

WSR 22-21-140

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 19, 2022, 9:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-16-105.

Title of Rule and Other Identifying Information: WAC 308-104-160 Moving and nonmoving violations defined.

Hearing Location(s): On November 22, 2022, at 1:00 p.m., Zoom meeting https://dol-wa.zoom.us/j/86374153433?pwd=WVhGNGIrYVVJVjVpVjdjNkSEFqTWxOZz09, Meeting ID 863 7415 3433, Pass-code 382820, One-tap mobile, +12532158782,,86374153433#,,,,*382820# US (Tacoma), +16694449171,,86374153433#,,,,*382820# US; dial by your location, +1 253 215 8782 US (Tacoma), Meeting ID 863 7415 3433, Pass-code 382820. Find your local number https://dol-wa.zoom.us/j/kvSFuyFaA. Persons wishing to attend in person can come to the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98501. If you are having trouble accessing the public hearing Zoom link at the time of the hearing, please call 360-902-3846 immediately. You should be admitted into the meeting at the time the public hearing starts.

Date of Intended Adoption: November 23, 2022.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98501, email rulescoordinator@dol.wa.gov, by November 21, 2022.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, by November 14, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending WAC 308-104-160 Moving and nonmoving violations defined to add additional qualifying offenses.

Reasons Supporting Proposal: To comply with ESSB 5226.

Statutory Authority for Adoption: RCW 46.01.110 Rule-making authority and 46.20.119 Reasonable rules.

Statute Being Implemented: ESSB 5226.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carla Weaver, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3682.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. See exemptions below.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

October 19, 2022
Ellis Starrett
Rules and Policy Manager

OTS-4144.2

AMENDATORY SECTION (Amending WSR 17-21-026, filed 10/10/17, effective 11/10/17)

WAC 308-104-160 Moving and nonmoving violations defined. For purposes of RCW 46.20.2891, 46.65.020, ~~46.20.2892~~, and this chapter, the term "moving violation" means any violation of vehicle laws listed in this section that is committed by the driver of a vehicle, while the vehicle is moving. However, being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug is also considered a moving violation for the purposes of this section. Parking violations, equipment violations or paperwork violations relating to insurance, registration, licensing and inspection are considered "nonmoving violations." Moving violations are those violations included in the following list or violations of substantially similar laws, administrative regulations, local laws, ordinances, regulations, or resolutions of a political subdivision of this state, the federal government, or any other state:

- (1) Criminal traffic infractions, as defined by RCW 46.63.020:
- (a) Driving while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502;
- ~~((2))~~ (b) Physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.504;
- ~~((3))~~ (c) Vehicular homicide, as defined by RCW 46.61.520;
- ~~((4))~~ (d) Vehicular assault, as defined by RCW 46.61.522;
- ~~((5))~~ (e) Reckless driving, as defined by RCW 46.61.500;
- ~~((6))~~ (f) Racing, as defined by RCW 46.61.530;
- ~~((7) Embracing, as defined by RCW 46.61.665;~~
- ~~((8))~~ (g) Hit and run (injury, death, striking the body of a deceased person, or occupied vehicle), as defined by RCW 46.52.020;
- ~~((9))~~ (h) Attempting to elude a police vehicle, as defined by RCW 46.61.024;
- ~~((10))~~ (i) Driving while driving privilege suspended or revoked, as defined by RCW 46.20.342 ~~((r))~~ or 46.20.345 ~~((r-or~~
- ~~46.20.394))~~;
- ~~((11))~~ (j) Reckless endangerment of roadway workers, as defined in RCW 46.61.527(4);
- ~~((12))~~ (k) Driver under ~~((twenty-one))~~ 21 driving or being in physical control of a motor vehicle after consuming alcohol or marijuana, as defined in RCW 46.61.503;
- ~~((13) Driving or in physical control of commercial motor vehicle while having alcohol in system, as defined in RCW 46.25.110;~~
- ~~(14) Open container violation (driver), as defined by RCW 46.61.519 or 46.61.745;~~
- ~~(15) Negligent driving in the first degree, as defined by RCW 46.61.5249;~~
- ~~(16) Negligent driving in the second degree, as defined by RCW 46.61.525 or 46.61.526;~~
- ~~(17) Hit and run (unattended vehicle or property), as defined by RCW 46.52.010;~~
- ~~(18) Disobey road sign, as defined by RCW 46.61.050, 46.61.070, or 46.61.450;~~
- ~~((19))~~ (l) Negligent driving in the first degree, as defined by RCW 46.61.5249;

(m) Hit and run (unattended vehicle or property), as defined by RCW 46.52.010;

(n) Disobey signalman, officer, or firefighter, as defined by RCW 46.61.015, 46.61.020, (~~46.61.021,~~) or 46.61.022;

(~~(20)~~) Disobey school patrol, as defined by RCW 46.61.385;

~~(21)~~ Speed too fast for conditions, as defined by RCW 46.61.400;

~~(22)~~ Speed in excess of maximum limit, as defined by RCW 46.61.400 or 46.61.460;

~~(23)~~ Speeding in a school zone, as defined by RCW 46.61.440;

~~(24)~~ Failure to stop, as defined by RCW 46.61.055, 46.61.065, 46.61.195, 46.61.200, 46.61.340, 46.61.345, 46.61.350, 46.61.365, 46.61.370, or 46.61.375;

~~(25)~~) (o) Failure to yield right of way, as defined by RCW ((46.61.180, 46.61.183, 46.61.185, 46.61.190, 46.61.202, 46.61.205, 46.61.210, 46.61.212, 46.61.215, 46.61.220, 46.61.235, 46.61.245, 46.61.261, 46.61.300, or 46.61.427;

~~(26)~~) 46.61.212(4);

(p) Violation of license restriction(s), as defined by RCW 46.20.740;

(q) Spilling load, as defined by RCW 46.61.655 (7) (a) and (b);

(2) Violation of traffic infraction, as defined in RCW 46.63.020:

(a) Embracing, as defined by RCW 46.61.665;

(b) Driving while driving privilege suspended or revoked, as defined by RCW 46.20.394;

(c) Driving or in physical control of commercial motor vehicle while having alcohol in system, as defined in RCW 46.25.110;

(d) Open container violation (driver), as defined by RCW 46.61.519 or 46.61.745;

(e) Negligent driving in the second degree, as defined by RCW 46.61.525 or 46.61.526;

(f) Disobey road sign, as defined by RCW 46.61.050, 46.61.070, or 46.61.450;

(g) Disobey signalman, officer, or firefighter, as defined by RCW 46.61.021;

(h) Disobey school patrol, as defined by RCW 46.61.385;

(i) Speed too fast for conditions, as defined by RCW 46.61.400;

(j) Speed in excess of maximum limit, as defined by RCW 46.61.400 or 46.61.460;

(k) Speeding in a school zone, as defined by RCW 46.61.440;

(l) Failure to stop, as defined by RCW 46.61.055, 46.61.065, 46.61.195, 46.61.200, 46.61.340, 46.61.345, 46.61.350, 46.61.365, 46.61.370, or 46.61.375;

(m) Failure to yield right of way, as defined by RCW 46.61.180, 46.61.183, 46.61.185, 46.61.190, 46.61.202, 46.61.205, 46.61.210, 46.61.212, 46.61.215, 46.61.220, 46.61.235, 46.61.245, 46.61.261, 46.61.300, or 46.61.427;

(n) Failure to keep to the right, as defined by RCW 46.61.100 or 46.61.105;

(~~(27)~~) (o) Wrong way on a one-way street or rotary traffic island, as defined by RCW 46.61.135;

(~~(28)~~) (p) Improper lane change or travel, as defined by RCW 46.61.140;

(~~(29)~~) (q) Straddling or driving over centerline, as defined by RCW 46.61.140;

(~~(30)~~) (r) Driving on the wrong side of the road, as defined by RCW 46.61.150;

(~~(31)~~) (s) Crossing divider, as defined by RCW 46.61.150;

((32)) (t) Improper entrance to or exit from freeway, as defined by RCW 46.61.155;

((33)) (u) Violating restrictions on a limited access highway while driving a motor vehicle, as defined by RCW 46.61.160;

((34)) (v) High occupancy vehicle lane violation, as defined by RCW 46.61.165;

((35)) (w) Improper overtaking or passing, as defined by RCW 46.61.110, 46.61.115, 46.61.120, 46.61.125, 46.61.130, or 46.61.428;

((36)) (x) Passing stopped school bus, as defined by RCW 46.61.370;

((37)) (y) Passing stopped private carrier bus, as defined by RCW 46.61.375;

((38)) (z) Following too closely, as defined by RCW 46.61.145;

((39)) (aa) Following fire apparatus, as defined by RCW 46.61.635;

((40)) (bb) Crossing fire hose, as defined by RCW 46.61.640;

((41)) (cc) Driving on sidewalk, as defined by RCW 46.61.606;

((42)) (dd) Driving through safety zone, as defined by RCW 46.61.260;

((43)) (ee) Driving with wheels off roadway, as defined by RCW 46.61.670;

((44)) (ff) Impeding traffic, as defined by RCW 46.61.100, 46.61.425, or 46.20.427;

((45)) (gg) Improper turn, as defined by RCW 46.61.290;

((46)) (hh) Prohibited turn, as defined by RCW 46.61.295;

((47)) (ii) Failure to signal or improper signal, as defined by RCW 46.61.305, 46.61.310, or 46.61.315;

((48)) (jj) Improper backing, as defined by RCW 46.61.605;

((49)) (kk) Unlawful operation of motorcycle on roadway, as defined by RCW 46.61.608, 46.61.612, or 46.61.614;

((50)) (ll) Reckless endangerment, as defined by RCW 9A.36.050;

((51)) (mm) Failure to maintain control, as defined by RCW 46.61.445;

((52)) (nn) Violation of license restriction(s), as defined by RCW 46.20.041 (~~or 46.20.740~~);

((53)) (oo) Violation of instruction permit restrictions, as defined by RCW 46.20.055;

((54)) (pp) Violation of out-of-service order, as defined by RCW 46.25.090;

((55)) (qq) Obstructed vision or control, as defined by RCW 46.61.615;

((56)) (rr) Carrying persons or animals outside of vehicle, as defined by RCW 46.61.660;

((57)) (ss) Carrying passenger in towed vehicle, as defined by RCW 46.61.625;

((58)) (tt) Coasting on downgrade, as defined by RCW 46.61.630;

((59)) (uu) Violation of child restraint requirements, as defined by RCW 46.61.687;

((60)) (vv) Carrying child under the age of five years old on motorcycle, as defined by RCW 46.37.530;

((61)) (ww) Carrying passenger improperly on motorcycle, as defined by RCW 46.61.610;

((62)) (xx) No helmet, goggles, mirrors, windshield or face shield, as defined by RCW 46.37.530;

((63)) (yy) Operating moped on freeway or sidewalk, as defined by RCW 46.61.710;

~~((64))~~ (zz) Driving without lights, as defined by RCW 46.37.020;
~~((65))~~ (aaa) Failure to dim lights, as defined by RCW 46.37.230;
~~((66))~~ (bbb) Operating motorcycle without lights, as defined by RCW 46.37.522;
~~((67))~~ (ccc) No lamp, reflector, or flag on extended load, as defined by RCW 46.37.140;
~~((68))~~ (ddd) Wearing earphones or viewing television in vehicle, as defined by RCW 46.37.480;
~~((69))~~ (eee) Failure to secure load, as defined by RCW 46.37.490;
~~((70))~~ (fff) Spilling load, as defined by RCW 46.61.655;
~~((71))~~ (ggg) Improper towing, as defined by RCW 46.44.070;
~~((72))~~ (hhh) Reckless endangerment of roadway workers, as defined in RCW 46.61.527;
(iii) Using a personal electronic device while driving, as defined by RCW 46.61.672;
~~((73))~~ (jjj) Dangerously distracted driving, as defined by RCW 46.61.673;
~~((74))~~ (kkk) Using a hand-held mobile telephone while driving, as defined by RCW 46.61.667 (1)(b) (repealed by 2017 c 334 § 2); and
~~((75))~~ (lll) Texting while driving a commercial motor vehicle, as defined by RCW 46.61.668 (1)(b) (repealed by 2017 c 334 § 2).

[Statutory Authority: RCW 46.01.110, 46.20.2891, 46.82.290, and 46.90.010. WSR 17-21-026, § 308-104-160, filed 10/10/17, effective 11/10/17. Statutory Authority: RCW 46.01.110 and 46.20.2891. WSR 16-16-101, § 308-104-160, filed 8/2/16, effective 9/2/16. Statutory Authority: RCW 46.01.110, 46.20.2891, 46.20.291, and 46.65.020. WSR 14-04-014, § 308-104-160, filed 1/24/14, effective 2/24/14; WSR 13-04-059, § 308-104-160, filed 2/1/13, effective 3/4/13. Statutory Authority: RCW 46.01.110. WSR 00-18-070, § 308-104-160, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 46.10.110. WSR 92-08-045, § 308-104-160, filed 3/25/92, effective 4/25/92. Statutory Authority: RCW 46.20.391, 46.01.100 and 46.65.020. WSR 86-07-018 (Order DS 2), § 308-104-160, filed 3/12/86. Statutory Authority: RCW 46.01.110. WSR 82-21-002 (Order 697-DOL), § 308-104-160, filed 10/7/82; WSR 82-03-046 (Order 668 DOL), § 308-104-160, filed 1/19/82.]