

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall constitute a new chapter in Title 81 RCW.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 22, 1977.

Passed the Senate March 18, 1977.

Approved by the Governor March 30, 1977.

Filed in Office of Secretary of State March 30, 1977.

CHAPTER 3

[Engrossed Senate Bill No. 2057]

TRAFFIC OFFENSE RECORDS: FEDERAL INSTALLATIONS, JUVENILES—D.W.I., DRUG, SUSPENSIONS

AN ACT Relating to motor vehicle operators; amending section 46.20.270, chapter 12, Laws of 1961 as last amended by section 55, chapter 145, Laws of 1967 ex. sess. and RCW 46.20.270; amending section 10, chapter 167, Laws of 1967 as last amended by section 45, chapter 292, Laws of 1971 ex. sess. and RCW 46.20.293; and amending section 62, chapter 155, Laws of 1965 ex. sess. as last amended by section 2, chapter 287, Laws of 1975 1st ex. sess. and RCW 46.61.515.

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

Section 1. Section 46.20.270, chapter 12, Laws of 1961 as last amended by section 55, chapter 145, Laws of 1967 ex. sess. and RCW 46.20.270 are each amended to read as follows:

(1) Whenever any person is convicted of any offense for which this title makes mandatory the suspension or revocation of the driver's license of such person by the department, the privilege of the person to operate a vehicle is suspended until the department takes the action required by this chapter, and the court in which such conviction is had shall forthwith secure the immediate forfeiture of the driver's license of such convicted person and immediately forward such driver's license to the department, and on failure of such convicted person to deliver such driver's license the judge shall cause such person to be confined for the period of such suspension or revocation or until such driver's license is delivered to such judge: **PROVIDED**, That in the event such convicted person shall testify that he does not and at the time of the offense did not have a current and valid vehicle driver's license, then the judge shall cause such person to be charged with the operation of a motor vehicle without a current and valid driver's license and on conviction punished as by law provided, and the department shall not issue a driver's license to such persons during the period of such suspension or revocation: **PROVIDED, ALSO**, That in the event that the driver's license of such convicted person has been lost or destroyed and such convicted person shall make an affidavit to that effect, sworn to before the judge, he shall not be so confined, but the department shall not issue or reissue a driver's license for such convicted person during the period of such suspension or revocation: **PROVIDED**, That perfection of notice of appeal shall stay the execution of sentence including the suspension and/or revocation of the driver's license.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority

regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall forward to the department within ten days of a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, or a payment of a fine, or a plea of guilty or a finding of guilt, an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person in said court for a violation of any said laws other than regulations governing standing or parking, and may recommend the suspension of the driver's license of the person so convicted.

(3) For the purposes of Title 46 RCW the term "conviction" shall mean a final conviction in ~~((either))~~ a state or municipal court~~((:))~~ or by any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a traffic law violation charge, ~~((shall be equivalent to a conviction, under Title 46 RCW))~~ regardless of whether the imposition of sentence is deferred or the penalty is suspended.

Sec. 2. Section 10, chapter 167, Laws of 1967 as last amended by section 45, chapter 292, Laws of 1971 ex. sess. and RCW 46.20.293 are each amended to read as follows:

The department is authorized to provide juvenile courts with the department's record of traffic charges compiled under RCW 46.52.100 and 13.04.120, against any juvenile upon the request of any state juvenile court or duly authorized officer of any juvenile court of this state. Further, the department is authorized to provide any juvenile court with any requested service which the department can reasonably perform which is not inconsistent with its legal authority which substantially aids juvenile courts in handling traffic cases and which promotes highway safety.

The department is authorized to furnish to the parent, parents, or guardian of any person under ~~((twenty-one))~~ eighteen years of age who is not emancipated from such parent, parents, or guardian, the department records of traffic charges compiled against said person and shall collect for said copy a fee of one dollar and fifty cents to be deposited in the highway safety fund.

Sec. 3. Section 62, chapter 155, Laws of 1965 ex. sess. as last amended by section 2, chapter 287, Laws of 1975 1st ex. sess. 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 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) There shall be levied and paid into the highway safety fund of the state treasury a penalty assessment in the minimum amount of twenty-five percent of, and which shall be in addition to, any fine, bail forfeiture, or costs on all offenses involving a violation of any state statute or city or county ordinance relating to driving a motor vehicle while under the influence of intoxicating liquor or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor: **PROVIDED,** That all funds derived from such penalty assessment shall be in addition to and exclusive of assessments made under RCW 46.81.030 and shall be for the exclusive use of the department for driver services programs and for a state-wide alcohol safety action program, or other similar programs designed primarily for the rehabilitation or control of traffic offenders. Such penalty assessment shall be included in any bail schedule and shall be included by the court in any pronouncement of sentence.

(3) Notwithstanding the provisions contained in chapters 3.16, 3.46, 3.50, 3.62, or 35.20 RCW, or any other section of law, the penalty assessment provided for in subsection (2) of this section shall not be suspended, waived, modified, or deferred in any respect, and all moneys derived from such penalty assessments shall be forwarded to the highway safety fund to be used exclusively for the purposes set forth in subsection (2) of this section.

(4) 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) On the first conviction under either such offense, be suspended by the department for not less than thirty days: PROVIDED, That the court may recommend that no suspension action be taken;

(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.

(5) 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.

Passed the Senate March 14, 1977.

Passed the House March 28, 1977.

Approved by the Governor April 4, 1977.

Filed in Office of Secretary of State April 4, 1977.