unless one of three limited exceptions applies: (i) authorities have established a special "driving-on-shoulder zone," and marked the zone with signage under RCW 46.61.428, (ii) the vehicle left the roadway "for the purpose of stopping *off such roadway*," or (iii) having stopped off the roadway, the vehicle is merging back onto it. *See* Appendices A, B (emphasis added). None of those exceptions existed here.

The shoulder is not part of "the roadway." Instead, the legislature has defined "the roadway" as any paved or unpaved highway "ordinarily used for vehicular travel, *exclusive of the sidewalk or shoulder* even though such sidewalk or shoulder is used by persons riding bicycles." *See* Appendix C (emphasis added). Given this express definition, courts have long understood the point: "A shoulder of a public highway is not part of the *roadway* . . . ." *Becker v. Tacoma Transit Co.*, 50 Wn.2d 688, 697, 314 P.2d 638 (1957). As *Becker* noted, "a pedestrian [may] walk[] on the shoulder *where vehicles are forbidden to travel*." *Id.* (emphasis added).

This reflects the legislature's objective to protect the shoulder against quick-moving vehicles, and for pedestrians, bicycles, and disabled vehicles—all of which have explicit statutory permission to use the shoulder of public roadways. RCW 46.37.450 (disabled vehicles); RCW 46.61.250(2) (pedestrians); RCW 46.61.770 (bicycles); *see also* RCW 46.61.428 (slow-moving vehicles allowed on shoulder in a specially marked "driving-on-shoulder zone"). *See* Appendix B.

Thus, where a shoulder exists, RCW 46.61.670 protects against vehicle incursions by prohibiting drivers from traveling with one or all of their wheels on the shoulder, except under limited circumstances that do not apply to this case.

Furthermore, to warn drivers, the white fog line delineates when the roadway ends. Under the Manual on Uniform Traffic Control Devices (MUTCD), the white fog line is an "edge line marking" which is specifically defined as a "white or yellow pavement marking lines that delineate the right or left edge(s) of a traveled way." FED. HIGHWAY ADMIN., U.S. DEP'T OF TRANSP., MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES § 1A.13(58); *Id.* at § 3B.06. "When used, white markings for longitudinal lines shall delineate . . . B. The right-hand edge of the roadway." *Id.* at § 3A.05. Thus, here, the white fog line the defendant crossed delineated the right-hand edge of the roadway.

Importantly, the legislature specifically accounted for these traffic control markings when contemplating the exceptions to the wheels off roadway statute. The wheels off roadway statute, RCW 46.61.670, does not itself discuss shoulders. Instead the exclusion of the shoulder from the roadway is contained in the definition of roadway in RCW 46.04.500. Yet, the very exception written into the wheels off roadway statute, RCW 46.61.428, is all about shoulders. The legislature specifically wrote that one may not drive "with one wheel or all of the wheels off the roadway thereof, except as permitted by RCW 46.61.428 . . . ." RCW 46.61.670. However, RCW 46.61.428 specifically permits the Department of Transportation to place signs permitting slow-moving vehicles to drive onto improved shoulders so overtaking vehicles can pass. Importantly, these signs "erected to define a driving-on-shoulder zone *takes precedence over pavement markings* for the purpose of allowing the movements" onto the shoulder. *See* Appendix B; RCW 46.61.428(3) (emphasis added). It is telling that the legislature specifically had to prioritize which traffic control device controlled in these zones because the driver would be faced with two traffic control devices: a fog line (or white edge line under MUTCD) and a driving-on-shoulder zone sign. The legislature contemplated this and specifically wrote into the exception that the sign

took precedence over the pavement markings. This would have been entirely unnecessary if the fog line could be crossed at will by drivers.

Thus, here, where the defendant was not driving in a marked driving-on-shoulder zone, CP 83, the defendant was not permitted to cross the fog line and drive off the roadway. Such a clear violation of a clear statute is not a matter of public interest.

2. The defendant's policy claims do not create a matter of public interest.

Finally, the defendant in essence asks this Court to rewrite RCW 46.61.670 by adding the "nearly as practicable" language from RCW 46.61.140. *See* Petition for Review at 8-9.

Huffman is instructive. There, the Court of Appeals rejected Huffman's argument that Section 100 should not be strictly applied for policy reasons, given Huffman's claim that drivers do not "'travel in perfect vectors' down the roadway." *State v. Huffman*, 185 Wn. App. 98, 104-05, 340 P.3d 903 (2014). However, such policy claims, *Huffman* held, are "properly addressed to the legislature," as courts "are not at liberty to add language to a statute merely because 'we believe the Legislature intended something else but failed to express it adequately.'" *Id.* at 105. Thus, while Huffman only crossed the centerline once—only "momentarily," and only by one tire-width—her traffic stop was lawful.

Id. at 101, 107. *Huffman*'s analysis applies equally to RCW 46.61.670, in which the legislature expressed its clear objective to require drivers to stay off the shoulder unless an exception applies, and in which the legislature omitted the "'nearly as practicable' qualifying language from Section 140." *See id.* at 107. While the defendant essentially repeats Huffman's policy claims, that argument is better addressed to the legislature. As written, RCW 46.61.670 is plain and unambiguous, and the defendant violated its prohibition by driving with two wheels off the roadway.

Ultimately, considering these statutes together,[3] the legislature's intent is clear. Crossing the centerline is extremely dangerous, because it risks head-on collisions. Driving on the shoulder is extremely dangerous, because it risks collisions with pedestrians, bicycles, law enforcement, and disabled or slow-moving vehicles.[4] The legislature therefore strictly forbids drivers from crossing the centerline or crossing onto the shoulder except under limited circumstances—and, accordingly, the legislature has not included the "nearly as practicable" qualifier with these prohibitions. RCW 46.61.670; RCW 46.61.100. Only RCW 46.61.140(1) includes the

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[3] RCW 46.61.100 (interpreted in *Huffman*); RCW 46.61.140 (interpreted in *Prado* and *Jones*); and RCW 46.61.670 (interpreted in *State v. Kocher*, 199 Wn. App. 336, 400 P.3d 328 (2017); *State v. Brooks*, 2 Wn .App. 2d 371, 409 P.3d 1072, *review denied*, 190 Wash.2d 1026, 421 P.3d 457 (2018)).

[4] CP 83-84 (Trooper Bivins testified the shoulder of I-82 is used by bicyclists, disabled vehicles, and by law enforcement making a stop. He also commented that his patrol vehicle was struck on the shoulder of a freeway about three weeks prior to the hearing.).

qualifier. The statute governs vehicle travel when a driver stays entirely on the roadway, and entirely on her side of the centerline. A collision under those circumstances is likely between two vehicles traveling in the same direction at approximately the same speed, and catastrophic damage and death is less likely. Under these circumstances, the legislature has relaxed the strict requirements of RCW 46.61.100 and RCW 46.61.670. Of course, "it is an elementary rule that where the Legislature uses certain statutory language in one instance, and different language in another, there is a difference in legislative intent." *City of Kent v. Beigh*, 145 Wn.2d 33, 45, 32 P.3d 258 (2001) (internal quotations, citations omitted).

Accordingly, this case does not present a matter of public interest requiring review.

IV. CONCLUSION

Accordingly, the petition for review should be denied.

RESPECTFULLY SUBMITTED this 12 day of February, 2019.

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

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☒ E-mail service by agreement was made to the following parties: escott@tri-citylegal.com

Signed at Kennewick, Washington on February 12, 2019.

Demetra Murphy
Appellate Secretary

APPENDICES

Appendix A: RCW 46.61.670

Appendix B: RCW 46.61.428

Appendix C: RCW 46.04.500

Appendix D: RCW 46.61.100

Appendix E: RCW 46.61.140

Appendix A

RCW 46.61.670

RCW 46.61.670

Driving with wheels off roadway.

It shall be unlawful to operate or drive any vehicle or combination of vehicles over or along any pavement or gravel or crushed rock surface on a public highway with one wheel or all of the wheels off the roadway thereof, except as permitted by RCW 46.61.428 or for the purpose of stopping off such roadway, or having stopped thereat, for proceeding back onto the pavement, gravel or crushed rock surface thereof.

[1977 ex.s. c 39 § 2; 1961 c 12 § 46.56.130. Prior: 1937 c 189 § 96; RRS § 6360-96. Formerly RCW 46.56.130.]

Appendix B

RCW 46.61.428

RCW 46.61.428

Slow-moving vehicle driving on shoulders, when.

(1) The state department of transportation and local authorities are authorized to determine those portions of any two-lane highways under their respective jurisdictions on which drivers of slow-moving vehicles may safely drive onto improved shoulders for the purpose of allowing overtaking vehicles to pass and may by appropriate signs indicate the beginning and end of such zones.

(2) Where signs are in place to define a driving-on-shoulder zone as set forth in subsection (1) of this section, the driver of a slow-moving vehicle may drive onto and along the shoulder within the zone but only for the purpose of allowing overtaking vehicles to pass and then shall return to the roadway.

(3) Signs erected to define a driving-on-shoulder zone take precedence over pavement markings for the purpose of allowing the movements described in subsection (2) of this section.

[1984 c 7 § 71; 1977 ex.s. c 39 § 1.]

Appendix C

RCW 46.04.500

RCW 46.04.500

Roadway.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. In the event a highway includes two or more separated roadways, the term "roadway" shall refer to any such roadway separately but shall not refer to all such roadways collectively.

[**1977 c 24 § 1; 1961 c 12 § 46.04.500.** Prior: **1959 c 49 § 54;** prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Appendix D

RCW 46.61.100

RCW 46.61.100

Keep right except when passing, etc.

(1) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(c) Upon a roadway divided into three marked lanes and providing for two-way movement traffic under the rules applicable thereon;

(d) Upon a street or highway restricted to one-way traffic; or

(e) Upon a highway having three lanes or less, when approaching the following vehicles in the manner described under RCW 46.61.212(1)(d)(ii): (i) A stationary authorized emergency vehicle; (ii) a tow truck or other vehicle providing roadside assistance while operating warning lights with three hundred sixty degree visibility; (iii) a police vehicle; or (iv) a stationary or slow moving highway construction vehicle, highway maintenance vehicle, solid waste vehicle, or utility service vehicle that meets the lighting requirements identified in RCW 46.61.212(1).

(2) Upon all roadways having two or more lanes for traffic moving in the same direction, all vehicles shall be driven in the right-hand lane then available for traffic, except (a) when overtaking and passing another vehicle proceeding in the same direction, (b) when traveling at a speed greater than the traffic flow, (c) when moving left to allow traffic to merge, or (d) when preparing for a left turn at an intersection, exit, or into a private road or driveway when such left turn is legally permitted. On any such roadway, a vehicle or combination over ten thousand pounds shall be driven only in the right-hand lane except under the conditions enumerated in (a) through (d) of this subsection.

(3) No vehicle towing a trailer or no vehicle or combination over ten thousand pounds may be driven in the left-hand lane of a limited access roadway having three or more lanes for traffic moving in one direction except when preparing for a left turn at an intersection, exit, or into a private road or driveway when a left turn is legally permitted. This subsection does not apply to a vehicle using a high occupancy vehicle lane. A high occupancy vehicle lane is not considered the left-hand lane of a roadway. The department of transportation, in consultation with the Washington state patrol, shall adopt rules specifying (a) those circumstances where it is permissible for other vehicles to use the left lane in case of emergency or to facilitate the orderly flow of traffic, and (b) those segments of limited access roadway to be exempt from this subsection due to the operational characteristics of the roadway.

(4) It is a traffic infraction to drive continuously in the left lane of a multilane roadway when it impedes the flow of other traffic.

(5) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, a vehicle shall not be driven to the left of the center line of the roadway except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) of this section. However, this subsection

shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

[2018 c 18 § 1; 2007 c 83 § 2; 1997 c 253 § 1; 1986 c 93 § 2; 1972 ex.s. c 33 § 1; 1969 ex.s. c 281 § 46; 1967 ex.s. c 145 § 58; 1965 ex.s. c 155 § 15.]

NOTES:

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

Legislative intent—1986 c 93: "It is the intent of the legislature, in this 1985 [1986] amendment of RCW 46.61.100, that the left-hand lane on any state highway with two or more lanes in the same direction be used primarily as a passing lane." [1986 c 93 § 1.]

Information on proper use of left-hand lane: RCW 46.20.095, 46.82.430, 47.36.260.

Appendix E

RCW 46.61.140

RCW 46.61.140

Driving on roadways laned for traffic.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(3) Official traffic-control devices may be erected directing slow moving or other specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

[1965 ex.s. c 155 § 23.]

NOTES:

Rules of court: *Monetary penalty schedule—IRLJ 6.2.*

BENTON COUNTY PROSECUTOR'S OFFICE

February 12, 2019 - 4:41 PM

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