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SUPREME COURT
STATE OF WASHINGTON

2012 SEP 25 P 4: 48 No. 86885-9

BY RONALD R. JONAS FOR THE SUPREME COURT
OF THE STATE OF WASHINGTON

R/h
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STATE OF WASHINGTON,

Respondent,

vs.

STEPHEN CHRISS JOHNSON,

Petitioner.

RESPONDENT'S BRIEF

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APPENDIX B – Legislative History Materials

I. INTRODUCTION

It is the function of the legislature to set policy and to draft and enact laws, and it is the function of the courts to construe those laws. *State v. Elmore*, 154 Wn. App. 885, 905, 228 P.3d 760 (2010). “The fundamental object of statutory interpretation is to ascertain and give effect to the intent of the legislature.” *State v. Sweet*, 138 Wn.2d 466, 477, 980 P.2d 1223 (1999). As long as statutory language is unambiguous, a departure from its natural meaning is not justified by any consideration of its consequences, or of public policy, and it is the plain duty of the court to give it force and effect. *State v. Miller*, 72 Wn. 154, 158, 129 P. 1100 (1913).

The vast majority of Mr. Johnson's briefing to this Court and during the course of his appeal has been centered around arguments about why suspending the license of a person for failing to pay a traffic infraction is bad public policy. Mr. Johnson argues that the statutory scheme for suspension of licenses for failure to pay is inefficient, creates financial hardship for those who are suspended, provides little benefit to the State other than the collection of fines, and has been abused by prosecutors and judges.

Perhaps these arguments raise fair questions about whether Washington should change or abolish its current system of suspending driver's licenses. However, what Mr. Johnson fails to recognize is that the role of this Court is not to abolish statutes based upon whether the Court approves of the policy underlying such statutes. That is the role of the Legislature. Mr. Johnson wants the Court to eliminate driver's license suspensions for failure to pay because he believes it is not sound public policy. The State urges the Court to examine whether such license suspensions are authorized by the plain meaning of the relevant statutes, and whether these statutes are constitutional.

Whether the statutory scheme at issue is good public policy is subject to debate. However, the plain meaning of the relevant statutes clearly shows the Legislature's intent was to authorize suspension of driver's licenses for failure to pay traffic infraction penalties and to authorize subsequent prosecution of those who choose to drive after such a suspension has occurred. Furthermore, the relevant statutes do not violate either the Washington State or federal constitutions.

Mr. Johnson's conviction should be affirmed.

II. ISSUES ON REVIEW¹

1. Does RCW 46.20.342(1)(c) make it unlawful for a person to drive while their license is suspended in the third degree for failing to pay the monetary penalty imposed by a court after finding that a traffic infraction was committed?
2. Is the suspension of a person's driver's license for failing to pay the monetary penalty imposed by a court for a traffic infraction unconstitutional?

III. STATEMENT OF THE CASE

In 2007, Stephen Chriss Johnson was cited for driving without a valid driver's license and was issued a traffic infraction. CP 67-68. Mr. Johnson elected to contest his traffic infraction and requested a contested hearing CP 68. Mr. Johnson appeared at his hearing in Lewis County District Court and the District Court found that Mr. Johnson had committed his traffic infraction and ordered that he pay a monetary penalty of \$260. CP 67.

Because Mr. Johnson never entered into a payment plan and never paid any part of the monetary penalty that was imposed by the District Court, the Washington State Department of Licensing (DOL) issued a Notice of Suspension of his driver's license. CP 78. The Notice of Suspension was issued on

¹ The State submits that there are only two issues before this Court on review. Mr. Johnson makes six assignments of error. Assignments of error numbers 4, 5 and in part 6, relate to whether the District Court properly determined Mr. Johnson's indigency status. These assignments of error should not be considered by this Court because review was not accepted on those issues. The State's position in this regard is discussed in part C. of its Argument below.

September 17, 2007 and informed Mr. Johnson that his license suspension would take effect on November 1, 2007. CP 78.

On September 19, 2008, Mr. Johnson drove a motor vehicle in Lewis County while his license was still suspended. VRP (September 18, 2009 trial) 12. Mr. Johnson's vehicle was stopped by law enforcement and he was cited and arrested for driving while license suspended in the third degree. VRP (trial) 6-8.

Mr. Johnson appeared for his criminal case in Lewis County District Court and was initially found to be indigent by the court, but that finding was rescinded after the District Court discovered Mr. Johnson had significantly more assets and financial resources than he had originally disclosed.² Dist. Ct. CP, VRP (June 2, 2010) 14-24.

Mr. Johnson proceeded to trial where the State presented evidence that he drove a motor vehicle in Lewis County on September 19, 2008 while his license was suspended in the third degree after having been suspended by the DOL on November 1, 2007. VRP (trial) 4-12. The District Court found Mr. Johnson guilty

² In much of his briefing Mr. Johnson claims unequivocally that he was indigent at the time of the proceedings in Lewis County District Court. However, as noted by Court Commissioner Schmidt in his Ruling Denying Review in the Court of Appeals Division 2, there is simply insufficient information in the record from the District Court to find that Mr. Johnson was in fact indigent. The State also contends that there is no record of Mr. Johnson being indigent at any time other than in his own unsupported claims. This is discussed more fully below.

of Driving While License Suspend in the Third Degree. VRP (trial) 88-94.

The Lewis County Superior Court affirmed Mr. Johnson's conviction. The Commissioner of the Court of Appeals denied review and a panel of judges denied Mr. Johnson's motion to modify the Commissioner's ruling. This Court granted Mr. Johnson's motion for discretionary review.

IV. ARGUMENT

A. RCW 46.20.342(1)(c) MAKES IT UNLAWFUL FOR A PERSON TO DRIVE WHILE THEIR LICENSE IS SUSPENDED IN THE THIRD DEGREE FOR FAILING TO PAY THE MONETARY PENALTY IMPOSED BY A COURT AFTER FINDING THAT A TRAFFIC INFRACTION WAS COMMITTED.

Statutory interpretation involves questions of law that are reviewed de novo. *State v. Watson*, 146 Wn.2d 947, 51 P.3d 66 (2002). The fundamental object of statutory interpretation is to determine legislative intent and give effect to the intent of the legislature. *Streng v. Clarke*, 89 Wn.2d 23, 569 P.2d 60 (1977). Legislative intent is determined by "first look[ing] to the plain meaning of words used in a statute". *State v. McDougal*, 120 Wn.2d 334, 350, 841 P.2d 1232 (1992), citing *State v. Fjermestad*, 114 Wn.2d 828, 835, 791 P.2d 897 (1990).

“If a statute’s meaning is plain on its face, the court must give effect to that plain meaning as an expression of legislative intent [and such] plain meaning is discerned from the ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole.” *State v. Elmore*, 143 Wn. App. 185, 188, 177 P.3d 172 (2008) *citing State, Dept. of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9-12, 43 P.3d 4 (2002).

In determining legislative intent, the court begins with a statute’s plain language and ordinary meaning, but also looks at the applicable legislative enactment as a whole; harmonizing the statute’s provisions by reading them in context with related provisions and the statute as a whole. *Quadrant Corp. v. State Growth Management Hearings Bd.*, 154 Wn.2d 224, 238-239, 110 P.3d 1132 (2005). “Under the “plain meaning” rule, examination of the statute in which the provision at issue is found, as well as related statutes or other provisions of the same act in which the provision is found, is appropriate as part of the determination [of] whether a plain meaning can be ascertained.” *City of Seattle v. Allison*, 148 Wn.2d 75, 81, 59 P.3d 85 (2002).

1. The Statutory Scheme Of RCW 46.20.342(1)(C), RCW 46.20.289 And RCW 46.63.110(6) Clearly Allows For Suspension Of A License For Failing To Pay The Monetary Penalty For A Traffic Infraction And Also Makes It Unlawful To Drive Once Such A Suspension Is In Place.

RCW 46.20.342(1)(c), RCW 46.20.289 and RCW 46.63.110(6) are all part of the statutory scheme that authorizes the suspension of driver's licenses for failure to pay as well as subsequent prosecutions. The entire premise of Mr. Johnson's argument is that because RCW 46.20.342(1)(c) does not contain the language "failure to pay", that a person cannot be convicted for driving suspended in the third degree when their underlying suspension is based upon the failure to pay a traffic infraction. However, this argument fails to consider the entire statutory scheme by ignoring the fact that RCW 46.20.342(1)(c) explicitly incorporates RCW 46.20.289 and RCW 46.63.110(6), which authorize suspension for failure to pay and subsequent prosecution.

It unlawful for a person to drive when their license has been suspended because "the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the

terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289.” RCW 46.20.342(1)(c)(iv).

The Legislature cannot be presumed to have incorporated RCW 46.20.289 into RCW 46.20.342 for no reason. Rather than simply providing “four reasons” for suspension that speak for themselves as Mr. Johnson suggests, the Legislature intended RCW 46.20.289 serve to define the ways in which a person’s license can be suspended relating to traffic infractions. The very title of RCW 46.20.289, “suspension for failure to respond, appear, etc.”, shows the statute governs suspensions relating to the different types of non-compliance with traffic infractions.

When a person is cited on the side of the road and issued a traffic infraction, there are a limited number of ways the infraction can run its course. Immediately after receiving the infraction, a person must respond in some way within fifteen days. IRLJ 2.4. The person can respond by paying the infraction and thereby admitting it was committed, by requesting mitigation of the infraction, or by contesting the infraction. IRLJ 2.4. If a person fails to respond in some way, a finding of committed can be entered against them and a monetary penalty may be assessed. IRLJ 2.5. If a hearing is requested to mitigate or contest the infraction, a person

is required to appear at that hearing in order to avoid a judgment of committed being rendered against them. IRLJ 3.2. A person who ultimately has a finding of committed rendered against them may be assessed a monetary penalty. IRLJ 3.3. If a person fails to pay their monetary penalty, the Department of Licensing will be notified. IRLJ 4.2. In short, traffic infractions can involve responding, appearing and paying, and RCW 46.20.289 addresses all of these situations.

Failure to respond to a notice of traffic infraction or citation as enumerated in RCW 46.20.342(1)(c)(iv) is addressed in RCW 46.20.289 by reference to RCW 46.63.070(6) which directs the court to inform the Department of Licensing when a person fails to respond to an infraction. Failing to appear as enumerated in RCW 46.20.342(1)(c)(iv) is addressed in RCW 46.20.289 by reference to RCW 46.64.025 which directs the court to inform the Department of Licensing when a person fails to appear in court at a required hearing. This leaves failure to comply with the terms of a notice of traffic infraction or citation as enumerated in RCW 46.20.342(1)(c)(iv), which is the reason for Mr. Johnson's suspension for failure to pay his traffic infraction.

One of the “terms” of a notice of infraction or citation is that the cited party pay the monetary penalty that has been assessed against them once the infraction has been found to have been committed. IRLJ 4.2. First, notices of traffic infractions or citations include a listed monetary penalty on the face of the actual ticket. IRLJ 2.1. Second, unless a person is found to have not committed the infraction, all of the other terms on the notice of infraction implicitly include the payment of some form of monetary penalty. More specifically, a person can choose not to mitigate or contest, in which case they pay the penalty; they can mitigate, in which case they pay a penalty that is either mitigated or not; or they contest, in which case they pay a penalty after a finding of committed. IRLJ 2.4.

RCW 46.20.289 addresses failure to comply with the terms of a notice of traffic infraction or citation by failing to pay a monetary penalty by reference to RCW 46.63.110(6).

“The Department shall suspend all driving privileges of a person when the department receives notice from a court under... RCW 46.63.110(6)... that the person has... failed to comply with the terms of a notice of traffic infraction or citation, other than for a standing, stopping, or parking violation...” RCW 46.20.289.

“Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable.” RCW 46.63.110(6). A person can either pay the infraction in full, or they may enter into a payment plan with the court assessing the monetary penalty. RCW 46.63.110(6). If a person has entered into a payment plan and fails to make payments without good cause, the court shall notify the Department of Licensing and the person’s license shall be suspended. RCW 46.63.110(6)(a). If a person has not entered into a payment plan and fails to pay the monetary penalty assessed in full, the court shall notify the Department of Licensing and the person’s license shall be suspended. RCW 46.63.110(6)(b).

In summation, the statutory scheme is actually quite simple and clearly authorizes suspensions for failure to pay as well as subsequent prosecutions. When a person is cited or arrested for driving after their license has been suspended by the Department of Licensing for failure to pay a traffic infraction penalty, they are charged with Driving While License Suspended in the Third Degree under RCW 46.20.342(1)(c)(iv). One of the essential elements in that statute is failure to comply with the terms of a notice of traffic infraction or citation as provided in RCW 46.20.289. RCW

46.20.289 makes reference to RCW 46.63.110(6), which explicitly authorizes the suspension of a person's license for failing to pay a monetary penalty assessed on a traffic infraction. Therefore, the underlying suspension is authorized by 46.63.110(6) and RCW 46.20.289, and RCW 46.20.342(1)(c)(iv) incorporates both of these statutes by reference, which makes a suspension for failure to pay an essential element of the crime.

2. RCW 46.63.110(6) Provides Directives To Trial Courts Handling Civil Infractions, RCW 46.20.289 Provides Directives To The Washington State Department Of Licensing, RCW 46.20.342(1)(c) Criminalizes Driving On A Suspended License, And All Three Statutes Operate Together.

The way the statutory scheme actually operates in the real world is further evidence that the statutory scheme does authorize suspension and prosecutions for failure to pay. Implicit in Mr. Johnson's argument is the idea that the Legislature should have put all the statutory language from RCW 46.63.110(6), RCW 46.20.289 and a number of other statutes into RCW 46.20.342(1)(c), rather than incorporating these statutes by reference. However, this argument fails to recognize that although these statutes are all necessary components to the State's criminal prosecution, the statutes do not merely serve to proscribe conduct. Instead, both RCW 46.20.289 and RCW 46.63.110(6) also provide administrative

directives to the Department of Licensing and the infraction trial courts respectively.

There are three separate and distinct entities involved in the process of suspending a person's license for failure to pay and any ensuing prosecution: 1) the infraction trial courts, 2) the Department of Licensing and 3) the parties to the criminal prosecution, which include the State, the Defendant and the criminal trial court. Each of these entities has their own statutory directives.

When a person fails to pay a monetary penalty assessed by the infraction trial court after a finding of committed has been entered, the infraction trial court is obviously the first to be notified of this fact since they are the ones who have not received payment. RCW 46.63.110(6) directs the infraction trial court that it "shall" inform the Department of Licensing regarding any failure to pay. The statutory language here is unambiguous and clear and the practical ramification is that infraction trial courts must notify the Department of Licensing any time a person has failed to make their monetary payment. RCW 46.63.110(6).

The next step in the process occurs when the Department of Licensing receives notice from the infraction trial court that a person has failed to pay their infraction. The Department of Licensing is

directed that it “shall” suspend all driving privileges of a person after receiving notice from a court that a person has failed to pay a traffic infraction as provided in RCW 46.63.110(6). RCW 46.20.289.

Finally, after a person has their driving privileges suspended in the manner discussed above, RCW 46.20.342(1)(c)(iv) makes driving while such a suspension is in effect a misdemeanor criminal offense. In addition to the plain meaning of the relevant statutes, it is also clear from the way the statutory scheme actually works that the Legislature intended for the Department of Licensing to suspend driver’s licenses for failure to pay and that those who drive during such a suspension be subject to criminal prosecution.

3. Many Crimes In The Washington Criminal Code Involve Cross-Referencing Statutes.

Mr. Johnson argues that the cross referencing of statutes that is required to find that failure to pay is a basis for suspension and subsequent prosecution calls the entire statutory scheme into question.³ However, this argument is unpersuasive because the fact that there are multiple statutes involved does not mean that the plain language of these statutes is any less unambiguous or clear.

³ At oral argument for discretionary review, the Supreme Court Commissioner also expressed concern over the fact that the State was asking the Court to look at three separate statutes.

Additionally, the Court looks at all related statutes and the way these statutes work together. *Allison, supra*.

Furthermore, the fact that three statutes are part of the statutory scheme is not unusual. The Washington Criminal Code routinely relies upon cross referencing statutes rather than including all relevant language in one statute.

For example, the Failure to Register as a Sex Offender statute makes it unlawful for a “person [who] has a duty to register under RCW 9A.44.130 for a felony sex offense [to] knowingly [fail] to comply with any of the requirements of RCW 9A.44.130. RCW 9A.44.132(1). RCW 9A.44.132 sets forth the particular criminal conduct, but rather than listing all of the ways in which a person can fail to register, the statute requires a cross reference to RCW 9A.44.130, which lists all of a sex offender’s registration requirements. Although RCW 9A.44.130 is not actually a statute that is used to charge someone with a crime and instead serves to enumerate all of an offender’s registration requirements, it is still a necessary part of the statutory scheme for failure to register. RCW 9A.44.132 also requires cross referencing with RCW 9A.44.128 which provides the definitions of terms used in RCW 9A.44.132 and defines “sex offense” as “any offense defined as a sex offense by

RCW 9.94A.030.” Finally, the mens rea of RCW 9A.44.132 is “knowingly” which is defined in RCW 9A.08.010.

In short, the statutory scheme for Failure to Register as a Sex Offender involves RCW 9A.44.132, RCW 9A.44.130, RCW 9A.44.128, RCW 9.94A.030 and RCW 9A.08.010.

RCW 9A.56.050 is the criminal statute for Theft in the Third Degree and requires cross referencing with RCW 9A.56.020 which defines the term “theft”, RCW 9A.56.010 which defines other relevant terms, and RCW 9A.08.010 which defines the necessary mens rea of intent.

Even the crimes of Driving While License Revoked in the First Degree and Driving While License suspended in the Second Degree use the same type of statutory scheme as Driving While License Suspended in the Third Degree in that both offenses can require cross referencing multiple statutes. See RCW 46.20.342.

4. Legislative History Shows That RCW 46.20.342(1)(c) Criminalizes Driving With A License That Has Been Suspended For Failing To Pay The Monetary Penalty For A Traffic Infraction.

Washington’s driving suspended law appeared in its modern form in 1965, when the state adopted a version of the uniform vehicle code. Laws of 1965, Ex. S., ch. 121 § 1. The act was designed to promote public safety on highways and was to be

liberally construed to affect that purpose. *Id.* The same legislature passed a new traffic code, violations of which were misdemeanors. Laws of 1965, Ex. S., ch. 155 § 2. At that time, driving with a suspended or revoked license was also a misdemeanor; there were no degrees of driving suspended. Laws of 1965, Ex. S., ch. 121 § 43. One's license could only be suspended as a result of a conviction for certain traffic crimes. *E.g.*, Laws of 1965, Ex. S., ch. 155 § 59 (reckless driving), § 62 (DUI).

In 1979, the Legislature decriminalized most traffic offenses, creating instead a system of civil traffic infractions. Laws of 1979, Ex. S., ch. 136 §§ 1-2. Persons found to have committed a traffic infraction had to pay a monetary fine. *Id.* at § 13(1). The court was to notify the department of licensing of any failure to pay. *Id.* at § 13(5). Under this original scheme, the department had no authority to suspend a driver's license for failure to pay such a fine, but could not renew the driver's license until the penalty was paid. *Id.* This would not subject the person to penalties for driving while suspended. *See id.* at § 62 (requiring suspension or revocation, not merely not renewing a license, for guilt under that section).

In 1993, the Legislature began requiring that Department of Licensing suspend a person's license if he or she failed to pay a

traffic infraction. Laws of 1993, ch. 501 § 11 (amending former RCW 46.63.110(5)). The same enactment created a new statutory section, codified as RCW 46.20.289, requiring that Department of Licensing suspend a driver if it received notice from a court that the driver failed to appear in court as required or failed to respond to a traffic infraction. *Id.* at § 1. It also amended the third-degree driving-while-suspended provision to make it a misdemeanor to drive while suspended under the new section. *Id.* at § 6. However, RCW 46.20.289 only mentioned failure to respond, appear, or comply, and did not reference former RCW 46.63.110(5) or failure to pay. *Id.* at § 1.

This oversight came from the Legislature's belief that "failure to comply" with a citation meant paying it, not merely responding or appearing. The Final Bill Report⁴ for the 1993 law notes in the "Background" section:

Many traffic laws have been 'decriminalized' and made civil infractions instead of crimes. For these infractions, no jail time may be imposed, but civil punishment includes fines and in some instances loss of driving privileges. . . .

Under the "Nonresident Violator Compact," a state may agree to release motorists from another

⁴ "The court has frequently looked to final bill reports as part of an inquiry into legislative history." *State v. Bash*, 130 Wn.2d 594, 601, 925 P.2d 978 (1996).

state who are cited for traffic law violations without requiring the motorists to post appearance bonds. Such an agreement is dependent, however, on the home state of a cited motorist having a law which requires driver's license suspension for failing to comply with a traffic citation. Washington has adopted the compact, but does not have a law that would require license suspension for Washington drivers who fail to comply with citations issued by other participants in the compact. *Washington does have a law that prohibits renewal of a license for a person who has failed to comply.*

Senate Comm. on Law & Justice, House Comm. on the Judiciary., Final Bill Report, SHB 1741, 53rd Legislature (1993) at 1 (emphasis added). The emphasized language illustrates the Legislature's assumption that "fail to comply" and "fail to pay" were the same, because as described above, Department of Licensing had been required since 1979 to refuse to allow a person to renew his license if he failed to pay an infraction. Laws of 1979, Ex. S., ch. 136 § 13(5).

In 1999, the Legislature corrected the problem by amending RCW 46.20.289 to cross-reference former RCW 46.63.110(5), the section requiring Department of Licensing to suspend for failure to pay a traffic infraction. Laws of 1999, ch. 274 § 1. The title of the act is "An act relating to corrective amendments to certain drivers' licensing statutes." *Id.* The final bill report indicates that the

purpose of the change was to correct a mistake. The “Background” section states as follows:

DOL currently has authority to suspend an individual’s license for failure to pay traffic infractions by the time required. However, the current RCW section authorizing DOL to suspend driver’s licenses for failure to respond to a notice of traffic infraction lacks a reference to the statute authorizing DOL to suspend for failure to pay the traffic infraction penalty.

Senate Comm. on Transp., House Comm. on Transp., Final Bill Report, SB 5374, 56th Legislature (1999) at 1. The “Summary” section outlining the bills’ effect continues, “Failure to pay traffic infractions by the time required subjects and individual to license suspension by Department of Licensing.” *Id.* at 2. The sole statutory change conveying this meaning was the addition of the citation “46.63.110(5)” to RCW 46.20.289’s list of statutes under which Department of Licensing must suspend someone’s license for failure to respond or appear, violation of a written promise to appear, or failure to comply with a traffic infraction or citation. Laws of 1999, ch. 274 § 1. In making this change, the Legislature equated a suspension for failure to pay under former RCW 46.63.110(5) with the suspensions under RCW 46.20.289. Thereafter, the term “fail to comply” in RCW 46.20.289

encompassed failure to pay a traffic infraction, codifying the 1993 Legislature's understanding.

Since 1993, this fail-to-respond, appear, or comply language and a cross-reference to RCW 46.20.289 have appeared in RCW 46.20.342(1)(c), the driving while suspended third statute. See RCW 46.20.342(1)(c); Laws of 1993, ch. 501 § 6. As the 1993 and 1999 Legislatures saw it, “fail to comply” and “fail to pay” are equivalent—and so no change to RCW 46.20.342(1)(c) was necessary to ensure that the crime reached suspensions for fail to pay. By inserting the appropriate cross-reference in RCW 46.20.289, the 1999 amendment legislated this understanding and applied the driving while suspended law to suspensions for failure to pay.

The Legislature's decision to use statutory cross-references rather than inserting the words “failure to pay” in RCW 46.20.342(1)(c) was not necessarily the clearest way of expressing its intent. But nevertheless, the 1993 and 1999 amendments certainly demonstrate legislative intent that Department of Licensing suspend the licenses of drivers who fail to pay traffic infractions, and demonstrate legislative intent that such

suspensions be subject to criminal prosecution under RCW 46.20.342(1)(c).

5. Recent Legislative Changes Are Evidence Of Clear Legislative Intent That Failure To Pay A Monetary Penalty For A Moving Violation Shall Result In License Suspension And To Criminalize Driving After Such Suspension.

The most recent changes to the driving while suspended statutory scheme are further evidence of the Legislature's intent that Department of Licensing suspend driver's licenses for failure to pay traffic infractions.

In a bill passed into law this year (effective June 1, 2013), the Legislature amended the relevant statutes so that Department of Licensing will only suspend driver's licenses for failure to pay *moving* violations. Laws of 2012, ch. 82 §§ 1-5. Failure to respond, appear, pay, or comply with a nonmoving violation may result in a civil judgment against the driver, *id.* at §1(g), but will not result in suspension, *id.* at § 3. The preamble of this bill notes that it is "AN ACT . . . reforming Washington's approach . . . by authorizing a civil collection process for unpaid traffic fines and removing the requirement of law enforcement intervention for the failure to appear and pay a traffic ticket." *Id.* (preamble).

By announcing a decision to change Washington law such that nonpayment only of moving violations will result in license suspension and law enforcement involvement, the Legislature recognized the former state of the law: that failure to pay any traffic infraction, moving or nonmoving, resulted in license suspension and law enforcement involvement, i.e., arrest and prosecution for driving suspended in the third degree. Furthermore, it explicitly shows that the Legislature has considered abolishing license suspension for failure to pay any type of traffic infraction as suggested by Mr. Johnson, but ultimately the intent of the Legislature was to only abolish such license suspensions when they involve non-moving infractions.

6. Mr. Johnson's Interpretation Of The Statutory Scheme Leads To An Absurd Result.

In construing a statute, a reading that leads to absurd results must be avoided because it will not be presumed that the legislature intended absurd results. *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003). "Unlikely, absurd or strained consequences resulting from a literal reading should be avoided." *McDougal*, 120 Wn.2d at 350.

In the most simple terms, Mr. Johnson is asking this Court to find that a person complies with all terms of a traffic infraction when

they respond by contesting the infraction, appear at their contested hearing, and have a finding of committed adjudicated against them. Mr. Johnson argues that no term of the traffic infraction requires payment and that even when a person elects to make absolutely no effort to pay, they have complied with their traffic infraction. This is as absurd an outcome as one could seek.

As discussed above, the statutory scheme clearly includes payment of the monetary obligation as a term of the traffic infraction or citation. This is further evidenced by the fact that the notice of traffic infraction actually includes a section of the ticket where the infraction court can mark down a finding of committed and impose a monetary penalty. CP 67. In Mr. Johnson's case, the infraction court found that he had committed the infraction and imposed a \$260 penalty as noted on the face of his infraction. CP 67.

Mr. Johnson suggests that this Court read the statutes relating to license suspension in such a way that a person who received a civil infraction could fail to comply with a court order to pay their monetary penalty and the only remedy would be for that person to receive yet another civil infraction, which they could fail to pay yet again. This is not the way any court of limited jurisdiction in

this state operates, because it is not what the relevant statutes call for, and such a reading leads to an absurd result.

Instead, RCW 46.20.342 was created by the Legislature to address the very problem Mr. Johnson seeks to perpetuate. Namely, the driving suspended statutes serve the purpose of creating a criminal disincentive to refusing to obey the civil traffic laws of this state. When a person is cited for a civil traffic infraction and fails to pay the penalty, their license is suspended until they pay their monetary obligation. RCW 46.20.289. If the person continues to drive after having their license suspended, they don't merely receive another meaningless civil infraction, but rather, they are criminally prosecuted. RCW 46.20.342(1)(c). The criminal disincentive is not merely to promote public safety through compliance with the civil infractions one receives, but also exists to promote the payment of penalties that have been imposed in the first place and to discourage people from simply dismissing the civil traffic laws of this state.

7. Mr. Johnson Was Not Criminally Prosecuted Or Convicted For Being Indigent Or Failing To Pay A Traffic Infraction.

A recurrent argument in Mr. Johnson's briefing is that he has been criminally prosecuted and convicted for failing to pay a traffic

infraction. This argument ignores the most obvious essential element of the crime Mr. Johnson committed, which is driving. Had Mr. Johnson failed to pay his traffic infraction, received a license suspension and done nothing more, he would not have been subject to any prosecution. However, Mr. Johnson elected to continue to drive after he was notified that his license was suspended, and it is for this reason that he was criminally prosecuted.

8. Mr. Johnson's Conviction Should Be Affirmed.

In order to convict a criminal defendant, the State must prove every element of the crime charged beyond a reasonable doubt. *State v. Smith*, 155 Wn.2d 496, 502, 120 P.3d 559 (2005). The degree of crime for driving with a suspended license depends on the reason for the suspension. *Id.* at 504.

The State presented evidence at trial that Mr. Johnson drove a motor vehicle in Lewis County while his license was suspended in the third degree for failure to comply with a notice of traffic infraction or citation. VRP (trial) 4-12. The State proved all elements of the crime charged beyond a reasonable doubt; therefore, Mr. Johnson's conviction should be affirmed.

B. THE SUSPENSION OF A PERSON'S DRIVER'S LICENSE FOR FAILURE TO PAY THE MONETARY PENALTY FOR A TRAFFIC INFRACTION IS CONSTITUTIONAL

The right to equal protection of laws is guaranteed by the 14th Amendment of the United States Constitution of Article I, section 12 of the Washington State Constitution. Equal protection requires persons who are similarly situated to be similarly treated for any legitimate purpose of the law. *State v. Shawn*, 122 Wn.2d 553, 559-60, 859 P.2d 1220 (1993).

In order to make an equal protection claim, the person making such a claim must establish that he or she received disparate treatment because of membership in a class of similarly situated individuals and that the disparate treatment was the result of intentional or purposeful discrimination. *State v. Handley*, 115 Wn.2d 275, 796 P.2d 1266 (1990). An equal protection claim cannot be considered unless the court can determine that the person claiming the violation is similarly situated with the members of the class in question. *State v. Osman*, 157 Wn.2d 474, 484, 139 P.3d 334 (2006).

1. Mr. Johnson Has Failed To Demonstrate That He Is In Fact Indigent And Therefore He Has No Standing To Claim Any Constitutional Violations.

Mr. Johnson claims that he has been indigent at all times during the pendency of his case. However, Mr. Johnson is unable to point to any parts of the record that definitively establish that he is actually indigent. In fact, a question exists as to whether Mr. Johnson's indigence was simply assumed by the District Court when in reality there was evidence that Mr. Johnson is not indigent. Dist. Ct. CP, VRP June 2, 2010 at 14-24.

If the court cannot find that Mr. Johnson is in fact indigent, then he is not a member of the class which he claims is receiving disparate treatment. In short, Mr. Johnson would not have any standing to make an equal protection claim, in which case the Court should not consider his equal protection claim.

2. The Statutory Scheme Applies With Equal Force To Indigent And Non-Indigent People And Therefore No Equal Protection Violation Exists.

RCW 46.20.342, RCW 46.20.289 and RCW 46.63.110 do not discriminate against indigent persons because these laws apply with equal force to all citizens of Washington. Contrary to Mr. Johnson's claims, the statutory scheme does not target indigent defendants. Indigent and non-indigent people will be subject to a

license suspension if they choose not to pay the monetary penalty for a traffic infraction. Likewise, there is nothing about the statutory scheme that makes it more likely that indigent persons will be prosecuted because indigent persons are not any more likely to drive a motor vehicle when a suspension is in effect than are non-indigent persons. Since the statutory scheme does not cause disparate treatment of indigent persons, Mr. Johnson cannot successfully mount an equal protection claim.

3. Rational Basis Review Is All That Is Required For Determining The Constitutionality Of License Suspensions.

The appropriate level of scrutiny of an equal protection claim depends on the class or nature of the right involved and absent a fundamental right or suspect class, or an important right or semi-suspect class, a law will receive rational basis review. *State v. Hirschfelder*, 170 Wn.2d 536, 550, 242 P.3d 876 (2010). Rational basis review requires that the disparate treatment alleged has a rational relationship to a legitimate state interest. *Id.* One who challenges a statute under the rational basis test “must do more than merely question the wisdom and expediency of the statute.” *State v. Coria*, 120 Wn.2d 156, 174, 839 P.2d 890 (1992), *citing Yakima County Deputy Sheriff’s Association v. Board of*

Commissioners for Yakima County, 92 Wn.2d 831, 836, 601 P.2d 936. (1979).

Suspension of a driver's license does not demand intermediate or heightened scrutiny for equal protection purposes. *Merseal v. State Department of Licensing*, 99 Wn. App. 414, 420, 994 P.2d 262 (2000). Driving an automobile on the state's public highways is a privilege and not a right, because the activity is limited to a certain class of individuals. *City of Spokane v. Port*, 43 Wn. App. 273, 716 P.2d 945, *review denied*, 106 Wn.2d 1010 (1986). The privilege to drive on the state's highways is subject to reasonable regulation. *Id.*

4. License Suspension For Failure To Pay The Monetary Penalty For A Traffic Infraction Serves A Legitimate State Interest.

The state certainly has a legitimate interest in seeing that its civil traffic laws are followed and that there is proper enforcement when they are not followed. If there is no true enforcement of the rules of the road, then the rules are meaningless to those who may choose not to follow them. Not only does the proper enforcement of the civil traffic laws of this state promote public safety, it also discourages citizens from deciding to simply disregard the law because no disincentive exists to do otherwise.

Since civil traffic infractions are non-criminal in nature, the system of enforcement for these offenses is dependent upon monetary penalties. In other words, if a person commits a speeding violation on a public highway, they may not be subject to a criminal penalty, but they know they are subject to a monetary penalty. In order for a monetary penalty to have significance, it must either be paid by the violator, or there must be a disincentive to failing to pay. If there is no disincentive to failing to pay then no reason exists to pay other than one's sense of moral obligation.

When a person fails to pay the monetary penalty for their traffic infraction, the Legislature could have decided that the infraction would simply be referred for some form of civil enforcement such as sending the infraction to collections. However, the Legislature has decided that this is not a sufficient remedy, particularly for moving violations, and has created a system that allows for suspension of a person's driver's license for non-payment. RCW 46.20.342, RCW 46.20.289, RCW 46.63.110. The effect of this is that a person now has a much more significant disincentive to simply ignore their traffic infractions. If a person chooses to disregard their license suspension, then a criminal

disincentive exists in the form of prosecution for driving while license suspended in the third degree.

Mr. Johnson argues that this system is inefficient, places a great burden on those who lose their license, and is not sound public policy. However, as noted above, in order to overturn a statute on equal protection grounds, Mr. Johnson cannot simply question the wisdom of the statute in question. *Coria, supra*. Furthermore, the statutory scheme does promote public safety and respect for the rules of the road by providing a means to curb the behavior of those individuals who would otherwise choose to simply stack up unpaid infractions while continuing to disobey the rules of the road.

5. Due Process Requirements Were Met Prior To Mr. Johnson's License Being Suspended.

Mr. Johnson argues that his right to travel is implicated as a result of his license suspension. However, there is no support for this proposition in Washington law. To the contrary, the requirement that a driver be licensed does not implicate the right to travel in any way. *City of Spokane v. Port*, 43 Wn. App. 273, 278, 716 P.2d 945, *review denied*, 106 Wn.2d 1010 (1986). Mr. Johnson having a suspended license does not affect his ability to travel; it merely affects the actual means by which he may travel.

Mr. Johnson also argues that his right to livelihood is implicated as a result of his license suspension. The State contends that this is not the case as there are countless citizens of Washington who make a living without the benefit of an automobile. Even if the court finds that the right to livelihood is implicated, the right to livelihood and employment is only subject to rational basis review, *Merseal, supra*, which the State has shown exists in this case as discussed above.

Since Mr. Johnson's right to travel and right to livelihood and employment are not implicated by his license suspension, there are no substantive due process violations. The only remaining consideration is the requirement of procedural due process.

Mr. Johnson does have a property interest in his driver's license that entitles him to procedural due process in suspending it, *City of Redmond v. Moore*, 151 Wn.2d 664, 670, 91 P.3d 875 (2004), but that interest does not give him the right to drive while that license is suspended. *Port, supra at 278*. Since *Redmond v. Moore*, the court has held that the new Department of Licensing procedures which include an administrative hearing that allows drivers to submit evidence, meet due process requirements for

suspending a person's license for failure to pay. *City of Bellevue v. Lee*, 166 Wn.2d 581, 583, 210 P.3d 1011 (2009). RCW 46.20.245.

When Mr. Johnson's traffic infraction was found committed by the infraction court he had the option to enter into a payment plan if he was unable to pay the monetary penalty in full. RCW 46.63.110(6). After he failed to pay any of the monetary penalty for his traffic infraction, Mr. Johnson was provided with proper notice from the Department of Licensing that notified him that his license would be suspended for failing to comply with the terms of a notice of traffic infraction or citation. CP 78. The notice Mr. Johnson received also informed him of the steps he could take to try to avoid or appeal his suspension, CP 78. Mr. Johnson was provided with the required procedural due process prior to his license being suspended by the Department of Licensing.

Despite the fact that Mr. Johnson was afforded his required procedural due process under Washington law, he now asks this Court to afford him a form of enhanced procedural due process that is based upon federal case law that is completely inapposite to the facts of this case. Specifically, Mr. Johnson cites to *Williams v. Illinois*, 399 U.S. 235, 90 S.Ct. 2018, 26 L.Ed.2d 586 (1970), *Tate v. Short*, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130 (1971), and

Bearden v. Georgia, 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed.2d 221 (1983). Mr. Johnson also cites the state case of *State v. Blank*, 131 Wn.2d 230, 930 P.2d 1213 (1997).

All of the aforementioned cases deal with the automatic conversion of failure to pay a monetary penalty into a criminal sanction that includes incarceration. Mr. Johnson argues that the suspension of a driver's license for failure to pay the monetary penalty for a traffic infraction is tantamount to automatic conversion of the monetary penalty into a criminal penalty that includes incarceration. This is simply not the case because it overlooks the most obvious step in the process of a prosecution for driving while license suspended, which is that the defendant must first choose to drive before he is subject to criminal penalties.

A person could have their license suspended for years for failure to pay without ever being subject to a criminal sanction. Unlike the cases cited above, in this case, Mr. Johnson did have to make a willful decision, to drive, before he was subjected to a criminal sanction. Mr. Johnson is not entitled to any form of heightened procedural due process that would require the Department of Licensing to find that he willfully failed to pay his traffic infraction before imposing a license suspension.

6. Mr. Johnson's Conviction Should Be Affirmed Because The Suspension Of His License Was Constitutional.

Since no equal protection or due process violations occurred when Mr. Johnson's license was suspended by the Department of Licensing, his underlying suspension was constitutional and his conviction should be affirmed.

C. THIS COURT SHOULD NOT CONSIDER ANY ISSUES OR ARGUMENTS RELATED TO WHETHER MR. JOHNSON WAS STRIPPED OF HIS APPOINTED COUNSEL BECAUSE SUCH ISSUES AND ARGUMENTS WERE NOT RAISED IN PETITIONER'S MOTION FOR DISCRETIONARY REVIEW.

The State is not responding to Petitioner's argument regarding reimbursement of attorney fees for allegedly being wrongfully stripped of court appointed counsel, because this argument was not part of Petitioner's Motion for Discretionary Review.⁵ Although Petitioner did make similar arguments during earlier stages of this appeal, RAP 13.7(b) limits the scope of review in the Supreme Court to questions that were raised in the motion for discretionary review, if review is sought of an interlocutory decision, which is what occurred in this case.⁶

⁵ If the Court would like the State to respond to this argument, the State can submit supplemental briefing upon request from the Court.

⁶ The State is choosing not to respond to Mr. Johnson's Statement of Additional Grounds for Review. The State believes its brief adequately addresses the

V. CONCLUSION

RCW 46.20.342(1)(c) allows for a person to be convicted of Driving While License Suspended in the Third Degree for failure to comply with the terms of a notice of traffic infraction or citation where the underlying suspension is for failure to pay the monetary penalty for a traffic infraction. The underlying suspension of Mr. Johnson's driver's license for failure to pay was constitutional.

Accordingly, Mr. Johnson's conviction should be affirmed.

Respectfully Submitted this 25th day of September, 2012.

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By:



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Deputy Prosecuting Attorney

issues that Mr. Johnson has raised himself. If the Court would like further briefing the State can submit briefing upon request from the Court.

APPENDIX A

RCW 46.20.342, RCW 46.20.289 and
RCW 46.63.110

RCW 46.20.342

Driving while license invalidated — penalties — extension of invalidation.

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be a habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

(ix) A conviction of RCW 46.61.500, relating to reckless driving;

(x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xii) A conviction of RCW 46.61.522, relating to vehicular assault;

(xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xviii) An administrative action taken by the department under chapter 46.20 RCW;

(xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection; or

(xx) A finding that a person has committed a traffic infraction under RCW 46.61.526 and suspension of driving privileges pursuant to RCW 46.61.526 (4)(b) or (7)(a)(ii).

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (c)(i) through (vii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

[2011 c 372 § 2. Prior: 2010 c 269 § 7; 2010 c 252 § 4; 2008 c 282 § 4; 2004 c 95 § 5; 2001 c 325 § 3; 2000 c 115 § 8; 1999 c 274 § 3; 1993 c 501 § 6; 1992 c 130 § 1; 1991 c 293 § 6; prior: 1990 c 250 § 47; 1990 c 210 § 5; 1987 c 388 § 1; 1985 c 302 § 3; 1980 c 148 § 3; prior: 1979 ex.s. c 136 § 62; 1979 ex.s. c 74 § 1; 1969 c 27 § 2; prior: 1967 ex.s. c 145 § 52; 1967 c 167 § 7; 1965 ex.s. c 121 § 43.]

Notes:

Rules of court: Bail in criminal traffic offense cases -- Mandatory appearance -- CrRLJ 3.2.

Application -- Effective date -- 2011 c 372: See notes following RCW 46.61.526.

Effective date -- 2010 c 269: See note following RCW 46.20.385.

Effective date -- 2010 c 252: See note following RCW 46.61.212.

Effective date -- 2008 c 282: See note following RCW 46.20.308.

Finding -- 2000 c 115: See note following RCW 46.20.075.

Effective date -- 2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Severability -- 1990 c 250: See note following RCW 46.18.215.

Effective date -- Expiration date -- 1987 c 388: "Sections 1 through 8 of this act shall take effect on July 1, 1988. The director of licensing shall take such steps as are necessary to insure that this act is implemented on its effective date. Sections 2 through 7 of this act shall expire on July 1, 1993." [1987 c 388 § 13.]

Severability -- 1987 c 388: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."
[1987 c 388 § 16.]

Effective date -- 1980 c 148: See note following RCW 46.10.490.

Effective date -- Severability -- 1979 ex.s. c 136: See notes following RCW 46.63.010.

Impoundment of vehicle: RCW 46.55.113.

RCW 46.20.289

Suspension for failure to respond, appear, etc. (*effective until june 1, 2013.*)

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110 (6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005. A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

[2005 c 288 § 5; 2002 c 279 § 4; 1999 c 274 § 1; 1995 c 219 § 2; 1993 c 501 § 1.]

Notes:

Effective date -- 2005 c 288: See note following RCW 46.20.245.

RCW 46.20.289

Suspension for failure to respond, appear, etc. (*effective june 1, 2013.*)

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction for a moving violation, failed to appear at a requested hearing for a moving violation, violated a written promise to appear in court for a notice of infraction for a moving violation, or has failed to comply with the terms of a notice of traffic infraction or citation for a moving violation, or when the department receives notice from another state under Article IV of the nonresident violator compact under RCW 46.23.010 or from a jurisdiction that has entered into an agreement with the department under RCW 46.23.020, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005. A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

[2012 c 82 § 3; 2005 c 288 § 5; 2002 c 279 § 4; 1999 c 274 § 1; 1995 c 219 § 2; 1993 c 501 § 1.]

Notes:

Effective date -- Contingency -- 2012 c 82: See note following RCW 46.63.110.

Effective date -- 2005 c 288: See note following RCW 46.20.245.

RCW 46.63.110

Monetary penalties. (*effective until june 1, 2013.*)

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

[2010 c 252 § 5; 2009 c 479 § 39. Prior: 2007 c 356 § 8; 2007 c 199 § 28; prior: 2005 c 413 § 2; 2005 c 320 § 2; 2005 c 288 § 8; 2003 c 380 § 2. Prior: 2002 c 279 § 15; 2002 c 175 § 36; 2001 c 289 § 2; 1997 c 331 § 3; 1993 c 501 § 11; 1986 c 213 § 2; 1984 c 258 § 330; prior: 1982 1st ex.s. c 14 § 4; 1982 1st ex.s. c 12 § 1; 1982 c 10 § 13; prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Notes:

Rules of court: Monetary penalty schedule -- IRLJ 6.2.

Effective date -- 2010 c 252: See note following RCW 46.61.212.

Effective date -- 2009 c 479: See note following RCW 2.56.030.

Short title -- 2007 c 356: See note following RCW 74.31.005.

Findings -- Intent -- Short title -- 2007 c 199: See notes following RCW 9A.56.065.

Effective date -- 2005 c 288: See note following RCW 46.20.245.

Effective date -- 2002 c 175: See note following RCW 7.80.130.

Effective date -- 1997 c 331: See note following RCW 70.168.135.

Court Improvement Act of 1984 -- Effective dates -- Severability -- Short title -- 1984 c 258: See notes following RCW 3.30.010.

Intent -- 1984 c 258: See note following RCW 3.34.130.

Effective date -- Severability -- 1982 1st ex.s. c 14: See notes following RCW 46.63.060.

Severability -- 1982 c 10: See note following RCW 6.13.080.

Severability -- 1981 c 330: See note following RCW 3.62.060.

Severability -- 1981 c 19: See note following RCW 46.63.020.

Effective date -- Severability -- 1980 c 128: See notes following RCW 46.63.060.

Effective date -- Severability -- 1979 ex.s. c 136: See notes following RCW 46.63.010.

Additional statutory assessments: RCW 3.62.090, 46.64.055.

RCW 46.63.110

Monetary penalties. (*effective june 1, 2013.*)

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

[2012 c 82 § 1; 2010 c 252 § 5; 2009 c 479 § 39. Prior: 2007 c 356 § 8; 2007 c 199 § 28; prior: 2005 c 413 § 2; 2005 c 320 § 2; 2005 c 288 § 8; 2003 c 380 § 2. Prior: 2002 c 279 § 15; 2002 c 175 § 36; 2001 c 289 § 2; 1997 c 331 § 3; 1993 c 501 § 11; 1986 c 213 § 2; 1984 c 258 § 330; prior: 1982 1st ex.s. c 14 § 4; 1982 1st ex.s. c 12 § 1; 1982 c 10 § 13; prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Notes:

Rules of court: Monetary penalty schedule -- IRLJ 6.2.

Effective date -- Contingency -- 2012 c 82: "Except for section 4 of this act, this act takes effect June 1, 2013. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2012, in the transportation appropriations act, this act is null and void." Funding was provided in the transportation appropriations act (section 208(15), chapter 86, Laws of 2012). [2012 c 82 § 6.]

Effective date -- 2010 c 252: See note following RCW 46.61.212.

Effective date -- 2009 c 479: See note following RCW 2.56.030.

Short title -- 2007 c 356: See note following RCW 74.31.005.

Findings -- Intent -- Short title -- 2007 c 199: See notes following RCW 9A.56.065.

Effective date -- 2005 c 288: See note following RCW 46.20.245.

Effective date -- 2002 c 175: See note following RCW 7.80.130.

Effective date -- 1997 c 331: See note following RCW 70.168.135.

Court Improvement Act of 1984 -- Effective dates -- Severability -- Short title -- 1984 c 258: See notes following RCW 3.30.010.

Intent -- 1984 c 258: See note following RCW 3.34.130.

Effective date -- Severability -- 1982 1st ex.s. c 14: See notes following RCW 46.63.060.

Severability -- 1982 c 10: See note following RCW 6.13.080.

Severability -- 1981 c 330: See note following RCW 3.62.060.

Severability -- 1981 c 19: See note following RCW 46.63.020.

Effective date -- Severability -- 1980 c 128: See notes following RCW 46.63.060.

Effective date -- Severability -- 1979 ex.s. c 136: See notes following RCW 46.63.010.

Additional statutory assessments: RCW 3.62.090, 46.64.055.

APPENDIX B

Legislative History Materials

Legislative History Materials:

Laws of 1965, Ex. S., ch. 121 §§ 1, 43

1965
SESSION LAWS

OF THE
STATE OF WASHINGTON

EXTRAORDINARY SESSION, THIRTY-NINTH LEGISLATURE
Convened March 15, 1965. Adjourned May 7, 1965.

VOLUME NO. 2
ALL LAWS OF THE 1965 EXTRAORDINARY SESSION



Compiled in Chapters by
A. LUDLOW KRAMER
Secretary of State

MARGINAL NOTES AND INDEX

By
RICHARD O. WHITE
Code Reviser

Published by Authority

CHAPTER 121.

[Senate Bill No. 334.]

MOTOR VEHICLES—DRIVER LICENSING.

AN ACT relating to motor vehicle driver licensing; amending section 46.20.102, chapter 12, Laws of 1961 and RCW 46.20.102; amending section 46.20.104, chapter 12, Laws of 1961 and RCW 46.20.104; amending section 46.20.106, chapter 12, Laws of 1961 and RCW 46.20.106; amending section 46.20.120, chapter 12, Laws of 1961 and RCW 46.20.120; amending section 46.20.130, chapter 12, Laws of 1961 and RCW 46.20.130; amending section 46.20.190, chapter 12, Laws of 1961 and RCW 46.20.190; amending section 46.20.200, chapter 12, Laws of 1961 and RCW 46.20.200; amending section 46.20.270, chapter 12, Laws of 1961 and RCW 46.20.270; amending section 46.20.340, chapter 12, Laws of 1961 and RCW 46.20.340; repealing section 46.20.010, chapter 12, Laws of 1961 and RCW 46.20.010, section 46.20.020, chapter 12, Laws of 1961 as amended by section 1, chapter 134, Laws of 1961 and RCW 46.20.020, section 46.20.030, chapter 12, Laws of 1961 as amended by section 12, chapter 39, Laws of 1963 and RCW 46.20.030, section 46.20.060, chapter 12, Laws of 1961 and RCW 46.20.060, sections 46.20.080 through 46.20.090, chapter 12, Laws of 1961 and RCW 46.20.080 through 46.20.090, section 46.20.110, chapter 12, Laws of 1961 as last amended by section 10, chapter 39, Laws of 1963 and RCW 46.20.110, sections 46.20.140 through 46.20.180, chapter 12, Laws of 1961 and RCW 46.20.140 through 46.20.180, section 46.20.210, chapter 12, Laws of 1961 and RCW 46.20.210, sections 46.20.230 through 46.20.250, chapter 12, Laws of 1961 and RCW 46.20.230 through 46.20.250, section 46.20.280, chapter 12, Laws of 1961 and RCW 46.20.280, section 46.20.290, chapter 12, Laws of 1961 and RCW 46.20.290, section 46.20.310, chapter 12, Laws of 1961 and RCW 46.20.310, section 46.20.330, chapter 12, Laws of 1961 and RCW 46.20.330; section 46.20.350, chapter 12, Laws of 1961 and RCW 46.20.350; section 46.20.360, chapter 12, Laws of 1961 and RCW 46.20.360, adding new sections to chapter 12, Laws of 1961 and to chapter 46.20 RCW; and providing penalties.

Be it enacted by the Legislature of the State of Washington:

New section.

SECTION 1. There is added to chapter 12, Laws of 1961 and to chapter 46.20 RCW a new section to read as follows:

With the advent of greatly increased interstate vehicular travel and the migration of motorists between the states, the legislature recognizes the necessity of enacting driver licensing laws which are reasonably uniform with the laws of other states and are at the same time based upon sound, realistic principles, stated in clear explicit language. To achieve these ends the legislature does hereby adopt this 1965 amendatory act relating to driver licensing modeled after the Uniform Vehicle Code subject to such variances as are deemed better suited to the people of this state. It is intended that this 1965 amendatory act be liberally construed to effectuate the purpose of improving the safety of our highways through driver licensing procedures within the framework of the traditional freedoms to which every motorist is entitled.

Driver licens-
ing. Purpose—
Construction.

SEC. 2. There is added to chapter 12, Laws of 1961 and to chapter 46.20 RCW a new section to read as follows:

New section.

(1) No person, except those hereinafter expressly exempted shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license issued under the provisions of this 1965 amendatory act. No person shall receive a driver's license unless and until he surrenders to the department all valid driver's licenses in his possession issued to him by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time.

License man-
datory—Sur-
render of
out-of-state
licenses—
Disposition—
Multiple
licenses pro-
hibited—
State pre-
empts licens-
ing field.

(2) Any person licensed as a driver hereunder may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise

The suspension, revocation, cancellation, or refusal by the director of any license or certificate provided for in chapters 46.12 and 46.16 shall be conclusive unless the person whose license or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county, or at his option to the superior court of the county of his residence, for the purpose of having the suspension, revocation, cancellation, or refusal of such license or certificate set aside. Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal the court shall issue an order to the director to show cause why the license should not be granted or reinstated, which order shall be returnable not less than ten days after the date of service thereof upon the director. Service shall be in the manner prescribed for service of summons and complaint in other civil actions. Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the license or certificate and shall enter judgment either affirming or setting aside such suspension, revocation, cancellation, or refusal.

Court review
of director's
action.

SEC. 43. There is added to chapter 12, Laws of 1961 and to chapter 46.20 RCW a new section to read as follows:

New section.

(1) Any person who drives a motor vehicle on any public highway of this state at a time when his privilege so to do is suspended or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than ten days nor more than six months and there may be imposed in addition thereto a fine of not more than five hundred dollars.

Driving while
license sus-
pended or
revoked is
misdemeanor
—Extension of
period if li-
cense revoked.

(2) The department upon receiving a record of the conviction of any person under this section upon

Driver licens-
ing, Driving
while license
suspended or
revoked is
misdemeanor
---Extension of
period if li-
cense revoked.

a charge of driving a vehicle while the license of such person is under suspension shall extend the period of such suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one year from and after the date such person would otherwise have been entitled to apply for a new license.

New section.

SEC. 44. There is added to chapter 12, Laws of 1961 and to chapter 46.20 RCW a new section to read as follows:

Responsibility
for child or
ward under
eighteen years
of age.

No person shall cause or knowingly permit his child or ward under the age of eighteen years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this 1965 amendatory act.

New section.

SEC. 45. There is added to chapter 12, Laws of 1961 and to chapter 46.20 RCW a new section to read as follows:

Responsibility
to keep own
motor vehicle
from being
driven by un-
authorized
person.

No person shall authorize and knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized hereunder or in violation of any of the provisions of this 1965 amendatory act.

Repeal—
Savings.

SEC. 46. Section 46.20.010, chapter 12, Laws of 1961 and RCW 46.20.010, section 46.20.020, chapter 12, Laws of 1961 as amended by section 1, chapter 134, Laws of 1961 and RCW 46.20.020, section 46.20.030, chapter 12, Laws of 1961 as amended by section 12, chapter 39, Laws of 1963 and RCW 46.20.030, section 46.20.060, chapter 12, Laws of 1961 and RCW 46.20.060, sections 46.20.080 through 46.20.090, chapter 12, Laws of 1961 and RCW 46.20.080 through 46.20.090, section 46.20.110, chapter 12, Laws of 1961 as last amended by section 10, chapter 39, Laws of 1963 and RCW 46.20.110, sections 46.20.140 through 46.20.180, chapter 12, Laws of 1961 and

Legislative History Materials:

Laws of 1965, Ex. S., ch. 155 §§ 2, 59, 62

1965
SESSION LAWS

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STATE OF WASHINGTON

EXTRAORDINARY SESSION, THIRTY-NINTH LEGISLATURE
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Compiled in Chapters by
A. LUDLOW KRAMER
Secretary of State

MARGINAL NOTES AND INDEX

By
RICHARD O. WHITE
Code Reviser

Published by Authority

CHAPTER 155.

[House Bill No. 234.]

MOTOR VEHICLES—RULES OF THE ROAD.

AN Act relating to rules of the road; adding new sections to chapter 12, Laws of 1961 and chapter 46.04 RCW; amending section 46.37.190, chapter 12, Laws of 1961 as amended by section 14, chapter 154, Laws of 1963 and RCW 46.37-.190; amending section 1, chapter 16, Laws of 1963 and RCW 46.48.011; amending section 3, chapter 16, Laws of 1963 and RCW 46.48.013; and amending section 46.56.040, chapter 12, Laws of 1961 and RCW 46.56.040; repealing section 46.04.070, chapter 12, Laws of 1961 and RCW 46.04.070; section 46.04.390, chapter 12, Laws of 1961 and RCW 46.04-.390; section 46.04.430, chapter 12, Laws of 1961 and RCW 46.04.430; section 46.04.520, chapter 12, Laws of 1961 and RCW 46.04.520; section 46.04.610, chapter 12, Laws of 1961 and RCW 46.04.610; section 46.08.040, chapter 12, Laws of 1961 and RCW 46.08.040; section 46.08.050, chapter 12, Laws of 1961 and RCW 46.08.050; section 46.20.260, chapter 12, Laws of 1961 and RCW 46.20.260; sections 46.47.010 through 46.47.090, chapter 12, Laws of 1961 and RCW 46.47.010 through 46.47.090; section 46.48.027, chapter 12, Laws of 1961 and RCW 46.48.027; section 46.48.130, chapter 12, Laws of 1961 as amended by section 1, chapter 203, Laws of 1961 and RCW 46.48.130; section 46.48.140, chapter 12, Laws of 1961 and RCW 46.48.140; sections 46.48.260 through 46.48-.330, chapter 12, Laws of 1961 and RCW 46.48.260 through 46.48.330; section 46.56.010, chapter 12, Laws of 1961 and RCW 46.56.010; section 46.56.020, chapter 12, Laws of 1961 and RCW 46.56.020; section 46.56.050, chapter 12, Laws of 1961 and RCW 46.56.050; section 46.56.060, chapter 12, Laws of 1961 and RCW 46.56.060; section 46.56.080, chapter 12, Laws of 1961 and RCW 46.56.080; section 46.56.090, chapter 12, Laws of 1961 and RCW 46.56.090; section 46.56.110, chapter 12, Laws of 1961 and RCW 46.56.110; section 46.56-.120, chapter 12, Laws of 1961 and RCW 46.56.120; sections 46.56.140 through 46.56.180, chapter 12, Laws of 1961 and RCW 46.56.140 through 46.56.180; section 46.60.010, chapter 12, Laws of 1961 and RCW 46.60.010; section 46.60.020, chapter 12, Laws of 1961 as amended by section 50, chapter 3, Laws of 1963 extraordinary session and RCW 46.60-.020; sections 46.60.040 through 46.60.140, chapter 12, Laws of 1961 and RCW 46.60.040 through 46.60.140; section 46.60-.150, chapter 12, Laws of 1961 as amended by section 46, chapter 3, Laws of 1963 extraordinary session and RCW 46.60.150; section 46.60.160, chapter 12, Laws of 1961 as amended by section 1, chapter 118, Laws of 1961 and RCW

46.60.160; section 46.60.170, chapter 12, Laws of 1961 as amended by section 47, chapter 3, Laws of 1963 extraordinary session and RCW 46.60.170; sections 46.60.180 through 46.60.250, chapter 12, Laws of 1961 and RCW 46.60.180 through 46.60.250; sections 46.60.280 through 46.60.310, chapter 12, Laws of 1961 and RCW 46.60.280 through 46.60.310; section 46.60.320, chapter 12, Laws of 1961 as amended by section 1, chapter 125, Laws of 1963, and RCW 46.60.320; section 46.60.350, chapter 12, Laws of 1961 and RCW 46.60.350; sections 47.36.140 through 47.36.170, chapter 13, Laws of 1961 and RCW 47.36.140 through 47.36.170; section 47.52.030, chapter 13, Laws of 1961 and RCW 47.52.030; and providing penalties; declaring certain signs, signals or markings public nuisances and providing for the removal thereof; directing the recodification of certain RCW sections; and adding new sections to chapter 12, Laws of 1961 and providing for a new chapter in Title 46 of the revised code of Washington to be organized under enumerated captions.

Be it enacted by the Legislature of the State of Washington:

Motor vehicles
—Rules of the
road. Provi-
sions refer to
vehicles upon
highways—
Exceptions.

SECTION 1. The provisions of this amendatory act relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section.

(2) The provisions of RCW 46.52.010 through 46.52.090 and sections 59 through 63 of this amendatory act shall apply upon highways and elsewhere throughout the state.

Obedience
required—
Unlawful acts,
omissions, as
misdemeanors.

SEC. 2. It is unlawful and, unless otherwise declared in this amendatory act with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this amendatory act.

Obedience to
police officers,
flagmen.

SEC. 3. No person shall wilfully fail or refuse to comply with any lawful order or direction of any duly authorized flagman or any police officer invested by law with authority to direct, control or regulate traffic.

date of this amendatory act during which time the city or town council may enact a reduced speed limit for such state highway subject to the provisions of subsection (4) of RCW 46.48.014.

SEC. 57. No person shall operate any motor-driven cycle at any time mentioned in RCW 46.37.020 at a speed greater than thirty-five miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred feet ahead.

Motor-driven cycles, maximum speed without lamps.

SEC. 58. (1) In every charge of violation of any speed regulation in this amendatory act the complaint, also the summons or notice to appear, shall specify the approximate speed at which the defendant is alleged to have driven, also the maximum speed applicable within the district or at the location.

Driving delinquencies. Charging violations to indicate speed.

(2) *Any provision of this amendatory act declaring maximum speed limitations shall not be construed to relieve the plaintiff in any action from the burden of proving negligence on the part of the defendant.*

SEC. 59. (1) Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Reckless driving.

(2) The license or permit to drive or any non-resident privilege of any person convicted of reckless driving shall be suspended by the department of licenses for not less than thirty days.

SEC. 60. (1) It is unlawful for any person who is under the influence of or affected by the use of intoxicating liquor or of any narcotic drug to drive or be in actual physical control of any vehicle upon the public highways.

Persons under the influence of intoxicating liquor.

(2) In any criminal prosecution for a violation of the provisions of this section relating to driving a vehicle while under the influence of intoxicating

violation of this act shall not be admitted in evidence in any criminal or civil proceeding.

SEC. 61. It is unlawful and punishable as provided in section 62 of this amendatory act for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within this state. The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

Person under the influence of drugs.

SEC. 62. (1) Every person who is convicted of a violation of (a) driving a motor vehicle while under the influence of intoxicating liquor or (b) driving a motor vehicle while under the influence of a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle shall be punished by imprisonment for not less than five days nor more than one year, and by a fine of not less than fifty dollars nor more than five hundred dollars.

Penalties for driving motor vehicle while under the influence of intoxicating liquor or drugs—Administrative action.

On a second or subsequent conviction of either offense within a five year period he shall be punished by imprisonment for not less than thirty days nor more than one year and by a fine of not less than one hundred dollars nor more than one thousand dollars, and neither the jail sentence nor the fine shall be suspended. If such person at the time of a second or subsequent conviction is without a license or permit because of a previous suspension or revocation, the minimum mandatory sentence shall be ninety days in jail and a two hundred dollar fine. The penalty so imposed shall not be suspended.

(2) The license or permit to drive or any non-resident privilege of any person convicted of either of the offenses named in subsection (1) above shall:

Motor vehicles.
Driving delinquencies.
Penalties for driving while under the influence of intoxicating liquor or drugs—Administrative action.

(a) Be suspended by the department of licenses for not less than thirty days;

(b) On a second conviction under either such offense within a five year period, be suspended by the department for not less than sixty days after the termination of such person's jail sentence;

(c) On a third or subsequent conviction under either such offense within a five year period, be revoked by the department.

(3) In any case provided for in this section, where a driver's license is to be revoked or suspended, such revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case such conviction is sustained on appeal such revocation or suspension shall take effect as of the date that the conviction becomes effective for other purposes.

RCW 46.56.040 amended.

SEC. 63. Section 46.56.040, chapter 12, Laws of 1961 and RCW 46.56.040 are each amended to read as follows:

Negligent homicide by means of a motor vehicle.

(1) When the death of any person shall ensue within one year as a proximate result of injury received by the driving of any vehicle by any person while under the influence of or affected by intoxicating liquor or narcotic drugs or by the operation of any vehicle in a reckless manner or with disregard for the safety of others, the person so operating such vehicle shall be guilty of negligent homicide by means of a motor vehicle.

(2) Any person convicted of negligent homicide by means of a motor vehicle shall be punished by imprisonment in the state penitentiary for not more than twenty years, or by imprisonment in the county jail for not more than one year, or by fine of not more than one thousand dollars, or by both fine and imprisonment.

Legislative History Materials:

Laws of 1979, Ex. S., ch. 136 §§ 1-2, 13, 62

1979
SESSION LAWS
OF THE
STATE OF WASHINGTON

1ST EXTRAORDINARY SESSION
FORTY-SIXTH LEGISLATURE

Convened March 21, 1979. Adjourned June 2, 1979.



Published at Olympia by the Statute Law Committee pursuant to Chapter 6,
Laws of 1969.

DENNIS W. COOPER
Code Reviser

NEW SECTION. Sec. 12. If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 25, 1979.

Passed the Senate April 11, 1979.

Approved by the Governor May 7, 1979.

Filed in Office of Secretary of State May 7, 1979.

CHAPTER 136

[House Bill No. 101]

TRAFFIC OFFENSES—DECRIMINALIZATION

AN ACT Relating to motor vehicle offenses; amending section 9, chapter 299, Laws of 1961 as amended by section 4, chapter 73, Laws of 1971 and RCW 3.30.090; amending section 32, chapter 299, Laws of 1961 and RCW 3.42.020; amending section 51, chapter 299, Laws of 1961 and RCW 3.50.020; amending section 52, chapter 299, Laws of 1961 and RCW 3.50.030; amending section 77, chapter 299, Laws of 1961 and RCW 3.50.280; amending section 112, chapter 299, Laws of 1961 and RCW 3.66.010; amending section 1, chapter 58, Laws of 1929 and RCW 12.36.010; amending section 28B.10.565, chapter 223, Laws of 1969 ex. sess. and RCW 28B.10.565; amending section 35.20.030, chapter 7, Laws of 1965 and RCW 35.20.030; reenacting and amending section 35.20.090, chapter 7, Laws of 1965 as last amended by section 3, chapter 53, Laws of 1977 ex. sess. and by section 3, chapter 248, Laws of 1977 ex. sess. and RCW 35.20.090; amending section 35.20.250, chapter 7, Laws of 1965 as amended by section 7, chapter 147, Laws of 1969 ex. sess. and RCW 35.20.250; amending section 35.22.510, chapter 7, Laws of 1965 and RCW 35.22.510; amending section 35.22.530, chapter 7, Laws of 1965 and RCW 35.22.530; amending section 35.23.440, chapter 7, Laws of 1965 as last amended by section 21, chapter 316, Laws of 1977 ex. sess. and RCW 35.23.440; amending section 35.24.460, chapter 7, Laws of 1965 as last amended by section 12, chapter 116, Laws of 1965 ex. sess. and RCW 35.24.460; amending section 35.24.470, chapter 7, Laws of 1965 as amended by section 13, chapter 116, Laws of 1965 ex. sess. and RCW 35.24.470; amending section 35.27.530, chapter 7, Laws of 1965 as amended by section 17, chapter 116, Laws of 1965 ex. sess. and RCW 35.27.530; amending section 35.27.540, chapter 7, Laws of 1965 as amended by section 18, chapter 116, Laws of 1965 ex. sess. and RCW 35.27.540; amending section 35A.20.040, chapter 119, Laws of 1967 ex. sess. and RCW 35A.20.040; amending section 35A.20.080, chapter 119, Laws of 1967 ex. sess. and RCW 35A.20.080; amending section 36.32.120, chapter 4, Laws of 1963 as last amended by section 1, chapter 216, Laws of 1975 1st ex. sess. and RCW 36.32.120; amending section 36.68.080, chapter 4, Laws of 1963 and RCW 36.68.080; amending section 36.69.180, chapter 4, Laws of 1963 and RCW 36.69.180; amending section 1, chapter 160, Laws of 1969 ex. sess. and RCW 43.30.310; amending section 44, chapter 170, Laws of 1965 ex. sess. as last amended by section 124, chapter 158, Laws of 1979 and RCW 46.01.230; amending section 46.08.170, chapter 12, Laws of 1961 as amended by section 2, chapter 158, Laws of 1963 and RCW 46.08.170; amending section 17, chapter 47, Laws of 1971 ex. sess. as last amended by section 10, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.120; amending section 24, chapter 47, Laws of 1971 ex. sess. as last amended by section 16, chapter 220, Laws of 1977 ex. sess. and RCW 46.09.190; amending section 9, chapter 29, Laws of 1971 ex. sess. as amended by section 5, chapter 181, Laws of 1975 1st ex. sess. and RCW 46.10.090; amending section 19, chapter 29, Laws of 1971 ex. sess. as amended by section 6, chapter 181, Laws of 1975 1st ex. sess. and RCW 46.10.190; amending section 46.16.090, chapter 12, Laws of 1961 as last amended by section 1, chapter 25, Laws of 1977 and RCW 46.16.090; amending section 46.16.135, chapter 12, Laws of 1961 as last amended by section 1, chapter 134, Laws of 1979 and RCW 46.16.135; amending section 46.16.140, chapter 12, Laws of 1961 and RCW 46.16.140;

amending section 46.16.145, chapter 12, Laws of 1961 as amended by section 5, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.16.145; amending section 46.16.350, chapter 12, Laws of 1961 as amended by section 24, chapter 32, Laws of 1967 and RCW 46.16.350; amending section 1, chapter 128, Laws of 1961 as last amended by section 1, chapter 102, Laws of 1975-'76 2nd ex. sess. and RCW 46.16.380; amending section 7, chapter 200, Laws of 1973 1st ex. sess. as amended by section 4, chapter 59, Laws of 1975 and RCW 46.16.585; amending section 9, chapter 200, Laws of 1973 1st ex. sess. as amended by section 6, chapter 59, Laws of 1975 and RCW 46.16.595; amending section 2, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.021; amending section 5, chapter 121, Laws of 1965 ex. sess. as amended by section 2, chapter 61, Laws of 1979 and RCW 46.20.041; amending section 19, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.171; amending section 46.20.190, chapter 12, Laws of 1961 as amended by section 15, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.190; amending section 21, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.215; amending section 46.20.270, chapter 12, Laws of 1961 as last amended by section 7, chapter 61, Laws of 1979 and RCW 46.20.270; amending section 1, chapter 1, Laws of 1969 as last amended by section 151, chapter 158, Laws of 1979 and RCW 46.20.308; amending section 27, chapter 121, Laws of 1965 ex. sess. as last amended by section 1, chapter 36, Laws of 1973 1st ex. sess. and RCW 46.20.311; amending section 36, chapter 121, Laws of 1965 ex. sess. as amended by section 1, chapter 29, Laws of 1972 ex. sess. and RCW 46.20.329; amending section 2, chapter 27, Laws of 1969 and RCW 46.20.342; amending section 5, chapter 169, Laws of 1963 as last amended by section 1, chapter 40, Laws of 1969 ex. sess. and RCW 46.29.050; amending section 28, chapter 169, Laws of 1963 and RCW 46.29.280; amending section 30, chapter 169, Laws of 1963 as amended by section 39, chapter 32, Laws of 1967 and RCW 46.29.300; amending section 60, chapter 169, Laws of 1963 and RCW 46.29.600; amending section 46.32.010, chapter 12, Laws of 1961 as last amended by section 156, chapter 158, Laws of 1979 and RCW 46.32.010; amending section 46.32.050, chapter 12, Laws of 1961 and RCW 46.32.050; amending section 46.37.010, chapter 12, Laws of 1961 as last amended by section 1, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.010; amending section 46.37.188, chapter 12, Laws of 1961 and RCW 46.37.188; amending section 1, chapter 77, Laws of 1971 and RCW 46.37.423; amending section 2, chapter 77, Laws of 1971 as amended by section 36, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.424; amending section 3, chapter 77, Laws of 1971 as amended by section 37, chapter 355, Laws of 1977 ex. sess. and RCW 46.37.425; amending section 46.44.047, chapter 12, Laws of 1961 as last amended by section 11, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.44.047; amending section 23, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.44.105; amending section 1, chapter 1, Laws of 1973 1st ex. sess. as last amended by section 20, chapter 64, Laws of 1975-'76 2nd ex. sess. and RCW 46.44.130; amending section 2, chapter 1, Laws of 1973 1st ex. sess. and RCW 46.44.140; amending section 4, chapter 22, Laws of 1977 ex. sess. and RCW 46.44.175; amending section 46.52.010, chapter 12, Laws of 1961 and RCW 46.52.010; amending section 1, chapter 18, Laws of 1975-'76 2nd ex. sess. and RCW 46.52.020; amending section 46.52.100, chapter 12, Laws of 1961 as last amended by section 163, chapter 158, Laws of 1979 and RCW 46.52.100; amending section 46.52.110, chapter 12, Laws of 1961 as last amended by section 166, chapter 158, Laws of 1979 and RCW 46.52.110; amending section 46.52.120, chapter 12, Laws of 1961 as last amended by section 1, chapter 356, Laws of 1977 ex. sess. and RCW 46.52.120; amending section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 2, chapter 356, Laws of 1977 ex. sess. and RCW 46.52.130; amending section 59, chapter 155, Laws of 1965 ex. sess. as amended by section 67, chapter 32, Laws of 1967 and RCW 46.61.500; amending section 46.56.030, chapter 12, Laws of 1961 as amended by section 69, chapter 32, Laws of 1967 and RCW 46.61.525; amending section 46.48.050, chapter 12, Laws of 1961 and RCW 46.61.530; amending section 46.48.060, chapter 12, Laws of 1961 and RCW 46.61.535; amending section 46.56.100, chapter 12, Laws of 1961 and RCW 46.61.665; amending section 1, chapter 151, Laws of 1961 and RCW 46.61.680; amending section 1, chapter 259, Laws of 1961 and RCW 46.61.690; amending section 79, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.750; amending section 46.64.050, chapter 12, Laws of 1961 as amended by section 3, chapter 95, Laws of 1975-'76 2nd ex. sess. and RCW 46.64.050; amending section 4, chapter 284, Laws of 1971 ex. sess. as amended by section 1, chapter 62, Laws of 1979 and RCW 46.65.020; amending section 5, chapter 284, Laws of 1971 ex. sess. as amended by section 2, chapter 62, Laws of 1979 and RCW 46.65.030; amending section 46.76.080,

chapter 12, Laws of 1961 and RCW 46.76.080; amending section 2, chapter 9, Laws of 1970 ex. sess. as amended by section 1, chapter 26, Laws of 1971 ex. sess. and RCW 46.81.030; amending section 46.83.060, chapter 12, Laws of 1961 and RCW 46.83.060; amending section 25, chapter 106, Laws of 1963 and RCW 46.85.250; amending section 54, chapter 54, Laws of 1975 1st ex. sess. and RCW 46.90.345; amending section 102, chapter 54, Laws of 1975 1st ex. sess. and RCW 46.90.560; amending section 31, chapter 145, Laws of 1967 ex. sess. and RCW 47.38.030; amending section 1, chapter 38, Laws of 1961 and RCW 53.08.220; amending section 32, chapter 302, Laws of 1971 ex. sess. and RCW 70.108.130; amending section 4, chapter 67, Laws of 1921 as amended by section 3, chapter 143, Laws of 1923 and RCW 76.04.480; amending section 81.68.080, chapter 14, Laws of 1961 and RCW 81.68.080; amending section 18, chapter 150, Laws of 1965 and RCW 81.70.170; adding new sections to chapter 46.61 RCW; adding a new chapter to Title 46 RCW; repealing section 2, chapter 155, Laws of 1965 ex. sess., section 1, chapter 95, Laws of 1975-'76 2nd ex. sess. and RCW 46.61.010; prescribing penalties; and prescribing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. It is the legislative intent in the adoption of this chapter in decriminalizing certain traffic offenses to promote the public safety and welfare on public highways and to facilitate the implementation of a uniform and expeditious system for the disposition of traffic infractions.

NEW SECTION. Sec. 2. Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

- (1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;
- (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- (3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;
- (4) RCW 46.10.130 relating to the operation of snowmobiles;
- (5) Chapter 46.12 RCW relating to certificates of ownership and registration;
- (6) RCW 46.20.021 relating to driving without a valid driver's license;
- (7) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (8) RCW 46.20.342 relating to driving with a suspended or revoked license;
- (9) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

- (10) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (11) Chapter 46.29 RCW relating to financial responsibility;
- (12) RCW 46.48.175 relating to the transportation of dangerous articles;
- (13) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (14) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (15) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (16) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (17) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;
- (18) RCW 46.61.015 relating to obedience to police officers, flagmen, or firefighters;
- (19) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (20) Section 5 of this 1979 act relating to failure to stop and give identification to an officer;
- (21) RCW 46.61.500 relating to reckless driving;
- (22) RCW 46.61.506 and 46.61.515 relating to persons under the influence of intoxicating liquor or drugs;
- (23) RCW 46.61.520 relating to negligent homicide by motor vehicle;
- (24) RCW 46.61.525 relating to negligent driving;
- (25) RCW 46.61.530 relating to racing of vehicles on highways;
- (26) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (27) RCW 46.64.020 relating to nonappearance after a written promise;
- (28) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (29) Chapter 46.65 RCW relating to habitual traffic offenders;
- (30) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- (31) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (32) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (33) Chapter 46.83 RCW relating to driver's training schools.

NEW SECTION. Sec. 3. (1) A law enforcement officer has the authority to issue a notice of traffic infraction when the infraction is committed in

(4) After consideration of the evidence and argument the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(5) An appeal from the court's determination or order shall be in the form of a trial de novo in superior court. The person has fourteen calendar days from the date of the court's determination in which to give notice of an appeal. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

NEW SECTION. Sec. 12. (1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(3) There may be no appeal from the court's determination or order.

NEW SECTION. Sec. 13. (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction or failure to pay a monetary penalty imposed pursuant to this chapter.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the

failure to pay the penalty, and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection (2) of this section has been paid.

NEW SECTION. Sec. 14. (1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may include in the order the imposition of any penalty authorized by the provisions of this chapter for the commission of an infraction. The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

Sec. 15. Section 9, chapter 299, Laws of 1961 as amended by section 4, chapter 73, Laws of 1971 and RCW 3.30.090 are each amended to read as follows:

A violations bureau may be established by any city or district court having jurisdiction of traffic cases to assist in processing traffic cases. As designated by written order of the court having jurisdiction of traffic cases, specific offenses under city ordinance, county resolution, or state law may be processed by such bureau. Such bureau may be authorized to receive the posting of bail for such specified offenses, and, as authorized by the court order, to accept forfeiture of bail and payment of monetary penalties. The court order shall specify the amount of bail to be posted and shall also specify the circumstances or conditions which will require an appearance before the court. Such bureau, upon accepting the prescribed bail, shall issue a receipt to the alleged violator, which receipt shall bear a legend informing him of the legal consequences of bail forfeiture. The bureau shall transfer daily to the clerk of the proper department of the court all bail posted for offenses where forfeiture is not authorized by the court order, as well as copies of all receipts. All forfeitures or penalties paid to a violations bureau for violations of municipal ordinances shall be placed in the city general fund or such other fund as may be prescribed by ordinance. All forfeitures or penalties paid to a violations bureau for violations of state laws or county resolutions shall be remitted at least monthly to the county treasurer for deposit in the current expense fund. Employees of violations bureaus of a city shall be city employees under any applicable municipal civil service system.

Sec. 16. Section 32, chapter 299, Laws of 1961 and RCW 3.42.020 are each amended to read as follows:

Each justice court commissioner shall have such power, authority, and jurisdiction in criminal matters as the justices of the peace who appointed

cases after the expiration of one year from the date on which the revoked license was surrendered to and received by the department, such person may make application for a new license as provided by law together with an additional fee in the amount of ten dollars, but the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until such person shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

Sec. 61. Section 36, chapter 121, Laws of 1965 ex. sess. as amended by section 1, chapter 29, Laws of 1972 ex. sess. and RCW 46.20.329 are each amended to read as follows:

Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: **PROVIDED**, That this stay shall be effective only so long as there is no conviction of a moving violation or a finding that the person has committed a traffic infraction which is a moving violation during pendency of hearing and appeal: **PROVIDED FURTHER**, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by a referee or hearing board appointed by him from officers or employees of the department. Such referee or hearing board may be authorized by the director to make final determinations regarding the issuance, denial, or suspension, or revocation of a license.

Sec. 62. Section 2, chapter 27, Laws of 1969 and RCW 46.20.342 are each amended to read as follows:

(1) Any person who drives a motor vehicle on any public highway of this state at a time when his privilege so to do is suspended or revoked or when his policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, shall be guilty of a misdemeanor: **PROVIDED**, That the offenses described in RCW 46.20.021 and 46.20.190, as now or hereafter amended, are lesser included offenses within the offense described by this section. Upon the first conviction therefor, he shall

be punished by imprisonment for not less than ten days nor more than six months. Upon the second such conviction therefor, he shall be punished by imprisonment for not less than ninety days nor more than one year. Upon the third such conviction therefor, he shall be punished by imprisonment for one year. There may also be imposed in connection with each such conviction a fine of not more than five hundred dollars.

(2) The department upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section upon a charge of driving a vehicle while the license of such person is under suspension shall extend the period of such suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one year from and after the date such person would otherwise have been entitled to apply for a new license.

Sec. 63. Section 5, chapter 169, Laws of 1963 as last amended by section 1, chapter 40, Laws of 1969 ex. sess. and RCW 46.29.050 are each amended to read as follows:

(1) The department shall upon request furnish any person or his attorney a certified abstract of his driving record, which abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall indicate the total number of vehicles involved; whether the vehicles were legally parked or moving, and; whether such vehicles were occupied at the time of the accident; and reference to any convictions of said person for violation of the motor vehicle laws as reported to the department(~~(;)~~); and reference to any findings that the person has committed a traffic infraction which have been reported to the department; and a record of any vehicles registered in the name of such person. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of one dollar and fifty cents which shall be deposited in the highway safety fund.

Sec. 64. Section 28, chapter 169, Laws of 1963 and RCW 46.29.280 are each amended to read as follows:

Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction (~~(or a)~~), forfeiture of bail, or finding that a traffic infraction has been committed, the suspension or revocation hereinbefore required shall remain in effect and the department shall not issue to such person any new or renewal of license until permitted under

Legislative History Materials:

Laws of 1993, ch. 136 §§ 1, 6, 11

1993
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FIFTY-THIRD LEGISLATURE
Convened January 11, 1993. Adjourned April 25, 1993.

1st SPECIAL SESSION
FIFTY-THIRD LEGISLATURE
Convened April 26, 1993. Adjourned May 6, 1993.



Published at Olympia by the Statute Law Committee under
Chapter 6, Laws of 1969.

DENNIS W. COOPER
Code Reviser

VOLUME 2

**REGULAR SESSION
CHAPTERS 460-521**

**1st SPECIAL SESSION
CHAPTERS 1-26**

PROPOSED CONSTITUTIONAL AMENDMENTS

CROSS REFERENCE TABLES

INDEX

HISTORY OF STATE MEASURES

Passed the House April 20, 1993.

Passed the Senate April 1, 1993.

Approved by the Governor May 18, 1993, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1993.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 10, Substitute House Bill No. 1528 entitled:

"AN ACT Relating to cash management;"

Section 10 of Substitute House Bill No. 1528 requires the State Treasurer to prepare and submit to the Legislature a cost-benefit report on the implementation of this act. While I agree the information generated by such an analysis would be useful, I question the need for a specific statutory requirement for the Treasurer to perform this duty. Of primary concern is that no additional funds were provided to the Treasurer for this function. With agencies facing severe funding and staffing limitations in the coming biennium, the resources available to carry out these kinds of duties will be in short supply.

Also, some of the required study items in section 10 relate to functions assigned to the Office of Financial Management, so the requirement that the State Treasurer submit the report is somewhat misdirected. Much of the information should be developed and submitted jointly by the State Treasurer and the Office of Financial Management. I have, therefore, directed the Office of Financial Management to work with the State Treasurer's office to provide the legislative fiscal committees with progress reports, as needed, on the implementation of this act.

For these reasons, I have vetoed section 10 of Substitute House Bill No. 1528.

With the exception of section 10, Substitute House Bill No. 1528 is approved."

CHAPTER 501

[Substitute House Bill 1741]

TRAFFIC LAW ENFORCEMENT--REVISIONS

Effective Date: 7/25/93

AN ACT Relating to enforcement of traffic laws; amending RCW 46.20.031, 46.20.207, 46.20.291, 46.20.311, 46.20.342, 46.61.515, 46.63.020, 46.63.060, 46.63.070, 46.63.110, and 46.52.120; adding a new section to chapter 46.20 RCW; repealing RCW 46.64.020 and 46.64.027; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20 RCW to read as follows:

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(5) or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a notice of a standing, stopping, or parking violation. A

suspension under this section takes effect thirty days after the date the department mails notice of the suspension, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

Sec. 2. RCW 46.20.031 and 1985 c 101 s 1 are each amended to read as follows:

The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of sixteen years;

(2) To any person whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in RCW 46.20.311;

~~(3) ((To any person when the department has been notified by a court that such person has violated his written promise to appear in court, unless the department has received a certificate from the court in which such person promised to appear, showing that the case has been adjudicated. The deposit of bail by a person charged with a violation of any law regulating the operation of motor vehicles on highways shall be deemed an appearance in court for the purpose of this section;~~

~~(4))~~ (4) To any person who has been evaluated by a program approved by the department of social and health services as being an alcoholic, drug addict, alcohol abuser and/or drug abuser: PROVIDED, That a license may be issued if the department determines that such person has been granted a deferred prosecution, pursuant to chapter 10.05 RCW, or is satisfactorily participating in or has successfully completed an alcohol or drug abuse treatment program approved by the department of social and health services and has established control of his or her alcohol and/or drug abuse problem;

~~((5))~~ (4) To any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease, and who has not at the time of application been restored to competency by the methods provided by law: PROVIDED, HOWEVER, That no person so adjudged shall be denied a license for such cause if the superior court should find him able to operate a motor vehicle with safety upon the highways during such incompetency;

~~((6))~~ (5) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

~~((7))~~ (6) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

~~((8))~~ (7) To any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction.

twenty dollars. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the reissue fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date the license or privilege to drive was revoked; (b) after the expiration of the applicable revocation period provided by RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for persons convicted of vehicular homicide; (d) after the expiration of one year in cases of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; (e) after the expiration of two years in cases of revocation for the second or subsequent refusal within five years to submit to a chemical test under RCW 46.20.308; or (f) after the expiration of the applicable revocation period provided by RCW 46.20.265. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be fifty dollars. Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or section 1 of this act or RCW 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of the laws of ~~((another))~~ this or any other state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be fifty dollars.

Sec. 6. RCW 46.20.342 and 1992 c 130 s 1 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65

RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one ~~((year))~~ hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license;

(v) A conviction of RCW 46.20.420, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiii) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xiv) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes; or

(xv) An administrative action taken by the department under chapter 46.20 RCW.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in section 1 of this act, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, or ~~((+))~~ (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or any combination of (i) through ~~((+))~~ (vi), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1) (a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Sec. 7. RCW 46.61.515 and 1985 c 352 s 1 are each amended to read as follows:

(1) Every person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished by imprisonment for not less than twenty-four

~~driver's license nonrenewal only, the lessee of a vehicle shall be considered to be the person to whom a notice of a standing, stopping, or parking violation has been issued for such violations of the vehicle incurred while the vehicle was leased or rented under a bona fide commercial lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner, if the lease agreement contains a provision prohibiting anyone other than the lessee from operating the vehicle. Such a lessor shall, upon the request of the municipality issuing the notice of infraction, supply the municipality with the name and driver's license number of the person leasing the vehicle at the time of the infraction.))~~

Sec. 11. RCW 46.63.110 and 1986 c 213 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department ~~((may not renew))~~ shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid.

Legislative History Materials:

Final Bill Report – SHB 1741

FINAL BILL REPORT

SHB 1741

Synopsis as Enacted
C 501 L 93

Brief Description: Revising penalties for ignoring traffic tickets.

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Ludwig, Johanson and Orr).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: Many traffic laws have been "decriminalized" and made civil infractions instead of crimes. For these infractions, no jail time may be imposed, but civil punishment includes fines and in some instances loss of driving privileges. Although infractions themselves are not crimes, failing to respond to a notice of infraction is a crime.

Under the "Nonresident Violator Compact," a state may agree to release motorists from another state who are cited for traffic law violations without requiring the motorists to post appearance bonds. Such an agreement is dependent, however, on the home state of a cited motorist having a law which requires driver's license suspension for failing to comply with a traffic citation. Washington has adopted the compact, but does not have a law that would require license suspension for Washington drivers who fail to comply with citations issued by other participants in the compact. Washington does have a law that prohibits renewal of a license for a person who has failed to comply.

The state's motor vehicle code has various escalating penalties for driving without a license and for driving while intoxicated (DWI). The crime of driving while a license is suspended or revoked may be committed in any one of three degrees, depending on the offense for which the license was suspended or revoked. Driving without a license that was suspended for being an habitual traffic offender is first-degree driving with a suspended or revoked license. The second-degree offense involves driving following the loss of a license for DWI or other relatively serious traffic offenses. The third-degree offense involves driving after a license has been suspended or revoked solely for secondary reasons such as failure to furnish proof of

financial responsibility, or failure to renew a license after a period of suspension has expired.

Summary: Crimes relating to failure to respond to a traffic infraction and failure to comply with a traffic citation are repealed. The offenses are made infractions for which the Department of Licensing (DOL) is to suspend a driver's license. If a Washington driver fails to respond or comply in the case of an out-of-state offense, DOL will also suspend the driver's license. A suspension continues until the driver responds or complies, shows proof of financial responsibility, and pays a \$20 reinstatement fee.

The mandatory minimum jail term for first-degree driving with a suspended or revoked license as the result of being an habitual offender is reduced from one year to 180 days. The crime of driving with a suspended or revoked license in the third degree is amended to include persons who drive while their licenses are suspended as the result of failing to respond to a notice of a traffic infraction or failing to comply with a citation.

Several changes are made with respect to the crime of DWI:

- (1) The ground for suspending the otherwise mandatory jail time for DWI is changed. The required risk to a defendant's physical or mental well-being must be "substantial."
- (2) The Department of Social and Health Services, instead of the court, must periodically review the alcohol information schools attended by DWI offenders.
- (3) For persons convicted of DWI while they were driving with a suspended or revoked license in the first or second degree, the minimum mandatory fine is raised from \$200 to \$500. This fine and its accompanying mandatory 90 days in jail no longer apply to persons convicted of DWI while driving without a license as a result of third-degree driving with a suspended or revoked license.
- (4) A change is made to an ambiguous requirement that a court impose, in addition to the mandatory jail time for DWI, a suspendible term of imprisonment "not exceeding 180 days" that is suspendible but not deferrable "for a period not exceeding two years." This provision is changed to require that the additional suspendible term of confinement be for a period of up to two years.

Various changes are made to the form requirements for notices of traffic infractions and citations in order to reflect the changes made in the substantive provisions described above.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate receded)

Effective: July 25, 1993

Legislative History Materials:

Laws of 1999, ch. 274 § 1

1999
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FIFTY-SIXTH LEGISLATURE
Convened January 11, 1999. Adjourned April 25, 1999.



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Chapter 6, Laws of 1969.

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(7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education;

(8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness; ~~((and))~~

(9) Indebtedness incurred for the purposes identified in RCW 43.99N.020; and

(10) Indebtedness incurred for the purposes of the school district bond guaranty established by chapter 39.—RCW (sections 1 through 8 of this act).

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee.

NEW SECTION. Sec. 10. This act takes effect January 1, 2000, if the proposed amendment to Article VIII, section 1 of the state Constitution, guaranteeing the general obligation debt of school districts, is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, this act is void in its entirety.

NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute a new chapter in Title 39 RCW.

Passed the Senate April 22, 1999.

Passed the House April 14, 1999.

Approved by the Governor May 12, 1999.

Filed in Office of Secretary of State May 12, 1999.

CHAPTER 274

[Senate Bill 5374]

DRIVERS' LICENSES

AN ACT Relating to corrective amendments to certain drivers' licensing statutes; amending RCW 46.20.289, 46.20.342, 46.65.060, 46.20.500, 46.20.505, 46.20.510, 46.20.515, 46.20.041, 46.20.055, 46.20.100, and 46.20.117; and reenacting and amending RCW 46.20.308, 46.20.391, 46.52.100, and 46.61.5055.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.20.289 and 1995 c 219 s 2 are each amended to read as follows:

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(5), ~~46.63.110(5)~~, or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for a notice of a violation of RCW 46.55.105 or a standing, stopping, or parking violation. A suspension under this section takes effect thirty days after the date the department mails notice of the suspension, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

Sec. 2. RCW 46.20.308 and 1998 c 213 s 1, 1998 c 209 s 1, 1998 c 207 s 7, and 1998 c 41 s 4 are each reenacted and amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility in which a breath testing instrument is not present or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that:

(a) His or her license, permit, or privilege to drive will be revoked or denied if he or she refuses to submit to the test;

Legislative History Materials:

Final Bill Report – SB 5374

FINAL BILL REPORT

SB 5374

C 274 L 99

Synopsis as Enacted

Brief Description: Making corrective amendments to certain drivers' licensing laws.

Sponsors: Senators Heavey and Johnson; by request of Department of Licensing.

Senate Committee on Transportation

House Committee on Transportation

Background: The Department of Licensing (DOL) currently issues paper instruction permits not containing a photograph, both for security reasons and to facilitate student participation in traffic safety education courses provided by public schools during on-site school visits. DOL currently waives \$1 of the fee charged, as past legislation has indicated that \$1 of the fee is for the photograph.

DOL currently has authority to suspend an individual's driver's license for failure to pay traffic infractions by the time required. However, the current RCW section authorizing DOL to suspend driver's licenses for failure to respond to a notice of traffic infraction lacks a reference to the statute authorizing DOL to suspend for failure to pay the traffic infraction penalty.

Recent legislation has restricted participation in a deferred prosecution program for persons arrested for alcohol-related traffic offenses to one program in a person's lifetime. However, this change was not reflected in DOL's license sanctions statute.

The current statute addressing driving while license suspended or revoked in the second degree does not reflect conviction of reckless endangerment of roadway workers, nor does it reflect convictions of offenses substantially similar to violations included in this statute (for example, out-of-state convictions).

Recent legislation made occupational driver's licenses (ODL) available for those individuals with suspended licenses due to alcohol-related traffic offenses. However, this legislation created situations where a driver's license may be suspended twice for actions arising from the same incident (once as a result of the arrest, and again if the arrest results in a criminal conviction). The procedure for issuance of an ODL is not clear if an individual facing two license suspensions for the same incident applies for an ODL.

The statutory requirement for courts to forward abstracts of convictions for traffic offenses to DOL contains an archaic reference to certification of the abstract.

The authority to suspend and revoke driver's licenses has been delegated to DOL. However, some lower court decisions have made license suspensions or revocations a duty of the courts.

Recent legislation increased the time period for a revocation of a driver's license of an individual declared to be an habitual traffic offender from five to seven years. However, this legislation inadvertently omitted a conforming amendment to DOL statutes.

Summary: DOL's authority to issue non-photo instruction permits for a reduced fee is clarified.

Failure to pay traffic infractions by the time required subjects an individual to license suspension by DOL.

A conforming amendment is made to account for 1998 DUI amendments that restricted participation in a deferred prosecution program to once in a person's lifetime.

An amendment reflects that individuals driving under a suspended or revoked license due to conviction of reckless endangerment of roadway workers or conviction of an offense substantially similar to violations included in current law are guilty of driving while license suspended or revoked in the second degree.

Procedures for issuance of an ODL where there has been administrative license sanctions imposed as the result of an alcohol-related traffic offense are clarified.

An archaic requirement that abstracts of conviction transmitted by the courts be certified is removed.

License suspension or revocation based on conviction for alcohol-related offenses remains the responsibility of DOL.

An amendment accounts for a change in habitual traffic offender revocation time periods made by the Legislature in 1998.

A motorcycle endorsement authorizes the holder to operate any size motorcycle. Motorcyclists holding a motorcycle learner's permit are allowed to drive (1) on a controlled, limited access facility and (2) without visual supervision.

Votes on Final Passage:

Senate	45	0	
House	91	4	(House amended)
Senate			(Senate concurred in part)
House	95	0	(House receded)
Senate	44	0	

Effective: July 25, 1999

Legislative History Materials:

Laws of 2012, ch. 82 § 1-5

2011-2012
SESSION LAWS
OF THE
STATE OF WASHINGTON

2011 SECOND SPECIAL SESSION
SIXTY-SECOND LEGISLATURE
Convened November 28, 2011. Adjourned December 14, 2011.

2012 REGULAR SESSION
SIXTY-SECOND LEGISLATURE
Convened January 9, 2012. Adjourned March 8, 2012.



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K. KYLE THIESSEN
Code Reviser

<http://www.leg.wa.gov/codereviser>

may hereafter be established under the provisions of this chapter: PROVIDED, That any vessel inbound to or outbound from Canadian ports is exempt from the provisions of this section, if said vessel actually employs a pilot licensed by the Pacific pilotage authority (the pilot licensing authority for the western district of Canada), and if it is communicating with the vessel traffic system and has appropriate navigational charts, and if said vessel uses only those waters east of the international boundary line which are west of a line which begins at the southwestern edge of Point Roberts then to Alden Point (Patos Island), then to Skipjack Island light, then to Turn Point (Stuart Island), then to Kellet Bluff (Henry Island), then to Lime Kiln (San Juan Island) then to the intersection of one hundred twenty-three degrees seven minutes west longitude and forty-eight degrees twenty-five minutes north latitude then to the international boundary. The board shall correspond with the Pacific pilotage authority from time to time to ensure the provisions of this section are enforced. If any exempted vessel does not comply with these provisions it shall be deemed to be in violation of this section and subject to the penalties provided in RCW 88.16.150 as now or hereafter amended and liable to pilotage fees as determined by the board. The board shall investigate any accident on the waters covered by this chapter involving a Canadian pilot and shall include the results in its annual report.

Passed by the Senate February 14, 2012.

Passed by the House March 1, 2012.

Approved by the Governor March 23, 2012.

Filed in Office of Secretary of State March 23, 2012.

CHAPTER 82

[Engrossed Second Substitute Senate Bill 6284]

NONSAFETY CIVIL TRAFFIC INFRACTIONS—PROCESS

AN ACT Relating to reforming Washington's approach to certain nonsafety civil traffic infractions by authorizing a civil collection process for unpaid traffic fines and removing the requirement for law enforcement intervention for the failure to appear and pay a traffic ticket; amending RCW 46.63.110, 46.20.391, 46.20.289, and 46.64.025; adding a new section to chapter 46.20 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.63.110 and 2010 c 252 s 5 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court ~~((shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege))~~ may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the ~~((department has been notified that the))~~ court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court ~~((shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege))~~ may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

Sec. 2. RCW 46.20.391 and 2010 c 269 s 2 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394.

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

~~(b) ((If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.~~

~~(e))~~ An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose occupational or temporary restricted driver's license has been canceled under this section may reapply for a new occupational or temporary restricted driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

Sec. 3. RCW 46.20.289 and 2005 c 288 s 5 are each amended to read as follows:

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to respond to a notice of traffic infraction for a moving violation, failed to appear at a requested hearing for a moving violation, violated a written promise to appear in court for a notice of infraction for a moving violation, or has failed to comply with the terms of a notice of traffic infraction or citation for a moving violation, or when the department receives notice from another state under Article IV of the nonresident violator compact under RCW 46.23.010 or from a jurisdiction that has entered into an agreement with the department under RCW 46.23.020, other than for a standing, stopping, or parking violation, provided that the traffic infraction or traffic offense is committed on or after July 1, 2005. A suspension under this section takes effect pursuant to the provisions of RCW 46.20.245, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

NEW SECTION. Sec. 4. A new section is added to chapter 46.20 RCW to read as follows:

The department of licensing in consultation with the administrative office of the courts must adopt and maintain rules, by November 1, 2012, in accordance with chapter 34.05 RCW that define a moving violation for the purposes of this act. "Moving violation" shall be defined pursuant to Title 46 RCW. Upon adoption of these rules, the department must provide written notice to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

Sec. 5. RCW 46.64.025 and 2006 c 270 s 4 are each amended to read as follows:

Whenever any person served with a traffic citation willfully fails to appear ~~((for a scheduled court hearing))~~ at a requested hearing for a moving violation or fails to comply with the terms of a notice of traffic citation for a moving violation, the court in which the defendant failed to appear shall promptly give notice of such fact to the department of licensing. Whenever thereafter the case in which the defendant failed to appear is adjudicated, the court hearing the case shall promptly file with the department a certificate showing that the case has been adjudicated. For the purposes of this section, "moving violation" is defined by rule pursuant to section 4 of this act.

NEW SECTION. Sec. 6. Except for section 4 of this act, this act takes effect June 1, 2013. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2012, in the transportation appropriations act, this act is null and void.

Passed by the Senate February 11, 2012.

Passed by the House March 8, 2012.

Approved by the Governor March 23, 2012.

Filed in Office of Secretary of State March 23, 2012.

CHAPTER 83

[Substitute Senate Bill 6444]

ALASKAN WAY VIADUCT REPLACEMENT—TOLL FACILITY

AN ACT Relating to eligible toll facilities; amending RCW 46.63.075 and 46.63.170; reenacting and amending RCW 43.84.092 and 46.16A.120; adding new sections to chapter 47.56 RCW; creating a new section; and repealing 2010 c 161 s 1126.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that there is an urgent need to replace the central waterfront section of state route number 99, known as the Alaskan Way viaduct, because the viaduct is vulnerable to closure, damage, or catastrophic failure as a result of earthquakes or other events. In 2009, the legislature determined that the finance plan for the Alaskan Way viaduct replacement project should include no more than four hundred million dollars in toll funding for the project.

Therefore, it is the intent of the legislature to authorize tolling on the Alaskan Way viaduct replacement project, both to help finance the Alaskan Way viaduct replacement project and to help maintain travel time, speed, and reliability on the portion of state route number 99 that would be replaced by this project.

NEW SECTION. Sec. 2. A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

(1) The initial imposition of tolls on the portion of state route number 99 that is the deep bore tunnel under First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street tunnel is authorized, this portion of state route number 99 is designated an eligible toll facility, and toll revenue generated from this facility must only be expended as allowed under RCW 47.56.820.

(2) The toll imposed under this section must be charged only for travel on the portion of state route number 99 that is a deep bore tunnel.

(3)(a) In setting toll rates for the deep bore tunnel portion of state route number 99 pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on this facility and generate the necessary revenue as required under (b) of this subsection.

(b) The tolling authority may adjust the variable schedule of toll rates at least annually to reflect inflation as measured by the consumer price index to meet the redemption of bonds, to meet the obligations of the tolling authority under RCW 47.56.850, and interest payments on bonds and for those costs that are eligible under RCW 47.56.820.

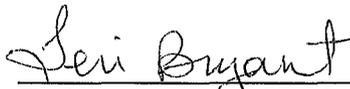
**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,)	NO. 86885-9
Respondent,)	
vs.)	DECLARATION OF
)	MAILING
STEPHEN CHRISS JOHNSON,)	
Appellant.)	
_____)	

Ms. Teri Bryant, paralegal for Shane O'Rourke, Deputy Prosecuting Attorney, declares under penalty of perjury under the laws of the State of Washington that the following is true and correct: On September 25, 2012, the appellant was served with a copy of the **Respondent's Brief** by depositing same in the United States Mail, postage pre-paid, to the Appellant at the address indicated below:

Jon Emmett Cushman
Devin Hochhalter
Cushman Law Offices, P.S.
924 Capitol Way South
Olympia, WA 98501

DATED this 25 day of Sept., 2012, at Chehalis, Washington.



Teri Bryant, Paralegal
Lewis County Prosecuting Attorney Office

Declaration of
Mailing