
SUBSTITUTE HOUSE BILL 2272

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Transportation (originally sponsored by Representatives R. Fisher, R. Meyers, Betrozoff, Wang, Winsley and May; by request of Washington State Patrol)

Read first time 02/03/92.

1 AN ACT Relating to enforcement of high-occupancy vehicle lane
2 violations; amending RCW 46.61.165, 46.52.130, and 46.65.020; adding a
3 new section to chapter 46.90 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.61.165 and 1991 sp.s. c 15 s 67 are each amended to
6 read as follows:

7 The state department of transportation and the local authorities
8 are authorized to reserve all or any portion of any highway under their
9 respective jurisdictions, including any designated lane or ramp, for
10 the exclusive or preferential use of public transportation vehicles or
11 private motor vehicles carrying no fewer than a specified number of
12 passengers when such limitation will increase the efficient utilization
13 of the highway or will aid in the conservation of energy resources.
14 There is hereby appropriated from the transportation fund--state to the

1 department of transportation, program C for the period ending June 30,
2 1993, an additional \$15 million for the sole purpose of expediting
3 completion of the HOV core lane system. Regulations authorizing such
4 exclusive or preferential use of a highway facility may be declared to
5 be effective at all times or at specified times of day or on specified
6 days. The (~~department shall evaluate the efficacy of the vehicle~~
7 ~~occupancy requirements and shall report to the legislative~~
8 ~~transportation committee by January 1, 1992~~) base penalty for improper
9 use of the designated lanes or ramps is twenty-five dollars for the
10 first offense within five years, seventy dollars for the second offense
11 within five years, and two hundred fifty dollars for a third or
12 subsequent offense within five years.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.90 RCW
14 to read as follows:

15 In a prosecution charging a violation of RCW 46.61.165, proof must
16 be shown by a law enforcement officer that a particular vehicle
17 described in the complaint was operated in violation of RCW 46.61.165.
18 The proof must be supported by a law enforcement officer having plain
19 view of the interior of the vehicle described in the complaint. When
20 making the sighting, the officer must not be at a distance farther than
21 the adjoining traffic lane. This proof, together with proof that the
22 defendant named in the complaint was the registered owner at the time
23 of the violation, is prima facie evidence that the registered owner of
24 the vehicle was the person who operated the vehicle at the time the
25 violation occurred.

26 **Sec. 3.** RCW 46.52.130 and 1991 c 243 s 1 are each amended to read
27 as follows:

1 A certified abstract of the driving record shall be furnished only
2 to the individual named in the abstract, an employer, the insurance
3 carrier that has insurance in effect covering the employer or a
4 prospective employer, the insurance carrier that has insurance in
5 effect covering the named individual, the insurance carrier to which
6 the named individual has applied, or an alcohol/drug assessment or
7 treatment agency approved by the department of social and health
8 services, to which the named individual has applied or been assigned
9 for evaluation or treatment. City attorneys and county prosecuting
10 attorneys may provide the driving record to alcohol/drug assessment or
11 treatment agencies approved by the department of social and health
12 services to which the named individual has applied or been assigned for
13 evaluation or treatment. The director, upon proper request, shall
14 furnish a certified abstract covering the period of not more than the
15 last three years to insurance companies, and covering a period of not
16 more than the last five years to state approved alcohol/drug assessment
17 or treatment agencies. A certified abstract of the full driving record
18 maintained by the department shall be furnished to individuals and
19 employers or prospective employers. The abstract, whenever possible,
20 shall include an enumeration of motor vehicle accidents in which the
21 person was driving; the total number of vehicles involved; whether the
22 vehicles were legally parked or moving; whether the vehicles were
23 occupied at the time of the accident; any reported convictions,
24 forfeitures of bail, or findings that an infraction was committed based
25 upon a violation of any motor vehicle law; and the status of the
26 person's driving privilege in this state. The enumeration shall
27 include any reports of failure to appear in response to a traffic
28 citation or failure to respond to a notice of infraction served upon
29 the named individual by an arresting officer.

1 The abstract provided to the insurance company shall exclude any
2 information except that related to the commission of misdemeanors or
3 felonies by the individual pertaining to law enforcement officers or
4 fire fighters as defined in RCW 41.26.030, or any officer of the
5 Washington state patrol, while driving official vehicles in the
6 performance of occupational duty or pertaining to improper use of a
7 designated high-occupancy vehicle lane or ramp under RCW 46.61.165.

8 The director shall collect for each abstract the sum of four
9 dollars and fifty cents which shall be deposited in the highway safety
10 fund.

11 Any insurance company or its agent receiving the certified abstract
12 shall use it exclusively for its own underwriting purposes and shall
13 not divulge any of the information contained in it to a third party.
14 No policy of insurance may be canceled, nonrenewed, denied, or have the
15 rate increased on the basis of such information unless the policyholder
16 was determined to be at fault. No insurance company or its agent for
17 underwriting purposes relating to the operation of commercial motor
18 vehicles may use any information contained in the abstract relative to
19 any person's operation of motor vehicles while not engaged in such
20 employment, nor may any insurance company or its agent for underwriting
21 purposes relating to the operation of noncommercial motor vehicles use
22 any information contained in the abstract relative to any person's
23 operation of commercial motor vehicles.

24 Any employer or prospective employer receiving the certified
25 abstract shall use it exclusively for his own purpose to determine
26 whether the licensee should be permitted to operate a commercial
27 vehicle or school bus upon the public highways of this state and shall
28 not divulge any information contained in it to a third party.

29 Any alcohol/drug assessment or treatment agency approved by the
30 department of social and health services receiving the certified

1 abstract shall use it exclusively for the purpose of assisting its
2 employees in making a determination as to what level of treatment, if
3 any, is appropriate. The agency, or any of its employees, shall not
4 divulge any information contained in the abstract to a third party.

5 Any violation of this section is a gross misdemeanor.

6 **Sec. 4.** RCW 46.65.020 and 1991 c 293 s 7 are each amended to read
7 as follows:

8 As used in this chapter, unless a different meaning is plainly
9 required by the context, an habitual offender means any person,
10 resident or nonresident, who has accumulated convictions or findings
11 that the person committed a traffic infraction as defined in RCW
12 46.20.270, or, if a minor, has violations recorded with the department
13 of licensing, for separate and distinct offenses as described in either
14 subsection (1) or (2) below committed within a five-year period, as
15 evidenced by the records maintained in the department of licensing:
16 PROVIDED, That where more than one described offense is committed
17 within a six-hour period such multiple offenses shall, on the first
18 such occasion, be treated as one offense for the purposes of this
19 chapter:

20 (1) Three or more convictions, singularly or in combination, of the
21 following offenses:

22 (a) Vehicular homicide as defined in RCW 46.61.520;

23 (b) Vehicular assault as defined in RCW 46.61.522;

24 (c) Driving or operating a motor vehicle while under the influence
25 of intoxicants or drugs;

26 (d) Driving a motor vehicle while his or her license, permit, or
27 privilege to drive has been suspended or revoked as defined in RCW
28 46.20.342(1)(b);

1 (e) Failure of the driver of any vehicle involved in an accident
2 resulting in the injury or death of any person or damage to any vehicle
3 which is driven or attended by any person to immediately stop such
4 vehicle at the scene of such accident or as close thereto as possible
5 and to forthwith return to and in every event remain at, the scene of
6 such accident until he has fulfilled the requirements of RCW 46.52.020;

7 (f) Reckless driving as defined in RCW 46.61.500;

8 (g) Being in physical control of a motor vehicle while under the
9 influence of intoxicating liquor or any drug as defined in RCW
10 46.61.504; or

11 (h) Attempting to elude a pursuing police vehicle as defined in RCW
12 46.61.024;

13 (2) Twenty or more convictions or findings that the person
14 committed a traffic infraction for separate and distinct offenses,
15 singularly or in combination, in the operation of a motor vehicle that
16 are required to be reported to the department of licensing other than
17 the offenses of driving with an expired driver's license ((and)), not
18 having a driver's license in the operator's immediate possession, and
19 improper use of a designated high-occupancy vehicle lane or ramp under
20 RCW 46.61.165. Such convictions or findings shall include those for
21 offenses enumerated in subsection (1) of this section when taken with
22 and added to those offenses described herein but shall not include
23 convictions or findings for any nonmoving violation. No person may be
24 considered an habitual offender under this subsection unless at least
25 three convictions have occurred within the three hundred sixty-five
26 days immediately preceding the last conviction.

27 The offenses included in subsections (1) and (2) of this section
28 are deemed to include offenses under any valid town, city, or county
29 ordinance substantially conforming to the provisions cited in
30 subsections (1) and (2) or amendments thereto, and any federal law, or

- 1 any law of another state, including subdivisions thereof, substantially
- 2 conforming to the aforesaid state statutory provisions.