

(3) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to, or before an audience of one or more, with or without consideration.

(4) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

NEW SECTION. Sec. 2. A new section is added to chapter 9.68A RCW to read as follows:

No person may knowingly allow a minor to be on the premises of a commercial establishment open to the public if there is a live performance containing matter which is erotic material.

NEW SECTION. Sec. 3. A new section is added to chapter 9.68A RCW to read as follows:

Any person who is convicted of violating any provision of section 2 of this act is guilty of a gross misdemeanor.

NEW SECTION. Sec. 4. 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 24, 1987.

Passed the Senate April 24, 1987.

Approved by the Governor May 15, 1987.

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

CHAPTER 397

[Engrossed Substitute Senate Bill No. 5850]

SPEED LIMIT INCREASE—MOTOR VEHICLE INSURANCE RATE INCREASES BASED ON ABSTRACT INFORMATION LIMITED

AN ACT Relating to traffic infractions; amending RCW 46.52.130, 46.61.405, 46.61.410, and 46.63.070; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to increase the speed limit to sixty-five miles per hour on those portions of the rural interstate highway system where the increase would be safe and reasonable and is allowed by federal law. It is also the intent of the legislature that the sixty-five miles per hour speed limit be strictly enforced.

Sec. 2. Section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 74, Laws of 1986 and RCW 46.52.130 are each amended to read as follows:

Any request for a certified abstract must specify which part is requested, and only the part requested shall be furnished. The employment driving record part shall be furnished only to the individual named in the abstract, an employer, the insurance carrier that has insurance in effect covering the

employer, or a prospective employer. The other part shall be furnished only to the individual named in the abstract, the insurance carrier that has insurance in effect covering the named individual, or the insurance carrier to which the named individual has applied. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years, and the abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; and any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law. The enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

The abstract provided to an insurance company shall have excluded from it any information pertaining to any occupational driver's license when the license is issued to any person employed by another or self-employed as a motor vehicle driver who during the five years preceding the request has been issued such a license by reason of a conviction or finding of a traffic infraction involving a motor vehicle offense outside the scope of his principal employment, and who has during that period been principally employed as a motor vehicle driver deriving the major portion of his income therefrom. The abstract provided to the insurance company shall also exclude any information pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any member of the Washington state patrol, while driving official vehicles in the performance of occupational duty during an emergency situation if the chief of the officer's or fire fighter's department certifies on the accident report that the actions of the officer or fire fighter were reasonable under the circumstances as they existed at the time of the accident.

The director shall collect for each abstract the sum of three dollars and fifty cents which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, ~~((or)) denied, or have the rate increased~~ on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment.

Any employer or prospective employer receiving the certified abstract shall use it exclusively for his own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon

the public highways of this state and shall not divulge any information contained in it to a third party.

Any violation of this section is a gross misdemeanor.

Sec. 3. Section 2, chapter 16, Laws of 1963 as last amended by section 34, chapter 151, Laws of 1977 ex. sess. and RCW 46.61.405 are each amended to read as follows:

Whenever the secretary of transportation shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater than is reasonable or safe with respect to a state highway under the conditions found to exist at any intersection or upon any other part of the state highway system or at state ferry terminals, or that a general reduction of any maximum speed (~~hereinbefore~~) set forth (~~would aid in the conservation of energy resources~~) in RCW 46.61.400 is necessary in order to comply with a national maximum speed limit, the secretary may determine and declare a reasonable and safe lower maximum limit or a lower maximum limit which will (~~reasonably conserve energy resources~~) comply with a national maximum speed limit, for any state highway, the entire state highway system, or any portion thereof, which shall be effective when appropriate signs giving notice thereof are erected. The secretary may also fix and regulate the speed of vehicles on any state highway within the maximum speed limit allowed by this chapter for special occasions including, but not limited to, local parades and other special events. Any such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon the said signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective (a) when posted upon appropriate fixed or variable signs or (b) if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of RCW 46.61.410, as now or hereafter amended.

Sec. 4. Section 3, chapter 16, Laws of 1963 as last amended by section 35, chapter 151, Laws of 1977 ex. sess. and RCW 46.61.410 are each amended to read as follows:

(1) (a) Subject to subsection (2) (~~below~~) of this section the secretary may increase the maximum speed limit on any highway or portion thereof to not more than seventy miles per hour in accordance with the design speed thereof (taking into account all safety elements included therein), or whenever the secretary determines upon the basis of an engineering and traffic investigation that such greater speed is reasonable and safe under the circumstances existing on such part of the highway.

(b) If the federal government increases the national maximum speed limit to at least sixty-five miles per hour on any part of the highway system, the secretary of transportation shall forthwith increase to that same speed

the maximum speed limit on any such highway or portion thereof then posted at fifty-five miles per hour to a maximum of sixty-five miles per hour, subject to subsection (2) of this section, if such limit had been established for that highway or portion thereof in order to comply with the former national maximum speed limit. However, if an engineering and traffic investigation conducted by the department clearly indicates that a speed limit above fifty-five miles an hour would be unsafe for that highway or a portion thereof, the secretary of transportation shall not increase the speed limit for that highway or portion thereof above the safe speed indicated by the investigation. The speed limit on interstate route number 5 between Everett and Olympia may not be increased above fifty-five miles per hour under this subsection (b).

(c) The greater maximum limit ((so determined)) established under (a) or (b) of this subsection shall be effective(;) when appropriate signs giving notice thereof are erected, or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(d) Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon said signs or in the case of auto stages, as indicated in said written notice; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(2) The maximum speed limit for vehicles over ten thousand pounds gross weight and vehicles in combination except auto stages shall not exceed sixty miles per hour and may be established at a lower limit by the secretary as provided in RCW 46.61.405(~~(, as now or hereafter amended)~~).

(3) The word "trucks" used by the department on signs giving notice of maximum speed limits (~~shall~~) means vehicles over ten thousand pounds gross weight and all vehicles in combination except auto stages.

(4) Whenever the secretary (~~shall~~) establishes maximum speed limits for auto stages lower than the maximum limits for automobiles, the secretary shall cause to be mailed notice thereof to each auto transportation company holding a certificate of public convenience and necessity issued by the Washington utilities and transportation commission. The notice shall be mailed to the chief place of business within the state of Washington of each auto transportation company or if none then its chief place of business without the state of Washington.

***Sec. 5. Section 9, chapter 136, Laws of 1979 ex. sess. as last amended by section 3, chapter 224, Laws of 1984 and RCW 46.63.070 are each amended to read as follows:**

(1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) (a) If any person issued a notice of traffic infraction:

(i) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(ii) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

(b) The department may not renew the driver's license, or in the case of a standing, stopping, or parking violation the vehicle license, of any person for whom the court has entered an order pursuant to (a) of this subsection until any penalties imposed pursuant to this chapter have been satisfied. Upon the driver's second outstanding failure to respond to a notice of infraction or

to appear at a requested hearing, the department shall suspend the driver's license until any penalties imposed pursuant to this chapter have been satisfied. For purposes of driver's license suspension or nonrenewal only, the lessee of a vehicle shall be considered to be the person to whom a notice of a standing, stopping, or parking violation has been issued for such violations of the vehicle incurred while the vehicle was leased or rented under a bona fide commercial lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner, if the lease agreement contains a provision prohibiting anyone other than the lessee from operating the vehicle. Such a lessor shall, upon the request of the municipality issuing the notice of infraction, supply the municipality with the name and driver's license number of the person leasing the vehicle at the time of the infraction.

*Sec. 5 was vetoed, see message at end of chapter.

Passed the Senate April 22, 1987.

Passed the House April 16, 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, with my approval as to section 5, Engrossed Substitute Senate Bill No. 5850, entitled:

"AN ACT Relating to traffic infractions."

Section 5 of the bill directs the Department of Licensing to suspend individuals with two or more "failures to appear" on their record. Substitute Senate Bill No. 5061, which I have already signed into law, contains a similar provision. It allows the arrest and conviction of a person with two or more charges of "failure to appear" on his or her driving record in any four-year period from a traffic infraction. It also grants the officer the authority to arrest the person on the spot after receiving radio verification of their driving record from the Department of Licensing.

We have addressed this issue in two different ways in two separate bills. In order to avoid confusion and additional administrative cost to the public and state, I have vetoed section 5. The provisions contained in Substitute Senate Bill No. 5061 will have a much greater impact on this problem without a negative fiscal impact.

With the exception of section 5, Engrossed Substitute Senate Bill No. 5850 is approved."

CHAPTER 398

[Substitute House Bill No. 325]

LEARNING DISABILITIES PROGRAMS—CURRICULUM-BASED ASSESSMENT PROCEDURES

AN ACT Relating to curriculum based assessment of students for learning disabled programs; and adding a new section to chapter 28A.03 RCW.

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