

CERTIFICATION OF ENROLLMENT

SENATE BILL 6140

Chapter 32, Laws of 1992

52nd Legislature
1992 Regular Session

FAILURE TO COMPLY, GROSS MISDEMEANOR FOR TRAFFIC
VIOLATOR WITH REPEAT FAILURES TO APPEAR

EFFECTIVE DATE: 6/11/92

Passed by the Senate February 12, 1992
Yeas 47 Nays 0

JOEL PRITCHARD

President of the Senate

Passed by the House March 3, 1992
Yeas 96 Nays 0

JOE KING

**Speaker of the
House of Representatives**

Approved March 20, 1992

BOOTH GARDNER

Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SENATE BILL 6140 as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB

Secretary

FILED

March 20, 1992 - 9:56 a.m.

**Secretary of State
State of Washington**

SENATE BILL 6140

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By Senators Nelson, A. Smith, Erwin and Madsen

Read first time 01/17/92. Referred to Committee on Law & Justice.

1 AN ACT Relating to nonappearance by a traffic violator after a
2 written promise to appear; amending RCW 46.64.020, 46.52.120,
3 46.63.020, and 46.90.700; adding a new section to chapter 46.64 RCW;
4 and prescribing penalties.

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

6 **Sec. 1.** RCW 46.64.020 and 1990 c 250 s 61 are each amended to read
7 as follows:

8 (1) The legislature finds that:

9 (a) Traffic laws are necessary for the safe and expeditious flow of
10 motor vehicle traffic.

11 (b) For traffic laws to be effective, they must be judiciously and
12 fairly enforced. This enforcement includes the issuance of notices of
13 infraction and citations and the assessment of fines and penalties.

1 (c) The adjudication of notices of infraction through a written and
2 signed promise to respond, and of citations through a written and
3 signed promise to appear, as provided in this title is an integral and
4 important part of the traffic law system.

5 (d) Approximately twenty percent of all people issued notices of
6 infraction and citations violate their written and signed promise to
7 respond or appear and obtain notices of failure to respond or appear on
8 their driving records. Through their actions, these people are
9 destroying the effectiveness of the traffic law system and undermining
10 the department of licensing regulatory control of drivers' licenses.

11 (e) Notices of failure to respond or appear accumulated on a
12 person's driving record shall be considered if they were issued after
13 July 25, 1987.

14 (2) Any person violating his or her written and signed promise to
15 appear in court or his or her written and signed promise to respond to
16 a notice of traffic infraction, as provided in this title, is guilty of
17 a misdemeanor regardless of the disposition of the charge upon which he
18 or she was originally arrested or the disposition of the notice of
19 infraction: PROVIDED, That a written promise to appear in court or a
20 written promise to respond to a notice of traffic infraction may be
21 complied with by an appearance by counsel: PROVIDED FURTHER, That a
22 person charged under RCW 46.20.021 with driving with an expired
23 driver's license may respond by mailing to the court within fifteen
24 days of the violation, a copy of the person's currently valid driver's
25 license. Any person who has been issued a notice of infraction
26 pursuant to RCW 46.63.030(3) and who fails to respond as provided in
27 this title is guilty of a misdemeanor regardless of the disposition of
28 the notice of infraction.

29 ~~((3) Any person who drives a motor vehicle within the state and~~
30 ~~has accumulated two or more notices of failure to appear or respond on~~

1 ~~his or her driving record maintained by the department of licensing in~~
2 ~~any five year period as a result of noncompliance with the traffic laws~~
3 ~~in any jurisdiction or court within Washington, or in any jurisdiction~~
4 ~~or court within other states which are signatories with Washington in~~
5 ~~a nonresident violator compact or reciprocal agreement under chapter~~
6 ~~46.23 RCW, shall be guilty of failure to comply, a gross misdemeanor.~~
7 ~~A person is not subject to this subsection for failure to pay a fine~~
8 ~~for any pedestrian, bicycling, or parking offense.~~

9 ~~Probable cause for arrest under this subsection is established by~~
10 ~~the officer obtaining, orally or in writing, information from the~~
11 ~~department of licensing that two or more notices of failure to appear~~
12 ~~or respond are on the person's driving record. For purposes of this~~
13 ~~chapter, failure to satisfy any penalties imposed under this title is~~
14 ~~considered equivalent to failure to appear or respond.~~

15 ~~Venue for prosecution shall be in the court with jurisdiction in~~
16 ~~the area of apprehension.))~~

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.64 RCW
18 to read as follows:

19 (1) A person who drives a motor vehicle within the state and has
20 accumulated two or more notices of failure to appear or respond on his
21 or her driving record maintained by the department of licensing in a
22 five-year period as a result of noncompliance with the traffic laws in
23 a jurisdiction or court within Washington, or in a jurisdiction or
24 court within other states that are signatories with Washington in a
25 nonresident violator compact or reciprocal agreement under chapter
26 46.23 RCW, is guilty of failure to comply, a gross misdemeanor. A
27 person is not subject to this section for failure to pay a penalty for
28 a pedestrian, bicycling, or parking offense.

1 (2) Probable cause for arrest under this section is established by
2 the officer obtaining, orally or in writing, information from the
3 department of licensing that two or more notices of failure to appear
4 or respond are on the person's driving record. For purposes of this
5 chapter, failure to satisfy a penalty imposed under this title is
6 considered equivalent to failure to appear or respond.

7 (3) Venue for prosecution is in the court with jurisdiction in the
8 area of apprehension.

9 **Sec. 3.** RCW 46.52.120 and 1989 c 178 s 23 are each amended to read
10 as follows:

11 (1) The director shall keep a case record on every motor vehicle
12 driver licensed under the laws of this state, together with information
13 on each driver, showing all the convictions and findings of traffic
14 infractions certified by the courts, together with an index cross-
15 reference record of each accident reported relating to such individual
16 with a brief statement of the cause of the accident. The chief of the
17 Washington state patrol shall furnish the index cross-reference record
18 to the director, with reference to each driver involved in the reported
19 accidents.

20 (2) The records shall be for the confidential use of the director,
21 the chief of the Washington state patrol, the director of the
22 Washington traffic safety commission, and for such police officers or
23 other cognizant public officials as may be designated by law. Such
24 case records shall not be offered as evidence in any court except in
25 case appeal is taken from the order of the director, suspending,
26 revoking, canceling, or refusing a vehicle driver's license or to
27 provide proof of a person's failure((s)) to appear under RCW 46.64.020
28 or failure to comply under section 2 of this act.

1 (3) The director shall tabulate and analyze vehicle driver's case
2 records and suspend, revoke, cancel, or refuse a vehicle driver's
3 license to a person when it is deemed from facts contained in the case
4 record of such person that it is for the best interest of public safety
5 that such person be denied the privilege of operating a motor vehicle.
6 Whenever the director orders the vehicle driver's license of any such
7 person suspended, revoked, or canceled, or refuses the issuance of a
8 vehicle driver's license, such suspension, revocation, cancellation, or
9 refusal is final and effective unless appeal from the decision of the
10 director is taken as provided by law.

11 **Sec. 4.** RCW 46.63.020 and 1991 c 339 s 27 are each amended to read
12 as follows:

13 Failure to perform any act required or the performance of any act
14 prohibited by this title or an equivalent administrative regulation or
15 local law, ordinance, regulation, or resolution relating to traffic
16 including parking, standing, stopping, and pedestrian offenses, is
17 designated as a traffic infraction and may not be classified as a
18 criminal offense, except for an offense contained in the following
19 provisions of this title or a violation of an equivalent administrative
20 regulation or local law, ordinance, regulation, or resolution:

21 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
22 vehicle while under the influence of intoxicating liquor or a
23 controlled substance;

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

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

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

1 (5) Chapter 46.12 RCW relating to certificates of ownership and
2 registration;

3 (6) RCW 46.16.010 relating to initial registration of motor
4 vehicles;

5 (7) RCW 46.16.011 relating to permitting unauthorized persons to
6 drive;

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

8 (9) RCW 46.16.381 (6) or (8) relating to unauthorized use or
9 acquisition of a special placard or license plate for disabled persons'
10 parking;

11 (10) RCW 46.20.021 relating to driving without a valid driver's
12 license;

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

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

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

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

21 (15) RCW 46.20.750 relating to assisting another person to start a
22 vehicle equipped with an ignition interlock device;

23 (16) RCW 46.25.170 relating to commercial driver's licenses;

24 (17) Chapter 46.29 RCW relating to financial responsibility;

25 (18) RCW 46.30.040 relating to providing false evidence of
26 financial responsibility;

27 (19) RCW 46.37.435 relating to wrongful installation of
28 sunscreening material;

29 (20) RCW 46.44.180 relating to operation of mobile home pilot
30 vehicles;

1 (21) RCW 46.48.175 relating to the transportation of dangerous
2 articles;

3 (22) RCW 46.52.010 relating to duty on striking an unattended car
4 or other property;

5 (23) RCW 46.52.020 relating to duty in case of injury to or death
6 of a person or damage to an attended vehicle;

7 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,
8 and appraisers;

9 (25) RCW 46.52.100 relating to driving under the influence of
10 liquor or drugs;

11 (26) RCW 46.52.130 relating to confidentiality of the driving
12 record to be furnished to an insurance company, an employer, and an
13 alcohol/drug assessment or treatment agency;

14 (27) RCW 46.55.020 relating to engaging in the activities of a
15 registered tow truck operator without a registration certificate;

16 (28) RCW 46.55.035 relating to prohibited practices by tow truck
17 operators;

18 (29) RCW 46.61.015 relating to obedience to police officers,
19 flagmen, or fire fighters;

20 (30) RCW 46.61.020 relating to refusal to give information to or
21 cooperate with an officer;

22 (31) RCW 46.61.022 relating to failure to stop and give
23 identification to an officer;

24 (32) RCW 46.61.024 relating to attempting to elude pursuing police
25 vehicles;

26 (33) RCW 46.61.500 relating to reckless driving;

27 (34) RCW 46.61.502 and 46.61.504 relating to persons under the
28 influence of intoxicating liquor or drugs;

29 (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

30 (36) RCW 46.61.522 relating to vehicular assault;

1 (37) RCW 46.61.525 relating to negligent driving;
2 (38) RCW 46.61.530 relating to racing of vehicles on highways;
3 (39) RCW 46.61.685 relating to leaving children in an unattended
4 vehicle with the motor running;
5 (40) RCW 46.64.010 relating to unlawful cancellation of or attempt
6 to cancel a traffic citation;
7 (41) RCW 46.64.020 relating to nonappearance after a written
8 promise;
9 (42) Section 2 of this act relating to failure to comply;
10 ~~(43)~~ RCW 46.64.048 relating to attempting, aiding, abetting,
11 coercing, and committing crimes;
12 ~~((+43+))~~ (44) Chapter 46.65 RCW relating to habitual traffic
13 offenders;
14 ~~((+44+))~~ (45) Chapter 46.70 RCW relating to unfair motor vehicle
15 business practices, except where that chapter provides for the
16 assessment of monetary penalties of a civil nature;
17 ~~((+45+))~~ (46) Chapter 46.72 RCW relating to the transportation of
18 passengers in for hire vehicles;
19 ~~((+46+))~~ (47) Chapter 46.80 RCW relating to motor vehicle wreckers;
20 ~~((+47+))~~ (48) Chapter 46.82 RCW relating to driver's training
21 schools;
22 ~~((+48+))~~ (49) RCW 46.87.260 relating to alteration or forgery of a
23 cab card, letter of authority, or other temporary authority issued
24 under chapter 46.87 RCW;
25 ~~((+49+))~~ (50) RCW 46.87.290 relating to operation of an
26 unregistered or unlicensed vehicle under chapter 46.87 RCW.

27 **Sec. 5.** RCW 46.90.700 and 1988 c 24 s 4 are each amended to read
28 as follows:

1 The following sections of the Revised Code of Washington as now or
2 hereafter amended are hereby adopted by reference as a part of this
3 chapter in all respects as though such sections were set forth herein
4 in full: RCW 46.64.010, 46.64.015, 46.64.020, section 2 of this act,
5 46.64.025, 46.64.030, 46.64.035, and 46.64.048.

Passed the Senate February 12, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 20, 1992.

Filed in Office of Secretary of State March 20, 1992.