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ENGROSSED SUBSTITUTE SENATE BILL 6204

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State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Haugen, Smith, Winsley, Hale and Schow)

Read first time 01/30/96.

1 AN ACT Relating to penalties for driving without a driver's license  
2 and negligent driving; amending RCW 46.61.525; reenacting and amending  
3 RCW 46.20.021 and 46.63.020; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.61.525 and 1979 ex.s. c 136 s 86 are each amended  
6 to read as follows:

7 ~~((It shall be unlawful for any person to operate a motor vehicle in  
8 a negligent manner. For the purpose of this section to "operate in a  
9 negligent manner" shall be construed to mean the operation of a vehicle  
10 in such a manner as to endanger or be likely to endanger any persons or  
11 property: PROVIDED HOWEVER, That any person operating a motor vehicle  
12 on private property with the consent of the owner in a manner  
13 consistent with the owner's consent shall not be guilty of negligent  
14 driving.~~

15 ~~The offense of operating a vehicle in a negligent manner shall be  
16 considered to be a lesser offense than, but included in, the offense of  
17 operating a vehicle in a reckless manner, and any person charged with  
18 operating a vehicle in a reckless manner may be convicted of the lesser  
19 offense of operating a vehicle in a negligent manner. Any person~~

1 ~~violating the provisions of this section will be guilty of a~~  
2 ~~misdemeanor: PROVIDED, That the director may not revoke any license~~  
3 ~~under this section, and such offense is not punishable by imprisonment~~  
4 ~~or by a fine exceeding two hundred fifty dollars.)) (1)(a) A person is~~  
5 guilty of negligent driving in the first degree if he or she operates  
6 a motor vehicle in a manner that is both negligent and endangers or is  
7 likely to endanger any person or property, and exhibits the effects of  
8 having consumed liquor or an illegal drug.

9 (b) It is an affirmative defense to negligent driving in the first  
10 degree by means of exhibiting the effects of having consumed an illegal  
11 drug that must be proved by the defendant by a preponderance of the  
12 evidence, that the driver has a valid prescription for the drug  
13 consumed, and has been consuming it according to the prescription  
14 directions and warnings.

15 (c) Negligent driving in the first degree is a misdemeanor.

16 (2)(a) A person is guilty of negligent driving in the second degree  
17 if, under circumstances not constituting negligent driving in the first  
18 degree, he or she operates a motor vehicle in a manner that is both  
19 negligent and endangers or is likely to endanger any person or  
20 property.

21 (b) It is an affirmative defense to negligent driving in the second  
22 degree that must be proved by the defendant by a preponderance of the  
23 evidence, that the driver was operating the motor vehicle on private  
24 property with the consent of the owner in a manner consistent with the  
25 owner's consent.

26 (c) Negligent driving in the second degree is a traffic infraction  
27 and is subject to penalties as set by the supreme court under RCW  
28 46.63.110 or community service.

29 (3) For the purposes of this section:

30 (a) "Negligent" means the failure to exercise ordinary care, and is  
31 the doing of some act that a reasonably careful person would not do  
32 under the same or similar circumstances or the failure to do something  
33 that a reasonably careful person would do under the same or similar  
34 circumstances.

35 (b) "Exhibiting the effects of having consumed liquor" means that  
36 a person has the odor of liquor on his or her breath and either:

37 (i) Is in possession of or in close proximity to a container that  
38 has or recently had liquor in it; or

39 (ii) Is shown by other evidence to have recently consumed liquor.

1       (c) "Exhibiting the effects of having consumed an illegal drug"  
2 means that a person by speech, manner, appearance, behavior, lack of  
3 coordination, or otherwise exhibits that he or she has consumed an  
4 illegal drug and either:

5       (i) Is in possession of an illegal drug; or

6       (ii) Is shown by other evidence to have recently consumed an  
7 illegal drug.

8       (d) "Illegal drug" means a controlled substance under chapter 69.50  
9 RCW for which the driver does not have a valid prescription or that is  
10 not being consumed in accordance with the prescription directions and  
11 warnings, or a legend drug under chapter 69.41 RCW for which the driver  
12 does not have a valid prescription or that is not being consumed in  
13 accordance with the prescription directions and warnings.

14       (4) Any act prohibited by this section that also constitutes a  
15 crime under any other law of this state may be the basis of prosecution  
16 under such other law notwithstanding that it may also be the basis for  
17 prosecution under this section.

18       **Sec. 2.** RCW 46.20.021 and 1991 c 293 s 3 and 1991 c 73 s 1 are  
19 each reenacted and amended to read as follows:

20       (1) No person, except as expressly exempted by this chapter, may  
21 drive any motor vehicle upon a highway in this state unless the person  
22 has a valid driver's license issued to Washington residents under the  
23 provisions of this chapter. A violation of this subsection is a  
24 misdemeanor and is a lesser included offense within the offenses  
25 described in RCW 46.20.342(1) or 46.20.420. However, if a person in  
26 violation of this section provides the citing officer with an expired  
27 driver's license or other valid identifying documentation under RCW  
28 46.20.035 at the time of the stop and is not in violation of RCW  
29 46.20.342(1) or 46.20.420, the violation of this section is an  
30 infraction and is subject to a penalty of two hundred fifty dollars.  
31 If the person appears in person before the court or submits by mail  
32 written proof that he or she obtained a valid license after being  
33 cited, the court shall reduce the penalty to fifty dollars.

34       (2) For the purposes of obtaining a valid driver's license, a  
35 resident is a person who manifests an intent to live or be located in  
36 this state on more than a temporary or transient basis. Evidence of  
37 residency includes but is not limited to:

38       (a) Becoming a registered voter in this state; or

1 (b) Receiving benefits under one of the Washington public  
2 assistance programs; or

3 (c) Declaring that he or she is a resident for the purpose of  
4 obtaining a state license or tuition fees at resident rates.

5 (3) The term "Washington public assistance programs" referred to in  
6 subsection (2)(b) of this section includes only public assistance  
7 programs for which more than fifty percent of the combined costs of  
8 benefits and administration are paid from state funds. Programs which  
9 are not included within the term "Washington public assistance  
10 programs" pursuant to the above criteria include, but are not limited  
11 to the food stamp program under the federal food stamp act of 1964;  
12 programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771  
13 through 1788; and aid to families with dependent children, 42 U.S.C.  
14 Secs. 601 through 606.

15 (4) No person shall receive a driver's license unless and until he  
16 or she surrenders to the department all valid driver's licenses in his  
17 or her possession issued to him or her by any other jurisdiction. The  
18 department shall establish a procedure to invalidate the surrendered  
19 photograph license and return it to the person. The invalidated  
20 license, along with the valid temporary Washington driver's license  
21 provided for in RCW 46.20.055(3), shall be accepted as proper  
22 identification. The department shall notify the issuing department  
23 that the licensee is now licensed in a new jurisdiction. No person  
24 shall be permitted to have more than one valid driver's license at any  
25 time.

26 (5) New Washington residents are allowed thirty days from the date  
27 they become residents as defined in this section to procure a valid  
28 Washington driver's license.

29 (6) Any person licensed as a driver under this chapter may exercise  
30 the privilege thereby granted upon all streets and highways in this  
31 state and shall not be required to obtain any other license to exercise  
32 such privilege by any county, municipal or local board, or body having  
33 authority to adopt local police regulations.

34 **Sec. 3.** RCW 46.63.020 and 1995 1st sp.s. c 16 s 1, 1995 c 332 s  
35 16, and 1995 c 256 s 25 are each reenacted and amended to read as  
36 follows:

37 Failure to perform any act required or the performance of any act  
38 prohibited by this title or an equivalent administrative regulation or

1 local law, ordinance, regulation, or resolution relating to traffic  
2 including parking, standing, stopping, and pedestrian offenses, is  
3 designated as a traffic infraction and may not be classified as a  
4 criminal offense, except for an offense contained in the following  
5 provisions of this title or a violation of an equivalent administrative  
6 regulation or local law, ordinance, regulation, or resolution:

7 (1) RCW 46.09.120(2) relating to the operation of a nonhighway  
8 vehicle while under the influence of intoxicating liquor or a  
9 controlled substance;

10 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

11 (3) RCW 46.10.090(2) relating to the operation of a snowmobile  
12 while under the influence of intoxicating liquor or narcotics or  
13 habit-forming drugs or in a manner endangering the person of another;

14 (4) RCW 46.10.130 relating to the operation of snowmobiles;

15 (5) Chapter 46.12 RCW relating to certificates of ownership and  
16 registration and markings indicating that a vehicle has been destroyed  
17 or declared a total loss;

18 (6) RCW 46.16.010 relating to initial registration of motor  
19 vehicles;

20 (7) RCW 46.16.011 relating to permitting unauthorized persons to  
21 drive;

22 (8) RCW 46.16.160 relating to vehicle trip permits;

23 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or  
24 acquisition of a special placard or license plate for disabled persons'  
25 parking;

26 (10) RCW 46.20.021 relating to driving without a valid driver's  
27 license, unless the person cited for the violation provided the citing  
28 officer with an expired driver's license or other valid identifying  
29 documentation under RCW 46.20.035 at the time of the stop and was not  
30 in violation of RCW 46.20.342(1) or 46.20.420, in which case the  
31 violation is an infraction;

32 (11) RCW 46.20.336 relating to the unlawful possession and use of  
33 a driver's license;

34 (12) RCW 46.20.342 relating to driving with a suspended or revoked  
35 license or status;

36 (13) RCW 46.20.410 relating to the violation of restrictions of an  
37 occupational driver's license;

38 (14) RCW 46.20.420 relating to the operation of a motor vehicle  
39 with a suspended or revoked license;

1 (15) RCW 46.20.750 relating to assisting another person to start a  
2 vehicle equipped with an ignition interlock device;  
3 (16) RCW 46.25.170 relating to commercial driver's licenses;  
4 (17) Chapter 46.29 RCW relating to financial responsibility;  
5 (18) RCW 46.30.040 relating to providing false evidence of  
6 financial responsibility;  
7 (19) RCW 46.37.435 relating to wrongful installation of  
8 sunscreening material;  
9 (20) RCW 46.44.180 relating to operation of mobile home pilot  
10 vehicles;  
11 (21) RCW 46.48.175 relating to the transportation of dangerous  
12 articles;  
13 (22) RCW 46.52.010 relating to duty on striking an unattended car  
14 or other property;  
15 (23) RCW 46.52.020 relating to duty in case of injury to or death  
16 of a person or damage to an attended vehicle;  
17 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,  
18 and appraisers;  
19 (25) RCW 46.52.100 relating to driving under the influence of  
20 liquor or drugs;  
21 (26) RCW 46.52.130 relating to confidentiality of the driving  
22 record to be furnished to an insurance company, an employer, and an  
23 alcohol/drug assessment or treatment agency;  
24 (27) RCW 46.55.020 relating to engaging in the activities of a  
25 registered tow truck operator without a registration certificate;  
26 (28) RCW 46.55.035 relating to prohibited practices by tow truck  
27 operators;  
28 (29) RCW 46.61.015 relating to obedience to police officers,  
29 flagmen, or fire fighters;  
30 (30) RCW 46.61.020 relating to refusal to give information to or  
31 cooperate with an officer;  
32 (31) RCW 46.61.022 relating to failure to stop and give  
33 identification to an officer;  
34 (32) RCW 46.61.024 relating to attempting to elude pursuing police  
35 vehicles;  
36 (33) RCW 46.61.500 relating to reckless driving;  
37 (34) RCW 46.61.502 and 46.61.504 relating to persons under the  
38 influence of intoxicating liquor or drugs;

1           (35) RCW ((~~46.61.5055~~ (~~section 5, chapter 332~~ (~~Substitute Senate~~  
2 ~~Bill No. 5141~~), ~~Laws of 1995~~)) 46.61.503 relating to a person under  
3 age twenty-one driving a motor vehicle after consuming alcohol;  
4           (36) RCW 46.61.520 relating to vehicular homicide by motor vehicle;  
5           (37) RCW 46.61.522 relating to vehicular assault;  
6           (38) RCW 46.61.525(1) relating to first degree negligent driving;  
7           (39) RCW 46.61.527(4) relating to reckless endangerment of roadway  
8 workers;  
9           (40) RCW 46.61.530 relating to racing of vehicles on highways;  
10          (41) RCW 46.61.685 relating to leaving children in an unattended  
11 vehicle with the motor running;  
12          (42) RCW 46.64.010 relating to unlawful cancellation of or attempt  
13 to cancel a traffic citation;  
14          (43) RCW 46.64.048 relating to attempting, aiding, abetting,  
15 coercing, and committing crimes;  
16          (44) Chapter 46.65 RCW relating to habitual traffic offenders;  
17          (45) Chapter 46.70 RCW relating to unfair motor vehicle business  
18 practices, except where that chapter provides for the assessment of  
19 monetary penalties of a civil nature;  
20          (46) Chapter 46.72 RCW relating to the transportation of passengers  
21 in for hire vehicles;  
22          (47) Chapter 46.80 RCW relating to motor vehicle wreckers;  
23          (48) Chapter 46.82 RCW relating to driver's training schools;  
24          (49) RCW 46.87.260 relating to alteration or forgery of a cab card,  
25 letter of authority, or other temporary authority issued under chapter  
26 46.87 RCW;  
27          (50) RCW 46.87.290 relating to operation of an unregistered or  
28 unlicensed vehicle under chapter 46.87 RCW.

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