

## CHAPTER 284

[Engrossed Substitute House Bill No. 321]

MOTOR VEHICLES--

SUSPENDED SENTENCES--

WASHINGTON HABITUAL TRAFFIC OFFENDERS ACT

AN ACT Relating to motor vehicles; amending section 62, chapter 155, Laws of 1965 ex. sess. as amended by section 68, chapter 32, Laws of 1967 and RCW 46.61.515; adding a new section to chapter 12, Laws of 1961 and to chapter 46.20 RCW; repealing section 46.20.390, chapter 12, Laws of 1961, section 32, chapter 32, Laws of 1967 and RCW 46.20.390; adding a new chapter to Title 46 RCW; and prescribing penalties.

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

Section 1. Section 62, chapter 155, Laws of 1965 ex. sess. as amended by section 68, chapter 32, Laws of 1967 and RCW 46.61.515 are each amended to read as follows:

(1) Every person who is convicted of a violation of (a) driving a motor vehicle while under the influence of intoxicating liquor or (b) driving a motor vehicle while under the influence of a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle shall be punished by imprisonment for not less than five days nor more than one year, and by a fine of not less than fifty dollars nor more than five hundred dollars.

On a second or subsequent conviction of either offense within a five year period he shall be punished by imprisonment for not less than thirty days nor more than one year and by a fine not less than one hundred dollars nor more than one thousand dollars, and neither the jail sentence nor the fine shall be suspended; PROVIDED, That the court may, for a defendant who has not previously had a jail sentence suspended on such second or subsequent conviction, suspend such sentence and/or fine only on the condition that the defendant participate in and successfully complete a court approved alcohol treatment program: PROVIDED, FURTHER, That the suspension shall be set aside upon the failure of the defendant to provide proof of successful completion of said treatment program within a time certain to be established by the court. If such person at the time of a second or subsequent conviction is without a license or permit because of a previous suspension or revocation, the minimum mandatory sentence shall be ninety days in jail and a two hundred dollar fine. The penalty so imposed shall not be suspended.

(2) The license or permit to drive or any nonresident

privilege of any person convicted of either of the offenses named in subsection (1) above shall:

(a) Be suspended by the department for not less than thirty days;

(b) On a second conviction under either such offense within a five year period, be suspended by the department for not less than sixty days after the termination of such person's jail sentence;

(c) On a third or subsequent conviction under either such offense within a five year period, be revoked by the department.

(3) In any case provided for in this section, where a driver's license is to be revoked or suspended, such revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case such conviction is sustained on appeal such revocation or suspension shall take effect as of the date that the conviction becomes effective for other purposes.

NEW SECTION. Sec. 2. There is added to Title 46 RCW a new chapter to read as set forth in sections 3 through 16 of this 1971 amendatory act.

NEW SECTION. Sec. 3. It is hereby declared to be the policy of the state of Washington:

(1) To provide maximum safety for all persons who travel or otherwise use the public highways of this state; and

(2) To deny the privilege of operating motor vehicles on such highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of her courts and the statutorily required acts of her administrative agencies; and

(3) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and her political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws.

NEW SECTION. Sec. 4. As used in this chapter, unless a different meaning is plainly required by the context, an habitual offender shall mean any person, resident or nonresident, who has accumulated convictions or, if a minor, shall have violations recorded with the department of motor vehicles, or forfeited bail for separate and distinct offenses as described in either subsection (1) or (2) below committed within a five year period, as evidenced by the records maintained in the department of motor vehicles: PROVIDED, That where more than one described offense shall be committed within a six-hour period such multiple offenses shall, on the first such occasion, be treated as one offense for the purposes of this chapter:

(1) Three or more convictions, singularly or in combination,

of the following offenses:

- (a) Negligent homicide as defined in RCW 46.61.520; or
- (b) Driving or operating a motor vehicle while under the influence of intoxicants or drugs; or
- (c) Driving a motor vehicle while his license, permit, or privilege to drive has been suspended or revoked; or
- (d) Failure of the driver of any vehicle involved in an accident resulting in the injury or death of any person to immediately stop such vehicle at the scene of such accident or as close thereto as possible and to forthwith return to and in every event remain at, the scene of such accident until he has fulfilled the requirements of RCW 46.52.020.

(2) Twenty or more convictions or bail forfeitures for separate and distinct offenses, singularly or in combination, in the operation of a motor vehicle which are required to be reported to the department of motor vehicles. Such convictions or bail forfeitures shall include those for offenses enumerated in subsection (1) above when taken with and added to those offenses described herein but shall not include convictions or forfeitures for any nonmoving violation.

The offenses included in subsections (1) and (2) hereof shall be deemed to include offenses under any valid town, city, or county ordinance substantially conforming to the provisions cited in said subsections (1) and (2) or amendments thereto, and any federal law, or any law of another state, including subdivisions thereof, substantially conforming to the aforesaid state statutory provisions.

NEW SECTION. Sec. 5. The director of the department of motor vehicles shall certify three transcripts or abstracts of the conviction record as maintained by the department of motor vehicles of any person whose record brings him within the definition of an habitual offender, as defined in section 4 of this chapter, to the prosecuting attorney of the county in which such person resides according to the records of the department or to the attorney general of the state of Washington if such person is not a resident of this state. Such transcript or abstract may be admitted as evidence and shall be prima facie evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made of each offense shown by such transcript or abstract; and if such person shall deny any of the facts as stated therein, he shall have the burden of proving that such fact is untrue.

NEW SECTION. Sec. 6. The prosecuting attorney upon receiving the aforesaid transcripts or abstracts from the director shall forthwith file a complaint against the person named therein as being an habitual offender in the superior court in the political subdivision in which such person resides. In the event such person

is a nonresident of this state, the attorney general of the state of Washington shall file such complaint against the accused person in Thurston county superior court.

NEW SECTION. Sec. 7. The court in which such complaint is filed shall enter an order, which incorporates the aforesaid transcript or abstract and is directed to the person named therein, to show cause why he should not be barred as an habitual offender from operating a motor vehicle on the highways of this state. A copy of the show cause order and such transcript or abstract shall be served on the person named therein in the manner prescribed by law for the service of process under chapter 4.28 RCW. Service thereof on any nonresident of the state may be made by the director of the department of motor vehicles in the same manner as service of process on a nonresident motor vehicle operator under the provisions of RCW 46.64.040.

NEW SECTION. Sec. 8. If the court finds that such person is not the same person named in the aforesaid transcript or abstract or that he is not an habitual offender under this chapter, the proceeding shall be dismissed but if the court finds that such person is the same person named in the aforesaid transcript or abstract and that such person is an habitual offender, the court shall so find and by appropriate order direct such person not to operate a motor vehicle on the highways of the state of Washington and to surrender to the court all licenses or permits to operate a motor vehicle on the highways of this state for disposal. The clerk of the court shall file with the department of motor vehicles a copy of such order which shall become a part of the permanent records of the department. Upon receipt of the court order finding such person to be an habitual offender the department of motor vehicles shall revoke the operator's license for a period of five years.

NEW SECTION. Sec. 9. No license to operate motor vehicles in Washington shall be issued to an habitual offender (1) for a period of five years from the date of the order of the court finding such person to be an habitual offender, and (2) until the privilege of such person to operate a motor vehicle in this state has been restored by the department of motor vehicles as hereinafter in this chapter provided.

NEW SECTION. Sec. 10. At the end of two years, the habitual offender may petition the department of motor vehicles for the return of his operator's license and upon good and sufficient showing, the department of motor vehicles may, wholly or conditionally, reinstate the privilege of such person to operate a motor vehicle in this state.

NEW SECTION. Sec. 11. It shall be unlawful for any person to operate a motor vehicle in this state while the order of revocation

remains in effect. Any person found to be an habitual offender under the provisions of this chapter who is thereafter convicted of operating a motor vehicle in this state while the order of the court prohibiting such operation is in effect shall be guilty of a gross misdemeanor, the punishment for which shall be confinement in the county jail for not more than one year.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his license, permit, or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing such charge shall determine whether such person has been adjudged an habitual offender and by reason of such judgment is barred from operating a motor vehicle on the highways of this state. If the court determines the accused has been so adjudged it shall transfer the case to the court of record making such determination for trial.

NEW SECTION. Sec. 12. At the expiration of five years from the date of any final order finding a person to be an habitual offender and directing him not to operate a motor vehicle in this state, such person may petition the department of motor vehicles for restoration of his privilege to operate a motor vehicle in this state. Upon receipt of such petition, and for good cause shown, the department of motor vehicles shall restore to such person the privilege to operate a motor vehicle in this state upon such terms and conditions as the department of motor vehicles may prescribe, subject to the provisions of chapter 46.29 RCW and such other provisions of law relating to the issuance or revocation of operators' licenses.

NEW SECTION. Sec. 13. An appeal may be had from any final action or order of a court of record entered under the provisions of this chapter in the same manner and form as such an appeal would be noted, perfected, and tried in any criminal case.

NEW SECTION. Sec. 14. Nothing in this chapter shall be construed as amending, modifying, or repealing any existing law of Washington or any existing ordinance of any political subdivision relating to the operation or licensing of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof or shall be construed so as to preclude the exercise of regulatory powers of any division, agency, department, or political subdivision of the state having the statutory power to regulate such operation and licensing.

NEW SECTION. Sec. 15. There is added to chapter 12, Laws of 1961 and to chapter 46.20 RCW a new section to read as follows:

(1) A person is eligible to petition for an occupational driver's license if he has been convicted of an offense relating to motor vehicles, other than negligent homicide or manslaughter, for

which suspension or revocation of his driver's license is mandatory, including suspensions or revocations pursuant to RCW 46.20.308: PROVIDED, That notwithstanding the provisions of RCW 46.20.270 as now or hereafter amended, if such person declares at the time of conviction his intent to so petition, the court may stay the effect of such mandatory suspension or revocation for a period not to exceed thirty days to allow the making of such petition.

(2) A petitioner for an occupational driver's license is eligible to receive such license only if:

(a) Within three years immediately preceding the present conviction he has not been convicted of any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory or has not had his driver's license suspended or revoked pursuant to RCW 46.20.308; and

(b) He is engaged in an occupation or trade which makes it essential that he operate a motor vehicle; and

(c) He files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) A petitioner for an occupational driver's license must file a verified petition on a form provided by the director, who shall issue such form upon receipt of the prescribed fee if petitioner is eligible under the requirements of subsections (1) and (2) (a) and (2) (c) above. Petitioner must set forth in detail in such petition his need for operating a motor vehicle and may file such petition with any judge in a court of record, justice court or municipal court having criminal jurisdiction in the county of the petitioner's residence.

If such petitioner is qualified under the provisions of subsection (2) (b) above, and if the judge to whom petition was made believes such petition should be granted, such judge may order the director to issue an occupational driver's license to such petitioner: PROVIDED, That an occupational driver's license may be issued for a period of not more than one year, and shall permit the operation of a motor vehicle not to exceed twelve hours per day and then only when such operation is essential to the licensee's occupation or trade: PROVIDED FURTHER, That such order shall be on a form provided by the director, and shall contain definite restrictions as to hours of the day, days of the week, type of occupation, and areas or routes of travel to be permitted under such license and such other conditions as the judge granting the same deems appropriate.

A copy of the order and of the petition shall be sent to the director by the court. The order shall be given to the petitioner and shall serve as his occupational license until the petitioner receives the license issued by the director: PROVIDED, That the director

V shall not be required to issue such license if the petitioner's mandatory suspension or revocation is for sixty days or less.

(4) If the convicting judge granted a stay of effect as provided in subsection (1) above, then at the time the judge to whom petition was made issues the order he shall collect the petitioner's driver's license in the same manner as is specified in RCW 46.20.270 as now or hereafter amended, and at such time also the conviction shall take full effect.

(5) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense which pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. Such cancellation shall be effective as of the date of such conviction, and shall continue with the same force and effect as any suspension or revocation under this title.

NEW SECTION. Sec. 16. Section 46.20.390, chapter 12, Laws of 1961, section 32, chapter 32, Laws of 1967, and RCW 46.20.390 are each repealed.

NEW SECTION. Sec. 17. If any provision of this 1971 amendatory 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. 18. This chapter shall be known and may be cited as the "Washington Habitual Traffic Offenders Act".

Passed the House May 9, 1971.

Passed the Senate May 8, 1971.

Approved by the Governor May 21, 1971 with the exception of Section 15 which is vetoed.

Filed in Office of Secretary of State May 21, 1971.

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

"...Section 15 of the bill permits a driver whose license has been suspended or revoked for offenses involving the use of a motor vehicle to be eligible to receive an occupational driver's license. By its terms persons whose license has been suspended or revoked by the operation of Washington's Implied Consent law may again obtain the privilege of driving on the highways of our state. RCW 46.20.308 was adopted by an overwhelming vote of the people only a short time ago. I believe that this serious erosion of the people's determination is unwarranted and unwise. I have therefore vetoed this section of the bill.

Veto  
Message

Except as to this section the remainder of the bill is approved."

Veto  
Message

CHAPTER 285

[Engrossed House Bill No. 491]

VOCATIONAL EDUCATION

AN ACT Relating to education; amending section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as amended by section 25, chapter 283, Laws of 1969 ex. sess. and RCW 28A.04.060; and amending section 28B.50.240, chapter 223, Laws of 1969 ex. sess. as amended by section 24, chapter 261, Laws of 1969 ex. sess. and RCW 28A.09.100; defining certain terms; and adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.09 RCW.

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

Section 1. Section 28B.50.240, chapter 223, Laws of 1969 ex. sess. as amended by section 24, chapter 261, Laws of 1969 ex. sess. and RCW 28A.09.100 are each amended to read as follows:

The state board of education shall have the power to authorize the school districts to offer vocational education programs ~~((which are a part of the regular high school curriculum))~~ in the elementary and secondary schools and the state board shall adopt rules and regulations to implement such programs and shall also adopt such rules and regulations for programs authorized by RCW 28A.58.245 and RCW 28B.50.770.

Sec. 2. Section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as amended by section 25, chapter 283, Laws of 1969 ex. sess. and RCW 28A.04.060 are each amended to read as follows:

Each member of the state board of education shall be elected by a majority of the electoral ~~((points))~~ votes accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes ~~((and the electoral points accruing therefrom))~~ not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director ((shall be accorded as many electoral points as) where there are up to and including one thousand enrolled students in that director's school district ((as) shall be counted as one electoral vote; each vote