

chapter. Nothing in this chapter affects the right of a personal representative to recover payments due an estate pursuant to the provisions of section 2207A of the Internal Revenue Code of 1954.

NEW SECTION. Sec. 10. **UNIFORMITY OF INTERPRETATION.** This chapter shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

NEW SECTION. Sec. 11. **SHORT TITLE.** This chapter may be cited as the uniform estate tax apportionment act.

NEW SECTION. Sec. 12. **SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. **CAPTIONS.** As used in this chapter, section captions constitute no part of the law.

NEW SECTION. Sec. 14. **APPLICATION.** This chapter does not apply to taxes due on account of the death of decedents dying prior to January 1, 1987.

NEW SECTION. Sec. 15. **LEGISLATIVE DIRECTIVE.** Sections 1 through 14 of this act shall constitute a new chapter in Title 83 RCW.

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

Filed in Office of Secretary of State March 12, 1986.

CHAPTER 64

[Engrossed House Bill No. 1459]

DRIVING WHILE INTOXICATED—IMPLIED CONSENT

AN ACT Relating to implied consent warnings in cases of driving while intoxicated; and amending RCW 46.20.308 and 46.61.517.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 260, Laws of 1981 as last amended by section 3, chapter 407, Laws of 1985 and RCW 46.20.308 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

(2) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The officer shall inform the person of his or her right to refuse the test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that (a) his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test, and (b) that his or her refusal to take the test may be used (~~against him or her~~) in a (~~subsequent~~) criminal trial.

(3) Except as provided in this subsection and subsection (4) of this section, the chemical test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his or her breath, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) The department of licensing, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that refusal would result in the revocation of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege.

(7) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, the department shall immediately notify the person involved in writing by personal service or by certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying

the steps he must take to obtain a hearing. Within ten days after receiving such notice the person may, in writing, request a formal hearing. Upon receipt of such request, the department shall afford the person an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the scope of such hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation of his privilege to drive. The department shall order that the revocation either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as provided in this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during pendency of the hearing and appeal.

(8) If the revocation is sustained after such a hearing, the person whose license, privilege, or permit is revoked has the right to file a petition in the superior court of the county in which he or she resides, or, if a non-resident of this state, where the charge arose, to review the final order of revocation by the department in the manner provided in RCW 46.20.334.

(9) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 2. Section 27, chapter 165, Laws of 1983 as amended by section 21, chapter 352, Laws of 1985 and RCW 46.61.517 are each amended to read as follows:

The refusal of a person to submit to a test of the alcoholic content of his blood under RCW 46.20.308 is admissible into evidence at a subsequent criminal trial ((without any comment)).

Passed the House February 13, 1986.

Passed the Senate March 3, 1986.

Approved by the Governor March 12, 1986.

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