

CHAPTER 388

[Engrossed Second Substitute House Bill No. 196]
DRIVING WITHOUT A VALID LICENSE

AN ACT Relating to driving without a license; amending RCW 46.20.342, 46.12.240, 46.12.020, and 46.63.020; adding new sections to chapter 46.16 RCW; creating a new section; repealing RCW 46.20.416; prescribing penalties; providing effective dates; and providing an expiration date.

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

Sec. 1. Section 3, chapter 148, Laws of 1980 as amended by section 3, chapter 302, Laws of 1985 and RCW 46.20.342 are each amended to read as follows:

(1) Any person who drives a motor vehicle on any public highway of this state while that person is in a suspended or revoked status or when his or her privilege so to do is suspended or revoked in this or any other state or when his or her policy of insurance or bond, when required under this ~~((chapter))~~ title, has been canceled or terminated, is guilty of a gross misdemeanor. Upon the first conviction for a violation of this section, a person shall be punished by imprisonment for not less than ten days nor more than six months. Upon the second ~~((such))~~ conviction, ~~((he))~~ the person shall be punished by imprisonment for not less than ninety days nor more than one year. Upon the third or subsequent such conviction, ~~((he))~~ the person shall be punished by imprisonment for not less than one year. There may also be imposed in connection with each such conviction a fine of not more than five hundred dollars.

(2) Except as otherwise provided in this subsection, upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section upon a charge of driving a vehicle while the license of ~~((such))~~ the person is under suspension, the department shall extend the period of ~~((such))~~ the suspension for an additional like period and if the conviction was upon a charge of driving while a license was revoked the department shall not issue a new license for an additional period of one year from and after the date ~~((such))~~ the person would otherwise have been entitled to apply for a new license. The department shall not so extend the period of suspension or revocation if the court recommends against the extension and:

(a) The convicted person has obtained a valid driver's license; or

(b) The department determines that the convicted person has demonstrated proof of future financial responsibility as provided for in chapter 46.29 RCW, and, if the suspension or revocation was the result of a violation of RCW 46.61.502 or 46.61.504, that the person is making satisfactory progress in any required alcoholism treatment program.

NEW SECTION. Sec. 2. A new section is added to chapter 46.16 RCW to read as follows:

(1) At the time of arrest for a violation of RCW 46.20.021, 46.20.342(1), 46.20.420, or 46.65.090, the arresting officer shall confiscate the Washington state vehicle registration of the vehicle being driven by the arrested person. The officer shall mark the vehicle's Washington state license plates in accordance with procedures prescribed by the Washington state patrol. Marked license plates shall be clearly distinguishable from any other authorized plates. Upon confiscation of the vehicle registration, the arresting officer shall, on behalf of the department, serve notice in accordance with section 4 of this act of the department's intention to cancel the vehicle registration in accordance with section 3 of this act. The officer shall immediately replace any confiscated vehicle registration with a temporary registration that expires sixty days after the arrest, or at the time the department's cancellation is sustained at a hearing conducted under section 5 of this act, whichever occurs first. The provisions of this subsection may be used only when the arresting officer has determined that the arrested driver is a registered owner of the vehicle.

(2) After confiscation under subsection (1) of this section, the arresting officer shall promptly transmit to the department, together with the confiscated vehicle registration, a sworn report indicating that the officer had reasonable grounds to believe that the arrested driver was driving in violation of RCW 46.20.342(1).

(3) Any officer who sees a vehicle being operated with marked license plates may stop the vehicle for the sole purpose of ascertaining whether the driver of the vehicle is operating it in violation of RCW 46.20.021, 46.20.342, 46.20.420, or 46.65.090. Nothing in this section prohibits the arrest of a person for an offense if an officer has probable cause to believe the person has committed the offense.

NEW SECTION. Sec. 3. A new section is added to chapter 46.16 RCW to read as follows:

(1) Upon receipt of the sworn report of an arresting officer transmitted pursuant to section 2(2) of this act, the department shall review its records, and if it ascertains that the arrested driver's privilege to drive was suspended or revoked, or in a suspended or revoked status, at the time of his arrest and the arrested driver is the registered owner of the vehicle he was driving at the time of his arrest, or that in violation of RCW 46.12.101 no transfer of title for the vehicle has been made, then the department shall cancel the registration and license plates of the vehicle. The cancellation remains in effect until the arrested driver has been issued a valid driver's license or until another qualified person registers the vehicle. After the cancellation period, upon application and payment of fees and taxes due including fees prescribed in RCW 46.16.270, the department may issue a new vehicle registration and replacement license plates to the arrested driver.

(2) For purposes of this section, cancellation means that the existing registration and license plates shall be canceled and no new registration and license plates may be issued for the vehicle for the prescribed period, if the arrested driver is the owner of the vehicle. Cancellation takes effect beginning sixty days after arrest, or at the time the cancellation is sustained by a hearing held under section 5 of this act, whichever occurs first. If the department does not cancel registration and license plates under subsection (1) of this section, the department shall notify the registered owner that if he is qualified under RCW 46.12.020 he may, upon application and payment of any fees and taxes due other than fees prescribed in RCW 46.16-.270, be issued a new vehicle registration and replacement license plates.

(3) No cancellation under this section affects the right of any person to transfer or acquire title in the vehicle, or the right of any person other than the arrested driver to become the registered owner of the vehicle.

NEW SECTION. Sec. 4. A new section is added to chapter 46.16 RCW to read as follows:

No cancellation under section 3 of this act is effective until the department or a law enforcement officer acting on its behalf notifies the arrested driver in writing by personal service, by certified mail, or by first class mail addressed to that driver's last known vehicle registration address of record with the department, of the department's intention to cancel registration and the license plates together with the grounds therefor and allows the driver a fifteen-day period to request in writing that the department provide a hearing as provided in section 5 of this act. The notice shall specify the steps the driver must take to obtain a hearing. If no written request for a hearing is received by the department within fifteen days from the date of notification, the order of the department becomes effective as provided in section 3 of this act. If a request for a hearing is filed in time, the department shall give the driver an opportunity for a hearing as provided in section 5 of this act, and the cancellation will not be effective until a final determination has been made by the department.

NEW SECTION. Sec. 5. A new section is added to chapter 46.16 RCW to read as follows:

(1) Administrative hearings held to determine the propriety of any registration cancellation imposed under section 3 of this act shall be in accordance with rules adopted by the director.

(2) The department shall fix a time, no more than sixty days after arrest, and place for a hearing to be held in the county in which the arrest was made. The hearing may be set for some other county by agreement between the department and the driver.

(3) The department shall give the driver at least twenty days advance notice of the time and place of hearing, but the period of notice may be waived by the driver. Every party has the right of cross-examination of any witness who testifies and has the right to submit rebuttal evidence.

NEW SECTION. Sec. 6. A new section is added to chapter 46.16 RCW to read as follows:

If the cancellation under section 3 of this act is sustained at the hearing held under section 5 of this act, the driver whose vehicle registration is canceled has the right to file a petition in the superior court of the county of arrest for review of the final order of cancellation by the department. The petition shall be filed within ten days following receipt by the person of the department's final order, or the right to appeal is deemed to have been waived. The review shall be conducted by the court without a jury, and shall be de novo.

(2) The filing of the appeal does not stay the effective date of the cancellation.

(3) The court may affirm the department's decision or reverse the department's order of cancellation.

(4) The actual costs of preparing and transmitting the record to superior court shall be borne by the petitioner and awarded by the court to the department if the department's decision is affirmed. The costs shall be borne by the department if the department's decision is reversed.

NEW SECTION. Sec. 7. A new section is added to chapter 46.16 RCW to read as follows:

(1) The director or the director's designee shall administer and enforce sections 3 through 6 of this act.

(2) The director may adopt such rules and prescribe and provide such forms as may be necessary to carry out sections 3 through 6 of this act.

Sec. 8. Section 46.20.340, chapter 12, Laws of 1961 as amended by section 42, chapter 121, Laws of 1965 ex. sess. and RCW 46.12.240 are each amended to read as follows:

(1) The suspension, revocation, cancellation, or refusal by the director of any license or certificate provided for in chapters 46.12 and 46.16 RCW (~~shall be~~) is conclusive unless the person whose license or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county, or at his option to the superior court of the county of his residence, for the purpose of having the suspension, revocation, cancellation, or refusal of (~~such~~) the license or certificate set aside. Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal the court shall issue an order to the director to show cause why the license should not be granted or reinstated, which order shall be returnable not less than ten days after the date of service thereof upon the director. Service shall be in the manner prescribed for service of summons and complaint in other civil actions. Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the license or certificate and shall enter

judgment either affirming or setting aside (~~(such)~~) the suspension, revocation, cancellation, or refusal.

(2) This section does not apply to vehicle registration cancellations under sections 2 through 7 of this act.

Sec. 9. Section 46.12.020, chapter 12, Laws of 1961 as last amended by section 1, chapter 424, Laws of 1985 and RCW 46.12.020 are each amended to read as follows:

(1) No vehicle license number plates or certificate of license registration, whether original issues or duplicates, may be issued or furnished by the department unless the applicant, at the same time, makes satisfactory application for a certificate of ownership or presents satisfactory evidence that such a certificate of ownership covering the vehicle has been previously issued.

(2) Except as otherwise provided in this section, no (~~(renewal or duplicate)~~) vehicle license number plates or certificate of license registration, whether original issues or duplicates, and no renewed vehicle license may be issued by the department unless the applicant possesses a valid driver's license. In the case of joint application by more than one person, each applicant shall possess a valid driver's license.

(3) Subsection (2) of this section applies only to applicants who are individual persons and does not apply to corporations.

(4) Subsection (2) of this section does not apply to any applicant with respect to whom the department determines that:

(a) The applicant's driver's license is not currently suspended or revoked and the applicant is not in suspended or revoked status;

(b) The applicant has not been convicted of a violation of RCW 46.20.021, 46.20.342, (~~(46.20.416,)~~) 46.20.420, or 46.65.090; and

(c) Circumstances not related to any violation of Title 46 RCW account for the applicant's current lack of a driver's license and the applicant's need to register a vehicle. The applicant shall by affidavit indicate:

(i) The reason for the applicant's lack of a driver's license;

(ii) The need the applicant has for registering a vehicle; and

(iii) That the applicant will not knowingly (~~(allow)~~) permit a person without a driver's license to drive any vehicle registered in the applicant's name.

(5) (~~(It is unlawful for any person in whose name a vehicle is registered knowingly to allow another person to drive the vehicle knowing that the other person is not authorized to do so under the laws of this state.~~)

(6) A violation of subsection (5) of this section, or) A knowingly made material misstatement on an affidavit under subsection (4)(c) of this section is a misdemeanor.

(~~(7)~~) (6) No denial under this section of issuance or of renewal of plates or certificates affects the right of any person to maintain, transfer, or

acquire title in any vehicle. Unless the parties to the contract agree otherwise, no such denial affects the rights or obligations of any party to a contract for the purchase, or for the financing of the purchase, of a motor vehicle.

NEW SECTION. Sec. 10. A new section is added to chapter 46.16 RCW to read as follows:

It is unlawful for any person in whose name a vehicle is registered knowingly to permit another person to drive the vehicle when the other person is not authorized to do so under the laws of this state. A violation of this section is a misdemeanor.

Sec. 11. Section 3, chapter 186, Laws of 1986 and RCW 46.63.020 are each amended to read as follows:

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

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

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

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

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

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

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

(7) RCW 46.16.160 relating to vehicle trip permits;

(8) Section 10 of this act relating to permitting unauthorized persons to drive;

(9) RCW 46.16.381(8) relating to unauthorized acquisition of a special decal, license plate, or card for disabled persons' parking;

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

~~((9))~~ (11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

~~((10))~~ (12) RCW 46.20.342 relating to driving with a suspended or revoked license;

~~((11))~~ (13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

- ~~((12))~~ (14) RCW 46.20.416 relating to driving while in a suspended or revoked status;
- ~~((13))~~ (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- ~~((14))~~ (16) Chapter 46.29 RCW relating to financial responsibility;
- ~~((15))~~ (17) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- ~~((16))~~ (18) RCW 46.48.175 relating to the transportation of dangerous articles;
- ~~((17))~~ (19) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- ~~((18))~~ (20) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- ~~((19))~~ (21) RCW 46.52.090 relating to reports by repairmen, storage men, and appraisers;
- ~~((20))~~ (22) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- ~~((21))~~ (23) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;
- ~~((22))~~ (24) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- ~~((23))~~ (25) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- ~~((24))~~ (26) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- ~~((25))~~ (27) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- ~~((26))~~ (28) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- ~~((27))~~ (29) RCW 46.61.500 relating to reckless driving;
- ~~((28))~~ (30) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- ~~((29))~~ (31) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- ~~((30))~~ (32) RCW 46.61.522 relating to vehicular assault;
- ~~((31))~~ (33) RCW 46.61.525 relating to negligent driving;
- ~~((32))~~ (34) RCW 46.61.530 relating to racing of vehicles on highways;
- ~~((33))~~ (35) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- ~~((34))~~ (36) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- ~~((35))~~ (37) RCW 46.64.020 relating to nonappearance after a written promise;

~~((36))~~ (38) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((37))~~ (39) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((38))~~ (40) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((39))~~ (41) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((40))~~ (42) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((41))~~ (43) Chapter 46.82 RCW relating to driver's training schools.

****NEW SECTION. Sec. 12. Section 3, chapter 29, Laws of 1975-'76 2nd ex. sess., section 4, chapter 302, Laws of 1985 and RCW 46.20.416 are each repealed.***

****Sec. 12 was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 13. Sections 1 through 8 of this act shall take effect on July 1, 1988. The director of licensing shall take such steps as are necessary to insure that this act is implemented on its effective date. Sections 2 through 7 of this act shall expire on July 1, 1993.

NEW SECTION. Sec. 14. Section 9 of this act shall take effect January 1, 1990.

NEW SECTION. Sec. 15. The department of licensing shall report to the legislature no later than January 1, 1991, on the implementation of this 1987 act. The department shall indicate the revenue and expenditure effects of the act and shall estimate its effect on the incidence of unlicensed driving in the state.

NEW SECTION. Sec. 16. 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.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 15, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 15, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 12, Engrossed Second Substitute House Bill No. 196, entitled:

"AN ACT Relating to driving without a license."

Section 12 of this bill repeals RCW 46.20.416 which prohibits driving while in a suspended or revoked status. Section 1 of the bill incorporates the provisions of that statute into RCW 46.20.342.

The repeal affected by section 12 occurs ninety days after the end of the regular legislative session just completed. However, new statutory language to replace that provision does not take effect until July 1, 1988, as provided in section 13. Without a veto of section 12, this prohibition would lapse for approximately one year which would be an undesirable and unintended lapse in our suspension of driver license law.

With the exception of section 12, Engrossed Second Substitute House Bill No. 196 is approved.*

CHAPTER 389

[House Bill No. 135]

WESTERN LIBRARY NETWORK—CIVIL SERVICE EXEMPTIONS—OPEN PUBLIC MEETING EXCEPTIONS—FUNDS REVISED

AN ACT Relating to the western library network; amending RCW 27.26.020, 41.06.070, 42.30.110, 43.105.110, and 43.105.130; recodifying RCW 43.105.110, 43.105.130, 43.105.140, and 43.105.150; repealing RCW 43.105.100, 43.105.120, 43.131.289, and 43.131.290; providing an effective date; and declaring an emergency.

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

***Sec. 1. Section 1, chapter 31, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 21, Laws of 1985 and RCW 27.26.020 are each amended to read as follows:**

There is hereby established the western library network, hereinafter called the network, which shall consist of the western library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems.

Responsibility for the network shall reside with the Washington state library commission(~~), except for certain automated data processing components as provided for and defined in chapter 43.105 RCW. PROVIDED; That all components, systems and programs operated pursuant to this section shall be approved by the data processing authority created pursuant to chapter 43.105 RCW~~). The commission shall adopt and promulgate policies, rules, and regulations consistent with the purposes and provisions of this chapter pursuant to chapter 34.04 RCW, the administrative procedure act, except that nothing in this chapter shall abrogate the authority of a participating library, institution, or organization to establish its own policies for collection development and use of its library resources.

***Sec. 1** was vetoed, see message at end of chapter.

Sec. 2. Section 1, chapter 11, Laws of 1972 ex. sess. as last amended by section 1, chapter 221, Laws of 1985 and RCW 41.06.070 are each amended to read as follows:

The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;