
HOUSE BILL 2079

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By Representatives Conway, Campbell, Dorn, J. Kohl, Forner, Riley, Long, Mastin, Padden, Jones and Johanson

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1 AN ACT Relating to concealed weapon licenses; amending RCW
2 9.41.050, 46.20.270, and 46.20.285; adding a new section to chapter
3 46.61 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.41.050 and 1982 1st ex.s. c 47 s 3 are each amended
6 to read as follows:

7 (1) Except in the person's place of abode or fixed place of
8 business, a person shall not carry a pistol concealed on his or her
9 person without a license to carry a concealed weapon.

10 (2) A person who is in possession of an unloaded pistol shall not
11 leave the unloaded pistol in a vehicle unless the unloaded pistol is
12 locked within the vehicle and concealed from view from outside the
13 vehicle.

14 (3) A person shall not carry or place a loaded pistol in any
15 vehicle unless the person has a license to carry a concealed weapon
16 and: (a) The pistol is on the licensee's person, (b) the licensee is
17 within the vehicle at all times that the pistol is there, or (c) the
18 licensee is away from the vehicle and the pistol is locked within the
19 vehicle and concealed from view from outside the vehicle.

1 A violation of this subsection is a felony and is punishable by
2 mandatory revocation of the driver's license of the person who violates
3 this subsection under RCW 46.20.270 and 46.20.285, confiscation and
4 impoundment of any vehicle involved in a violation of this subsection
5 under section 4 of this act, and imprisonment. A second and subsequent
6 conviction under this subsection is punishable by a minimum mandatory
7 term of five years imprisonment.

8 **Sec. 2.** RCW 46.20.270 and 1990 2nd ex.s. c 1 s 402 are each
9 amended to read as follows:

10 (1) Whenever any person is convicted of any offense for which this
11 title or RCW 9.41.050 makes mandatory the suspension or revocation of
12 the driver's license of such person by the department, the privilege of
13 the person to operate a vehicle is suspended until the department takes
14 the action required by this chapter, and the court in which such
15 conviction is had shall forthwith secure the immediate forfeiture of
16 the driver's license of such convicted person and immediately forward
17 such driver's license to the department, and on failure of such
18 convicted person to deliver such driver's license the judge shall cause
19 such person to be confined for the period of such suspension or
20 revocation or until such driver's license is delivered to such judge(~~(:~~
21 ~~PROVIDED, That~~)). If the convicted person testifies that he or she
22 does not and at the time of the offense did not have a current and
23 valid vehicle driver's license, the judge shall cause such person to be
24 charged with the operation of a motor vehicle without a current and
25 valid driver's license and on conviction punished as by law provided,
26 and the department may not issue a driver's license to such persons
27 during the period of suspension or revocation(~~(:~~—~~PROVIDED, ALSO,~~
28 That)). If the driver's license of such convicted person has been lost
29 or destroyed and such convicted person makes an affidavit to that
30 effect, sworn to before the judge, the convicted person may not be so
31 confined, but the department may not issue or reissue a driver's
32 license for such convicted person during the period of such suspension
33 or revocation(~~(:~~—~~PROVIDED, That~~)). Perfection of notice of appeal
34 shall stay the execution of sentence including the suspension and/or
35 revocation of the driver's license.

36 (2) Every court having jurisdiction over offenses committed under
37 this chapter, or any other act of this state or municipal ordinance
38 adopted by a local authority regulating the operation of motor vehicles

1 on highways, or any federal authority having jurisdiction over offenses
2 substantially the same as those set forth in Title 46 RCW which occur
3 on federal installations within this state, shall forward to the
4 department within ten days of a forfeiture of bail or collateral
5 deposited to secure the defendant's appearance in court, a payment of
6 a fine or penalty, a plea of guilty or a finding of guilt, or a finding
7 that any person has committed a traffic infraction an abstract of the
8 court record in the form prescribed by rule of the supreme court,
9 showing the conviction of any person or the finding that any person has
10 committed a traffic infraction in said court for a violation of any
11 said laws other than regulations governing standing, stopping, parking,
12 and pedestrian offenses.

13 (3) Every municipality having jurisdiction over offenses committed
14 under this chapter, or under any other act of this state or municipal
15 ordinance adopted by a local authority regulating the operation of
16 motor vehicles on highways, may forward to the department within ten
17 days of failure to respond, failure to pay a penalty, failure to appear
18 at a hearing to contest the determination that a violation of any
19 statute, ordinance, or regulation relating to standing, stopping, or
20 parking has been committed, or failure to appear at a hearing to
21 explain mitigating circumstances, an abstract of the citation record in
22 the form prescribed by rule of the department, showing the finding by
23 such municipality that two or more violations of laws governing
24 standing, stopping, and parking have been committed and indicating the
25 nature of the defendant's failure to act. Such violations may not have
26 occurred while the vehicle is stolen from the registered owner or is
27 leased or rented under a bona fide commercial vehicle lease or rental
28 agreement between a lessor engaged in the business of leasing vehicles
29 and a lessee who is not the vehicle's registered owner. The department
30 may enter into agreements of reciprocity with the duly authorized
31 representatives of the states for reporting to each other violations of
32 laws governing standing, stopping, and parking.

33 (4) For the purposes of Title 46 RCW the term "conviction" means a
34 final conviction in a state or municipal court or by any federal
35 authority having jurisdiction over offenses substantially the same as
36 those set forth in Title 46 RCW which occur on federal installations in
37 this state, an unvacated forfeiture of bail or collateral deposited to
38 secure a defendant's appearance in court, the payment of a fine, a plea
39 of guilty, or a finding of guilt on a traffic law violation charge,

1 regardless of whether the imposition of sentence or sanctions are
2 deferred or the penalty is suspended, but not including entry into a
3 deferred prosecution agreement under chapter 10.05 RCW.

4 (5) For the purposes of Title 46 RCW the term "finding that a
5 traffic infraction has been committed" means a failure to respond to a
6 notice of infraction or a determination made by a court pursuant to
7 this chapter. Payment of a monetary penalty made pursuant to RCW
8 46.63.070(2) is deemed equivalent to such a finding.

9 **Sec. 3.** RCW 46.20.285 and 1990 c 250 s 43 are each amended to read
10 as follows:

11 The department shall forthwith revoke the license of any driver for
12 the period of one calendar year unless otherwise provided in this
13 section, upon receiving a record of the driver's conviction of any of
14 the following offenses, when the conviction has become final:

15 (1) For vehicular homicide the period of revocation shall be two
16 years;

17 (2) Vehicular assault;

18 (3) Driving a motor vehicle while under the influence of
19 intoxicating liquor or a narcotic drug, or under the influence of any
20 other drug to a degree which renders the driver incapable of safely
21 driving a motor vehicle, upon a showing by the department's records
22 that the conviction is the second such conviction for the driver within
23 a period of five years. Upon a showing that the conviction is the
24 third such conviction for the driver within a period of five years, the
25 period of revocation shall be two years;

26 (4) Any felony in the commission of which a motor vehicle is used;

27 (5) Failure to stop and give information or render aid as required
28 under the laws of this state in the event of a motor vehicle accident
29 resulting in the death or personal injury of another or resulting in
30 damage to a vehicle that is driven or attended by another;

31 (6) Perjury or the making of a false affidavit or statement under
32 oath to the department under Title 46 RCW or under any other law
33 relating to the ownership or operation of motor vehicles;

34 (7) Reckless driving upon a showing by the department's records
35 that the conviction is the third such conviction for the driver within
36 a period of two years;

37 (8) For a violation of RCW 9.41.050(3) the revocation shall be
38 permanent.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.61 RCW
2 to read as follows:

3 (1) On conviction for a violation of RCW 9.41.050(3), the motor
4 vehicle the person was driving at the time of the violation, if the
5 person is the owner of the vehicle, shall be seized by a law
6 enforcement officer of this state upon process issued by the court
7 issuing the conviction.

8 (2) Proceedings for forfeiture shall be deemed commenced by the
9 seizure. The law enforcement agency under whose authority the seizure
10 was made shall cause notice to be served within fifteen days following
11 the seizure on the owner of the vehicle seized and the person in charge
12 thereof and any person having any known right or interest therein,
13 including any community property interest, of the seizure and intended
14 forfeiture of the seized vehicle. The notice of seizure may be served
15 by any method authorized by law or court rule, including, but not
16 limited to, service by certified mail with return receipt requested.
17 Service by mail is deemed complete upon mailing within the fifteen-day
18 period following the seizure.

19 (3) If no person notifies the seizing law enforcement agency in
20 writing of a claim of ownership or right to possession of the vehicle
21 within forty-five days of the seizure, the vehicle seized is deemed
22 forfeited.

23 (4) If any person notifies the seizing law enforcement agency in
24 writing of the person's claim of ownership or right to possession of
25 the vehicle within forty-five days of the seizure, the person or
26 persons shall be afforded a reasonable opportunity to be heard as to
27 the claim or right. The hearing shall be before the chief law
28 enforcement officer of the seizing agency or the chief law enforcement
29 officer's designee, except if the seizing agency is a state agency, as
30 defined in RCW 34.12.020(4), the hearing shall be before the chief law
31 enforcement officer of the seizing agency or an administrative law
32 judge appointed under chapter 34.12 RCW. Any person asserting a claim
33 or right may remove the matter to a court of competent jurisdiction if
34 the value of the vehicle involved is more than five hundred dollars.
35 The matter shall be removed to the district court if the value of the
36 vehicle is within the jurisdictional limit set forth in RCW 3.66.020.
37 A hearing before the seizing agency and any appeal therefrom shall be
38 under Title 34 RCW. In a court hearing between two or more claimants
39 to the vehicle, the prevailing party shall be entitled to a judgment

1 for costs and reasonable attorneys' fees. The burden of producing
2 evidence is upon the person claiming to be the lawful owner or the
3 person claiming to have the lawful right to possession of the vehicle.
4 The seizing law enforcement agency shall promptly return the vehicle to
5 the claimant upon a determination by the administrative law judge or
6 court that the claimant is the present lawful owner or is lawfully
7 entitled to possession thereof.

8 (5) When a vehicle is forfeited under this chapter the seizing law
9 enforcement agency may:

10 (a) Retain it for official use or upon application by any law
11 enforcement agency of this state release the vehicle to the agency for
12 the exclusive use of enforcing the provisions of this chapter;

13 (b) Sell the vehicle; or

14 (c) Remove it for disposition in accordance with law.

15 (6)(a) When a vehicle is forfeited, the seizing agency shall keep
16 a record indicating the identity of the prior owner, if known, a
17 description of the vehicle, the disposition of the vehicle, the value
18 of the vehicle at the time of seizure, and the amount of proceeds
19 realized from disposition of the vehicle.

20 (b) Each seizing agency shall retain records of forfeited vehicles
21 for at least seven years.

22 (c) Each seizing agency shall file a report including a copy of the
23 records of forfeited vehicles with the state treasurer each calendar
24 quarter.

25 (d) The quarterly report need not include a record of forfeited
26 vehicles that are still being held for use as evidence during the
27 investigation or prosecution of a case or during an appeal from a
28 conviction.

29 (7) Forfeited vehicles and net proceeds shall be retained by the
30 seizing law enforcement agency exclusively for the expansion and
31 improvement of law enforcement activity. Money retained under this
32 section may not be used to supplant preexisting funding sources.

33 (8) A forfeiture of a motor vehicle encumbered by a bona fide
34 security interest is subject to the interest of the secured party if
35 the secured party, at the time the security interest was created,
36 neither had knowledge of nor consented to the act or omission.

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