

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117918

AN ORDINANCE relating to the City's criminal code; amending and adding various sections and subsections in Chapters 6.240, 12A.02, 12A.06, 12A.08, 12A.10, 12A.14, 12A.16, 12A.24, 12A.28, 16.20, 16.64, 18.12 of the Seattle Municipal Code to conform with changes in state law.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 6.240.010 of the Seattle Municipal Code is amended by adding subsection E as follows:

6.240.010 Definitions.

As used in this chapter, the following terms shall have the following meanings:

* * *

E. "Vapor product" means a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery, or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States food and drug administration under chapter V of the federal food, drug, and cosmetic act.

Section 2. Section 6.240.100 of the Seattle Municipal Code and the title of that Section are amended as follows:

6.240.100 Sale of tobacco product to minor unlawful ((~~Proof of voting age required for purchase of tobacco products~~)).

A. Every person who sells or gives, or permits to be sold or given, to any person under the age of eighteen (18) years any cigar, cigarette, cigarette paper or wrapper, tobacco in any form, or a vapor product is guilty of a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04,

12A.02.150 Definitions.

1 In this subtitle, unless a different meaning plainly is required:

2 * * *

3 15. "Person," "he," and "actor" include any natural person, and, in addition, a corporation, a joint
4 stock association or an unincorporated association unless a contrary intention plainly appears.

5 16. "Public servant" means any person other than a witness who presently occupies the position
6 of or has been elected, appointed, or designated to become any officer or employee of government,
7 including a legislator, judge, judicial officer, juror, and any person participating as an advisor,
8 consultant, or otherwise in performing a governmental function.

9 17. "Jail" means any place designated by law for the keeping of persons held in custody under
10 process of law, or under lawful arrest.

11 18. ((17.)) "Property" includes both real and personal property.

12 19. ((18.)) "Reasonably believes" or "reasonable belief" designates a belief which the actor is
13 not reckless or criminally negligent in holding.

14 20. "Restrain" means to restrict a person's movements without consent and without legal
15 authority in a manner which interferes substantially with his or her liberty. Restraint is "without
16 consent" if it is accomplished by (a) physical force, intimidation, or deception, or (b) any means
17 including acquiescence of the victim, if he or she is a child less than sixteen (16) years old or an
18 incompetent person and if the parent, guardian, or other person or institution having lawful control or
19 custody of him or her has not acquiesced.

20 21. ((19.)) "Sexual conduct" means any of the following:

21 a. Sexual intercourse in its ordinary sense which occurs upon any penetration, however slight, or
22 contact between persons involving the sex organs of one and the mouth or anus of another;
23
24

1 court may prohibit that person from having any contact with the victim and may issue a written stalking
2 no-contact order prohibiting the person from having contact with the victim or from knowingly coming
3 within, or knowingly remaining within, a specified distance of a location. If there is no outstanding
4 restraining or protective order prohibiting that person from having contact with the victim, and the
5 victim does not qualify for a domestic violence protection order under RCW Chapter 26.50, the court
6 authorizing release may issue the order by telephone and shall issue the order in writing as soon as
7 possible.

8 2. At the time of arraignment or whenever a motion is brought to modify the conditions
9 of the defendant's release, the court shall determine whether a no-contact order shall be issued or
10 extended. If a no-contact order is issued or extended, the court may also include in the conditions of
11 release a requirement that the defendant submit to electronic monitoring, including real-time global
12 position satellite monitoring with victim notification. If electronic monitoring is ordered, the court shall
13 specify who shall provide the monitoring services, and the terms under which the monitoring shall be
14 performed. Upon conviction, the court may require as a condition of the sentence that the defendant
15 reimburse the providing agency for the costs of the electronic monitoring, including costs relating to
16 real-time global position satellite monitoring with victim notification. A no-contact order issued by the
17 court in conjunction with criminal charges shall terminate if the defendant is acquitted or the charges are
18 dismissed, unless the victim files an independent action for a stalking protection order. If the victim
19 files an independent action for a civil stalking protection order, the order may be continued by the court
20 until a full hearing is conducted pursuant to Laws of 2013, chapter 84, section 6.

21 3. If a defendant is found guilty of Stalking or any other offense under Section
22 12A.06.040D, a condition of the sentence restricts the defendant's ability to have contact with the victim
23 and the victim does not qualify for a domestic violence protection order under RCW Chapter 26.50, the
24

1 court shall issue a written no-contact order. A final no-contact order entered in conjunction with a
2 criminal prosecution shall remain in effect for a period of five (5) years from the date of entry.

3 4. In issuing the no-contact order, the court shall consider the provisions of Section
4 12A.06.195. The written no-contact order shall contain the court's directives and shall bear the legend:
5 "Violation of this order is a criminal offense under RCW Chapter 26.50 and Seattle Municipal Code
6 section 12A.06.180 and will subject a violator to arrest. You can be arrested even if any person
7 protected by the order invites or allows you to violate the order's prohibitions. You have the sole
8 responsibility to avoid or refrain from violating the order's provisions. Only the court can change the
9 order." A certified copy of the written no-contact order shall be provided to the victim at no charge. If a
10 no-contact order has been issued prior to charging, that order shall expire at arraignment or within
11 seventy-two (72) hours if charges are not filed.

12 5. Whenever an order is issued, modified or terminated pursuant to this section, the clerk
13 of the court shall forward a copy of the order on or before the next judicial day to the appropriate law
14 enforcement agency specified in the order.

15 6. A knowing violation of a no-contact order issued under this subsection, Laws of 2013,
16 chapter 84, section 16 or an equivalent ordinance is punishable under Section 12A.06.180.

17 H. Stalking is a gross misdemeanor. Every person convicted of Stalking shall have a biological
18 sample collected for purposes of DNA identification analysis, as provided in RCW 43.43.754, and shall
19 pay a fee of One Hundred Dollars (\$100.00), as provided in RCW 43.43.7541.

20 Section 7. Subsection B of section 12A.06.040 of the Seattle Municipal Code is amended as
21 follows:

22 **12A.06.040 Harassment.**

23 * * *

1 B. When any defendant charged with a crime of harassment is released from custody before trial
2 on bail or personal recognizance, the court authorizing the release may issue a written order and require
3 that the defendant:

- 4 1. Stay away from the home, school, business, or place of employment of the victim or
5 victims of the alleged offense or other location, as shall be specifically named by the court in the order;
- 6 2. Refrain from contacting, intimidating, threatening, or otherwise interfering with the
7 victim or victims of the alleged offense and such other persons, including but not limited to members of
8 the family or household of the victim, as shall be specifically named by the court in the order.

9 If the court issues an order protecting the victim, it shall issue a written no-contact order pursuant
10 to Subsection 12A.06.035G.

11 * * *

12 Section 8. Section 12A.06.180 of the Seattle Municipal Code is amended as follows:

13 **12A.06.180 Violation—Penalty—Contempt.**

14 A. Whenever an order is granted under this chapter, the chapter created by Laws of 2013,
15 chapter 84, section 33, RCW Chapter 7.90, 9.94A, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50 or 74.34 or
16 an equivalent ordinance by this court or any court of competent jurisdiction or there is a valid foreign
17 protection order as defined in RCW 26.52.020 and the respondent or person to be restrained knows of
18 the order, a violation of any of the following provisions of the order is a gross misdemeanor:

19 * * *

20 C. A violation of an order issued under this chapter, the chapter created by Laws of 2013, chapter
21 84, section 33, RCW Chapter 7.90, 9.94A, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50 or 74.34 or an
22 equivalent ordinance by this court or any court of competent jurisdiction or of a valid foreign protection
23

1 order as defined in RCW 26.52.020 shall also constitute contempt of court, and is subject to the penalties
2 prescribed by law.

3 D. Upon the filing of an affidavit by the petitioner or any peace officer alleging that the
4 respondent has violated an order issued under this chapter, the chapter created by Laws of 2013, chapter
5 84, section 33, RCW Chapter 7.90, 9.94A, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50 or 74.34 or an
6 equivalent ordinance by this court or any court of competent jurisdiction or a valid foreign protection
7 order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the
8 respondent to appear and show cause within fourteen (14) days why the respondent should not be found
9 in contempt of court and punished accordingly.

10 * * *

11 Section 9. Subsection B of section 12A.06.195 of the Seattle Municipal Code is amended as
12 follows:

13 **12A.06.195 Court order requiring surrender of firearm, dangerous weapon or concealed
14 pistol license.**

15 * * *

16 B. When entering an order authorized under Section 12A.06.035, 12A.06.040, 12A.06.130,
17 12A.06.165 or 12A.06.170 and upon a showing by either clear and convincing evidence or a
18 preponderance of the evidence, but not by clear and convincing evidence, that a party has used,
19 displayed, or threatened to use a firearm or dangerous weapon in a felony, that a party has previously
20 committed any offense making the party ineligible to possess a firearm under the provisions of RCW
21 9.41.040 or that a party's possession of a firearm or dangerous weapon presents a serious and imminent
22 threat to public health or safety or to the health or safety of any person, the court shall:

- 23 1. Require the party to surrender any firearm or dangerous weapon;
24

2. Require the party to surrender any concealed pistol license issued under RCW

1 9.41.070;

2 3. Prohibit the party from obtaining or possessing a firearm or dangerous weapon;

3 4. Prohibit the party from obtaining or possessing a concealed pistol license.

4 * * *

5 Section 10. A new section is added to Seattle Municipal Code Chapter 12A.06 as follows:

6 **12A.06.310 Unlawful imprisonment.**

7 A person is guilty of unlawful imprisonment if he or she attempts to knowingly restrain another
8 person.

9 Section 11. A new section is added to Seattle Municipal Code chapter 12A.08 as follows:

10 **12A.08.080 Forgery.**

11 A. A person is guilty of forgery if, with intent to injure or defraud, he or she attempts to:

12 1. falsely make, complete, or alter a written instrument or;

13 2. possess, utter, offer, dispose of, or put off as true a written instrument that he or she

14 knows to be forged.

15 B. The following definitions apply to this subsection:

16 1. "Complete written instrument" means one which is fully drawn with respect to every
17 essential feature thereof;

18 2. "Incomplete written instrument" means one which contains some matter by way of
19 content or authentication but which requires additional matter in order to render it a complete written
20 instrument;
21

3. To "falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner;

4. To "falsely complete" a written instrument means to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it;

5. To "falsely make" a written instrument means to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, he or she did not authorize the making or drawing thereof;

6. "Forged instrument" means a written instrument which has been falsely made, completed, or altered;

7. "Written instrument" means: (a) Any paper, document, or other instrument containing written or printed matter or its equivalent; or (b) any access device, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification.

Section 12. A new section is added to Seattle Municipal Code chapter 12A.08 as follows:

12A.08.140 Possession of another's identification.

A. A person is guilty of possession of another's identification if the person knowingly possesses personal identification bearing another person's identity, when the person possessing the personal identification does not have the other person's permission to possess it,

B. This section does not apply to:

1. A person who obtains, by means other than theft, another person's personal identification for the sole purpose of misrepresenting his or her age;

1 2. A person engaged in a lawful business who obtains another person's personal
identification in the ordinary course of business;

2 3. A person who finds another person's lost personal identification, does not intend to
3 deprive the other person of the personal identification or to use it to commit a crime, and takes
4 reasonably prompt steps to return it to its owner; and

5 4. A law enforcement agency that produces or displays counterfeit credit or debit cards,
6 checks or other payment instruments, or personal identification for investigative or educational
7 purposes.

8 Section 13. A new section is added to Seattle Municipal Code Chapter 12A.08 as follows:

9 **12A.08.150 Identity theft.**

10 A. A person is guilty of identity theft if the person attempts to knowingly obtain, possess, use, or
11 transfer a means of identification or financial information of another person, living or dead, with the
12 intent to commit, or to aid or abet, any crime.

13 B. Every person who, in the commission of identity theft, shall commit any other crime may be
14 punished therefor as well as for the identity theft, and may be prosecuted for each crime separately.

15 C. A person who violates this section is liable for civil damages of one thousand dollars
16 (\$1,000) or actual damages, whichever is greater, including costs to repair the victim's credit record, and
17 reasonable attorneys' fees as determined by the court.

18 D. The provisions of this section do not apply to any person who obtains another person's
19 driver's license or other form of identification for the sole purpose of misrepresenting his or her age.

20 E. In a proceeding under this section in which a person's means of identification or financial
21 information was used without that person's authorization, and when there has been a conviction, the
22

1 sentencing court may issue such orders as are necessary to correct a public record that contains false
2 information resulting from a violation of this section.

3 F. The following definitions apply to this section unless the context clearly requires otherwise.

4 1. "Financial information" means any of the following information identifiable to the
5 individual that concerns the amount and conditions of an individual's assets, liabilities, or credit:

6 a. Account numbers and balances;

7 b. Transactional information concerning an account; and

8 c. Codes, passwords, social security numbers, tax identification numbers, driver's
9 license or permit numbers, state identicard numbers issued by the department of licensing, and other
10 information held for the purpose of account access or transaction initiation.

11 2. "Financial information repository" means a person engaged in the business of
12 providing services to customers who have a credit, deposit, trust, stock, or other financial account or
13 relationship with the person.

14 3. "Means of identification" means information or an item that is not describing finances
15 or credit but is personal to or identifiable with an individual or other person, including: A current or
16 former name of the person, telephone number, an electronic address, or identifier of the individual or a
17 member of his or her family, including the ancestor of the person; information relating to a change in
18 name, address, telephone number, or electronic address or identifier of the individual or his or her
19 family; a social security, driver's license, or tax identification number of the individual or a member of
20 his or her family; and other information that could be used to identify the person, including unique
21 biometric data.

22 4. "Person" means a person as defined in section 12A.02.150.
23
24

5. "Victim" means a person whose means of identification or financial information has been used or transferred with the intent to commit, or to aid or abet, any unlawful activity.

Section 14. A new section is added to Seattle Municipal Code Chapter 12A.08 as follows:

12A.08.160 Trafficking in stolen property.

A. A person is guilty of trafficking in stolen property if the person attempts to recklessly traffic in stolen property.

B. For purposes of this section, "traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

Section 15. A new section is added to Seattle Municipal Code Chapter 12A.08 as follows:

12A.08.170 Computer trespass.

A. A person is guilty of computer trespass if the person, without authorization, intentionally gains access to a computer system or electronic database of another.

B. For purposes of this section:

1. "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means.

2. "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

3. "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer.

1 Section 16. Subsection C of section 12A.10.115 of the Seattle Municipal Code is amended as
2 follows:

3 **12A.10.115 Impoundment of vehicle used in patronizing a prostitute.**

4 * * *

5 C. In order to redeem an impounded vehicle, the owner must pay, in addition to all applicable
6 impoundment, towing and storage fees to the towing company, a fee of Five Hundred dollars (\$500.00)
7 to the police department, which shall ~~((deposit this fee in the prostitution prevention and intervention~~
8 ~~account established under RCW 43.63A.740))~~ and issue to the owner of the vehicle a written receipt,
9 and a fee of Five Hundred dollars (\$500.00) to the police department, which shall deposit this fee in the
10 Sex Industry Victims' Fund and issue to the owner a written receipt. The towing company shall release
11 the impounded vehicle to the owner upon presentation of these receipts and payment of all applicable
12 impoundment, towing and storage charges. A towing company that releases an impounded vehicle in
13 reliance on a forged receipt or receipts is not liable to the police department for any corresponding
14 unpaid fee under this subsection.

15 * * *

16 Section 17. Section 12A.10.070 of the Seattle Municipal Code and the title to that section are
17 amended as follows:

18 **12A.10.070 Mandatory fee for defendant convicted of or entering into a diversion**
19 **agreement or deferred prosecution for a prostitution-related offense or**
20 **indecent exposure; forfeiture of funds used as part of prostitution-related**
21 **offenses.**

22 A.1. In addition to penalties set forth in Section 12A.10.020 and 12A.10.130, a person who is
23 either convicted or given a deferred sentence or a deferred prosecution or who has entered into a
24 statutory or nonstatutory diversion agreement as a result of an arrest for violating Section 12A.10.020 or
12A.10.130 shall be assessed a fee of Fifty Dollars (\$50.00).

* * *

1 Section 18. A new section is added to Seattle Municipal Code chapter 12A.10 as follows:

2 **12A.10.130 Indecent Exposure.**

3 A. A person is guilty of indecent exposure if he or she intentionally makes any open and
4 obscene exposure of his or her person or the person of another knowing that such conduct is likely to
5 cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent
6 exposure.

7 B. Indecent exposure is a gross misdemeanor if the person exposes himself or herself to a person
8 under the age of fourteen (14) years. Otherwise, indecent exposure is a misdemeanor.

9 Section 19. A new section is added to Seattle Municipal Code Chapter 12A.10 as follows:

10 **12A.10.140 Communicating with a minor for immoral purposes.**

11 A. A person is guilty of communicating with a minor for immoral purposes if the person
12 communicates with a minor or someone the person believes to be a minor for immoral purposes.

13 B. For purposes of this section, "minor" means any person under eighteen (18) years of age.

14 C. In a prosecution under this section, it is not a defense that the defendant did not know the
15 alleged victim's age. It is a defense, which the defendant must prove by a preponderance of the
16 evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain
17 the true age of the minor by requiring production of a driver's license, marriage license, birth certificate,
18 or other governmental or educational identification card or paper and did not rely solely on the oral
19 allegations or apparent age of the minor.
20

21 Section 20. Section 12A.14.071 of the Seattle Municipal Code and the title of that Section are
22 amended as follows:

23 **12A.14.071 Aiming or discharging ((Discharge-of)) a firearm.**

A person is guilty of aiming or discharging (~~discharge of~~) a firearm if he or she:

1 A. willfully aims any firearm, whether loaded or unloaded, at or toward any human being;

2 B. wilfully discharges a firearm in a place where there is a reasonable likelihood that humans,
3 domestic animals or property will be jeopardized; or

4 C. except as provided in RCW 9.41.185, knowingly sets a so-called trap, spring pistol, rifle or
5 other dangerous weapon.

6 D. Aiming or discharging a firearm is a gross misdemeanor.

7 Section 21. Subsection A of section 12A.14.075 of the Seattle Municipal Code is amended as
8 follows:

9 **12A.14.075 Unlawful use of weapons to intimidate another.**

10 A. A person is guilty of unlawful use of weapons to intimidate another if he or she carries,
11 exhibits, displays or draws a firearm, dangerous knife, any knife with a blade that is open for use, other
12 cutting or stabbing instrument or a ((deadly)) weapon apparently capable of producing bodily harm
13 ((other than a firearm)) in a manner, under circumstances, and at a time and place that either manifests
14 an intent to intimidate another person or warrants alarm for the safety of other persons.
15

16 * * *

17 Section 22. Section 12A.14.080 of the Seattle Municipal Code is amended as follows:

18 **12A.14.080 Unlawful use of weapons.**

19 It is unlawful for a person knowingly to:

20 * * *

21 E. Use any contrivance or device for suppressing the noise of any firearm unless the suppressor
22 is legally registered and possessed in accordance with federal law.

23 Section 23. A new section is added to Chapter 12A.14 of the Seattle Municipal Code as follows:
24

12A.14.130 Failure to register as a firearms offender.

1 A person commits the crime of failure to register as a felony firearm offender if the person has a
2 duty to register under Laws of 2013, chapter 183, section 4 and knowingly fails to comply with any of
3 the requirements of that section.

4 Section 24. A new section is added to Chapter 12A.14 of the Seattle Municipal Code as follows:

5 12A.14.140 Unlawful carrying of pistol.

6 A. A person commits the crime of unlawful carrying of a pistol if he or she:

- 7 1. carries a pistol concealed on his or her person, unless the person has a license to carry
8 a concealed pistol or is carrying the pistol in the person's place of abode or fixed place of business;
9 2. carries or places a loaded pistol in any vehicle, unless the person has a license to carry
10 a concealed pistol and (a) the pistol is on the licensee's person, (b) the licensee is within the vehicle at
11 all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked
12 within the vehicle and concealed from view from outside the vehicle;
13 3. is a person at least eighteen (18) years of age but less than twenty-one (21) years of
14 age and possesses a pistol, unless the person is possessing the pistol in the person's place of abode, fixed
15 place of business or on real property under the person's control or an exception under RCW 9.41.042
16 applies; or
17 4. is a person at least eighteen (18) years of age possessing an unloaded pistol and leaves
18 the unloaded pistol in a vehicle, unless the unloaded pistol is locked within the vehicle and concealed
19 from view from outside the vehicle.
20

21 B. Unlawful carrying of a pistol is a misdemeanor subject to the provisions of Chapters 12A.02
22 and 12A.04, except that absolute liability shall be imposed and none of the mental states described in
23 Section 12A.04.030 need be proved.
24

1 C. Every licensee shall have his or her concealed pistol license in his or her immediate
2 possession at all times that he or she is required by this section to have a concealed pistol license and
3 shall display the same upon demand to any police officer or to any other person when and if required by
4 law to do so. Any violation of this subsection shall be a class 1 civil infraction under RCW Chapter
5 7.80.

6 D. The provisions of this section do not apply to:

7 1. Marshals, sheriffs, prison or jail wardens or their deputies, correctional personnel and
8 community corrections officers as long as they are employed as such who have completed government-
9 sponsored law enforcement firearms training and have been subject to a check through the national
10 instant criminal background check system or an equivalent background check within the past five (5)
11 years, or other law enforcement officers of this state or another state. Correctional personnel and
12 community corrections officers seeking the waiver provided for by this section are required to pay for
13 any background check that is needed in order to exercise the waiver;

14 2. Members of the armed forces of the United States or of the national guard or
15 organized reserves, when on duty;

16 3. Officers or employees of the United States duly authorized to carry a concealed pistol;

17 4. Any person engaged in the business of manufacturing, repairing, or dealing in
18 firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the
19 usual or ordinary course of the business;

20 5. Regularly enrolled members of any organization duly authorized to purchase or
21 receive pistols from the United States or from this state;

22 6. Regularly enrolled members of clubs organized for the purpose of target shooting,
23 when those members are at or are going to or from their places of target practice;
24

1 7. Regularly enrolled members of clubs organized for the purpose of modern and antique
2 firearm collecting, when those members are at or are going to or from their collector's gun shows and
3 exhibits;

4 8. Any person engaging in a lawful outdoor recreational activity such as hunting, fishing,
5 camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including
6 but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude
7 that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor
8 recreation area;

9 9. Any person while carrying a pistol unloaded and in a closed opaque case or secure
10 wrapper; or

11 10. Law enforcement officers retired for service or physical disabilities, except for those
12 law enforcement officers retired because of mental or stress-related disabilities. This subsection applies
13 only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within
14 Washington state from which he or she retired that is signed by the agency's chief law enforcement
15 officer and that states that the retired officer was retired for service or physical disability; and (b) not
16 been convicted or found not guilty by reason of insanity of a crime making him or her ineligible for a
17 concealed pistol license.

18 Section 25. A new section is added to Seattle Municipal Code Chapter 12A.14 as follows:

19 **12A.14.150 Unlawful possession of loaded rifle in motor vehicle.**

20 A. A person is guilty of unlawful possession of a loaded rifle or shotgun in a motor vehicle if the
21 person knowingly carries, transports, conveys, possesses, or controls a rifle or shotgun in a motor
22 vehicle, as defined in section 11.14.360, except as allowed by Washington State Fish and Wildlife
23
24

1 Department rule; and the rifle or shotgun contains shells or cartridges in the magazine or chamber, or is
2 a muzzle-loading firearm that is loaded and capped or primed.

3 B. A person is guilty of unlawful use of a loaded firearm if the person negligently discharges a
4 firearm from, across, or along the maintained portion of a public highway; or discharges a firearm from
5 within a moving motor vehicle.

6 C. Unlawful possession of a loaded rifle or shotgun in a motor vehicle and unlawful use of a
7 loaded firearm are misdemeanors.

8 D. This section does not apply if the person:

9 1. Is a law enforcement officer who is authorized to carry a firearm and is on duty within
10 the officer's respective jurisdiction;

11 2. Possesses a disabled hunter's permit as provided by RCW 77.32.237 and complies
12 with all rules of the Washington State Fish and Wildlife Department concerning hunting by persons with
13 disabilities; or

14 3. Discharges the rifle or shotgun from upon a nonmoving motor vehicle as long as the
15 engine is turned off and the motor vehicle is not parked on or beside the maintained portion of a public
16 road, except as authorized by the Washington State Fish and Wildlife Commission by rule.

17 E. For purposes of subsection A of this section, a rifle or shotgun shall not be considered loaded
18 if the detachable clip or magazine is not inserted in or attached to the rifle or shotgun.

19 Section 26. A new section is added to Chapter 12A.14 of the Seattle Municipal Code as follows:

20 **12A.14.160 Possessing dangerous weapon on school facility.**

21 A. It is unlawful for a person to knowingly carry onto, or to possess on, public or private
22 elementary or secondary school premises, school-provided transportation, or areas of facilities while
23 being used exclusively by public or private schools:
24

1. any firearm;

2. any other dangerous weapon as described in Section 12A.14.080A;

3. any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

4. any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

B. Any person violating subsection A of this section is guilty of a gross misdemeanor. Any person convicted of a violation of subsection A1 of this section shall have his or her concealed pistol license, if any, revoked for a period of three (3) years and is prohibited from applying for a concealed pistol license for a period of three (3) years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

C. Subsection A of this section does not apply to:

1. Any student or employee of a private military academy when on the property of the academy;

2. Any person engaged in military, law enforcement, or school district security activities.

However, a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator may not possess a device listed in subsection A3 or A4 of this section unless he or she has successfully completed training in the use of such devices that is equivalent to the training received by commissioned law enforcement officers;

1 3. Any person who is involved in a convention, showing, demonstration, lecture, or
2 firearms safety course authorized by school authorities in which the firearms of collectors or instructors
3 are handled or displayed;

4 4. Any person while the person is participating in a firearms or air gun competition
5 approved by the school or school district;

6 5. Any person in possession of a pistol who has been issued a license under RCW
7 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping
8 off a student;

9 6. Any nonstudent at least eighteen (18) years of age legally in possession of a firearm or
10 dangerous weapon that is secured within an attended vehicle or concealed from view within a locked
11 unattended vehicle while conducting legitimate business at the school;

12 7. Any nonstudent at least eighteen (18) years of age who is in lawful possession of an
13 unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

14 8. Any law enforcement officer of the federal, state, or local government agency.

15 Section 27. A new section is added to Chapter 12A.14 of the Seattle Municipal Code as follows:

16 **12A.14.170 Weapons prohibited in certain places.**

17 A. It is unlawful for any person to enter the following places when he or she knowingly
18 possesses or knowingly has under his or her control a weapon:

19 1. The restricted access areas of a jail, or of a law enforcement facility, or any place used
20 for the confinement of a person (a) arrested for, charged with, or convicted of an offense, (b) held for
21 extradition or as a material witness, or (c) otherwise confined pursuant to an order of a court, except an
22 order under RCW Chapter 13.32A or 13.34. Restricted access areas do not include common areas of
23 egress or ingress open to the general public;
24

2. Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection

A2. For purposes of this subsection A2, "weapon" means any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slung shot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury. In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building. The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

3. The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

1 4. That portion of an establishment classified by the state liquor control board as off-
limits to persons under twenty-one (21) years of age; or

2 5. The restricted access areas of a commercial service airport designated in the airport
3 security plan approved by the federal transportation security administration, including passenger
4 screening checkpoints at or beyond the point at which a passenger initiates the screening process. These
5 areas do not include airport drives, general parking areas and walkways, and shops and areas of the
6 terminal that are outside the screening checkpoints and that are normally open to unscreened passengers
7 or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs
8 indicating that firearms and other weapons are prohibited in the area.

9 B. The perimeter of the premises of any specific location covered by subsection A of this section
10 shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the
11 possession of firearms on the premises.

12 C. Subsection A of this section does not apply to:

13 1. A person engaged in military activities sponsored by the federal or state governments,
14 while engaged in official duties;

15 2. Law enforcement personnel, except that subsection A2 of this section does apply to a
16 law enforcement officer who is present at a courthouse building as a party to an action under RCW
17 Chapter 10.14, 10.99, or 26.50, or an action under RCW Title 26 where any party has alleged the
18 existence of domestic violence as defined in RCW 26.50.010; or

19 3. Security personnel while engaged in official duties.

20 D. Subsections A1, A2, A3 and A5 of this section do not apply to correctional personnel or
21 community corrections officers, as long as they are employed as such, who have completed government-
22 sponsored law enforcement firearms training, except that subsection A2 of this section does apply to a
23
24

1 correctional employee or community corrections officer who is present at a courthouse building as a
2 party to an action under RCW Chapter 10.14, 10.99, or 26.50, or an action under RCW Title 26 where
3 any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

4 E. Subsection A1 of this section does not apply to a person licensed pursuant to RCW 9.41.070
5 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the
6 facility or the administrator's designee and obtains written permission to possess the firearm while on the
7 premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must
8 immediately and directly depart from the place or facility.

9 F. Subsection A3 of this section does not apply to any administrator or employee of the facility
10 or to any person who, upon entering the place or facility, directly and promptly proceeds to the
11 administrator of the facility or the administrator's designee and obtains written permission to possess the
12 firearm while on the premises.

13 G. Subsection A4 of this section does not apply to the proprietor of the premises or his or her
14 employees while engaged in their employment.

15 H. Government-sponsored law enforcement firearms training must be training that correctional
16 personnel and community corrections officers receive as part of their job requirement and reference to
17 such training does not constitute a mandate that it be provided by the correctional facility.

18 I. Any person violating subsection A of this section is guilty of a gross misdemeanor.

19 J. "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010,
20 or instrument or weapon listed in RCW 9.41.250.

21 Section 28. A new section is added to Seattle Municipal Code chapter 12A.14 as follows:

22 **12A.14.180 Unlawful delivery of pistol by dealer.**

23 A. No dealer may deliver a pistol to the purchaser thereof until:
24

1 The purchaser produces a valid concealed pistol license and the dealer has recorded
2 the purchaser's name, license number, and issuing agency, such record to be made in triplicate and
3 processed as provided in subsection D of this section. For purposes of this subsection A1, a "valid
4 concealed pistol license" does not include a temporary emergency license, and does not include any
5 license issued before July 1, 1996, unless the issuing agency conducted a records search for
6 disqualifying crimes under RCW 9.41.070 at the time of issuance;

7 2. The dealer is notified in writing by the chief of police or the sheriff of the jurisdiction
8 in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.070 and
9 that the application to purchase is approved by the chief of police or sheriff; or

10 3. Five (5) business days, meaning days on which state offices are open, have elapsed
11 from the time of receipt of the application for the purchase thereof as provided herein by the chief of
12 police or sheriff designated in subsection D of this section, and, when delivered, the pistol shall be
13 securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent
14 Washington driver's license or state identification card or has not been a resident of the state for the
15 previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty
16 days.

17 B. A dealer shall use the state system and national instant criminal background check system,
18 provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), to make
19 criminal background checks of applicants to purchase firearms.

20 C. In any case under subsection A3 of this section where the applicant has an outstanding
21 warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the
22 dealer shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by
23 appropriate court appearance.
24

1 D. 1. At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate
2 and deliver to the dealer an application containing his or her full name, residential address, date and
3 place of birth, race, and gender; the date and hour of the application; the applicant's driver's license
4 number or state identification card number; a description of the pistol including the make, model, caliber
5 and manufacturer's number if available at the time of applying for the purchase of a pistol. If the
6 manufacturer's number is not available, the application may be processed, but delivery of the pistol to
7 the purchaser may not occur unless the manufacturer's number is recorded on the application by the
8 dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the
9 purchaser resides; and a statement that the purchaser is eligible to possess a pistol under RCW 9.41.040.

10 2. The application shall contain a warning substantially as follows:

11 CAUTION: Although state and local laws do not differ, federal law and state law on the
12 possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be
13 prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal
14 prosecution.

15 3. The purchaser shall be given a copy of the department of fish and wildlife pamphlet
16 on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on
17 firearms are preempted by state law and must be consistent with state law.

18 4. The dealer shall, by the end of the business day, sign and attach his or her address and
19 deliver a copy of the application and such other documentation as required under subsection A of this
20 section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a
21 resident. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol to
22 the purchaser following the period of time specified in this section unless the dealer is notified of an
23 investigative hold under RCW 9.41.090(4) writing by the chief of police of the municipality or the
24

1 sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the
2 grounds thereof.

3 E. For purposes of this section, "dealer" means a person engaged in the business of selling
4 firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C.
5 Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18
6 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of
7 firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her
8 personal collection of firearms.

9 F. This section does not apply to sales to licensed dealers for resale or to the sale of antique
10 firearms.

11 G. Any person violating any provision of this section is guilty of a misdemeanor, subject to the
12 provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed and none of
13 the mental states described in Section 12A.04.030 need be proved.

14 Section 29. A new section is added to Seattle Municipal Code chapter 12A.14 as follows:

15 **12A.14.190 Unlawful sales by a dealer.**

16 A. No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her
17 possession with intent to sell, or otherwise transfer, any pistol, any firearm other than a pistol or any
18 ammunition without being licensed as provided in RCW 9.41.110

19 B. For purposes of this section, "dealer" means a person engaged in the business of selling
20 firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C.
21 Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18
22 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of
23
24

firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her
1 personal collection of firearms.

2 C. Any person violating any provision of this section is guilty of a misdemeanor, subject to the
3 provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed and none of
4 the mental states described in Section 12A.04.030 need be proved.

5 Section 30. A new section is added to Seattle Municipal Code chapter 12A.14 as follows:

6 **12A.14.200 Altering identifying marks of firearm.**

7 A. No person may change, alter, remove, or obliterate the name of the maker, model,
8 manufacturer's number, or other mark of identification on any firearm. Possession of any firearm upon
9 which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie
10 evidence that the possessor has changed, altered, removed, or obliterated the same.
11

12 B. This section shall not apply to replacement barrels in old firearms, which barrels are produced
13 by current manufacturers and therefor do not have the markings on the barrels of the original
14 manufacturers who are no longer in business. This section also shall not apply if the changes do not
15 make the firearm illegal for the person to possess under state or federal law.

16 C. Any person violating any provision of this section is guilty of a misdemeanor, subject to the
17 provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed and none of
18 the mental states described in Section 12A.04.030 need be proved.

19 Section 31. A new section is added to Seattle Municipal Code chapter 12A.14 as follows:

20 **12A.14.210 Unlawful discharge of laser.**

21 A. A person is guilty of unlawful discharge of a laser if he or she knowingly and maliciously
22 discharges a laser:
23
24

1. At a person who is operating a motor vehicle at the time, causing an impairment of the safety or operation of a motor vehicle by negatively affecting the driver; or

2. At any of the following persons and causing a substantial risk of the following described impairment or interruption:

a. At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties, causing an impairment of the safety or operation of a law enforcement vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the officer or employee; or

b. At a pilot, causing an impairment of the safety or operation of an aircraft or causing an interruption or impairment of service rendered to the public by negatively affecting the pilot; or

c. At a firefighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who is performing his or her official duties, causing an impairment of the safety or operation of an emergency vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the firefighter or employee; or

d. At a transit operator or driver of a public or private transit company while that person is performing his or her official duties, causing an impairment of the safety or operation of a transit vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the operator or driver; or

e. At a school bus driver employed by a school district or private company while the driver is performing his or her official duties, causing an impairment of the safety or operation of a school bus or causing an interruption or impairment of service by negatively affecting the bus driver.; or

3. At a person in order to intimidate or threaten that person.

1 B. For purposes of this section:

2 1. "Aircraft" means any contrivance known or hereafter invented, used, or designed for
3 navigation of or flight in air.

4 2. "Laser" means any device designed or used to amplify electromagnetic radiation by
5 stimulated emission which is visible to the human eye.

6 C. This section does not apply to the conduct of a laser development activity by or on behalf of
7 the United States armed forces.

8 Section 32. Subsection B of section 12A.16.040 of the Seattle Municipal Code is amended as
9 follows:

10 **12A.16.040 False reporting.**

11 A person is guilty of false reporting if he or she:

12 * * *

13 B. Knowingly makes a false or misleading material statement to a public servant. "Material
14 statement" means a written or oral statement reasonably likely to be relied upon by a public servant in
15 the discharge of his or her official powers or duties. (~~Makes, files or causes to be filed with a public~~
16 ~~officer of the City a written report, statement, application, citation or complaint which he knows to~~
17 ~~contain a misstatement of a material fact~~)); or

18 * * *

19 Section 33. A new section is added to Seattle Municipal Code Chapter 12A.16 as follows:

20 **12A.16.070 Disarming a law enforcement or corrections officer.**

21 A person is guilty of disarming a law enforcement officer if, with intent to interfere with the
22 performance of the officer's duties, the person attempts to knowingly remove a firearm or weapon from
23
24

1 the person of a law enforcement officer or corrections officer or attempts to knowingly deprive a law
2 enforcement officer or corrections officer of the use of a firearm or weapon, when the officer is acting
3 within the scope of the officer's duties, does not consent to the removal, and the person has reasonable
4 cause to know or knows that the individual is a law enforcement or corrections officer.

5 Section 34. A new section is added to Seattle Municipal Code Chapter 12A.24 as follows:

6 **12A.24.085 Public place or club – License required.**

7 A. No public place or club, or agent, servant or employee thereof, shall keep or allow to be kept,
8 either by itself, its agent, servant or employee, or any other person, any liquor in any place maintained or
9 conducted by such public place or club, nor shall it permit the drinking of any liquor in any such place,
10 unless the sale of liquor in said place is authorized by virtue of a valid and subsisting license issued by
11 the Washington State Liquor Control Board, or the consumption of liquor in said place is authorized by
12 a special banquet permit issued by said board. Every person who violates any provision of this section
13 shall be guilty of a gross misdemeanor.

14 B. "Public place," for purposes of this section only, shall mean in addition to the definition set
15 forth in Section 12A.24.025, any place to which admission is charged or in which any pecuniary gain is
16 realized by the owner or operator of such place in selling or vending food or soft drinks

17 Section 35. A new subsection is added to Section 12A.24.100 of the Seattle Municipal Code as
18 follows:

19 **12A.24.100 Unlawful possession, consumption, acquisition or purchase of liquor by a**
20 **minor.**

21 * * *

22 D. A person under the age of twenty-one (21) years acting in good faith who seeks medical
23 assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under
24

1 subsection A of this section, if the evidence for the charge was obtained as a result of the person seeking
2 medical assistance. A person under the age of twenty-one (21) years who experiences alcohol poisoning
3 and is in need of medical assistance shall not be charged or prosecuted under subsection A of this
4 section, if the evidence for the charge was obtained as a result of the poisoning and need for medical
5 assistance. The protection in this subsection shall not be grounds for suppression of evidence in other
6 criminal charges.

7 Section 36. Section 12A.24.130 of the Seattle Municipal Code is amended as follows:

8 **12A.24.130 Unlawful transfer and use of identification.**

9 A. A person is guilty of unlawful transfer of identification if the person ((he)) knowingly
10 permits his or her card of identification to be used by another or transfers such card of identification or
11 any identification of age to a person under the age of twenty-one (21) years for the purpose of aiding or
12 permitting such person to obtain liquor or gain admission to a premises or portion of a premises
13 classified by the Washington State Liquor Control Board as off-limits to persons under twenty-one (21)
14 years of age.

15 B. A ((and a)) person is guilty of unlawful use of such identification if the person ((he)) is under
16 the age of twenty-one (21) years and procures, has issued or transferred to him or her or uses such card
17 of identification or any ((an)) identification of age or possesses a card of identification or identification
18 of age not issued to him or her or otherwise makes false representations of his age for the purpose of
19 obtaining liquor.

20 Section 37. A new section is added to Seattle Municipal Code chapter 12A.24 as follows:

21 **12A.24.135 Sale to intoxicated person.**

22 No person shall knowingly sell any liquor to any person apparently under the influence of liquor.
23
24

Section 38. Subsection B of Section 12A.24.150 of the Seattle Municipal Code is amended as follows:

12A.24.150 Classification and penalty.

* * *

B. An offense under Sections 12A.24.080, 12A.24.085, ~~((and))~~ 12A.24.090 and Section 12A.24.100 A is designated a gross misdemeanor.

* * *

Section 39. A new section is added to Seattle Municipal Code Chapter 12A.28 as follows:

12A.28.080 Unlawful sale of food stamps.

A. A person is guilty of unlawful sale of food stamps if the person knowingly sells food stamps obtained through the program established under RCW 74.04.500 or food stamp benefits transferred electronically, or food purchased therewith.

B. Unlawful sale of food stamps is gross misdemeanor if the value of the stamps, benefits, or food transferred exceeds one hundred dollars. Otherwise, unlawful sale of food stamps is a misdemeanor.

Section 40. A new section is added to Seattle Municipal Code Chapter 12A.28 as follows:

12A.28.090 Trafficking in food stamps.

A person is guilty of trafficking in food stamps if the person purchases, or otherwise acquires and sells, or traffics in food stamps, as defined by the federal food stamp act, as amended, 7 U.S.C. Sec. 2011 et seq., or food stamp benefits transferred electronically.

Section 41. A new section is added to Seattle Municipal Code Chapter 12A.28 as follows:

12A.28.200 Definitions.

A. "Employ" includes to permit to work.

B. "Employee" includes any individual employed by an employer but shall not include:

1 1. Any individual (a) employed as a hand harvest laborer and paid on a piece rate basis
2 in an operation which has been, and is generally and customarily recognized as having been, paid on a
3 piece rate basis in the region of employment; (b) who commutes daily from his or her permanent
4 residence to the farm on which he or she is employed; and (c) who has been employed in agriculture less
5 than thirteen (13) weeks during the preceding calendar year;

6 2. Any individual employed in casual labor in or about a private home, unless performed
7 in the course of the employer's trade, business, or profession;

8 3. Any individual employed in a bona fide executive, administrative, or professional
9 capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the
10 Washington State Director of Labor and Industries. However, those terms shall be defined and
11 delimited by the Washington Office of Financial Management Human Resources Director pursuant to
12 RCW Chapter 41.06 for employees employed under the Washington State Director of Personnel's
13 jurisdiction;

14 4. Any individual engaged in the activities of an educational, charitable, religious, state
15 or local governmental body or agency, or nonprofit organization where the employer-employee
16 relationship does not in fact exist or where the services are rendered to such organizations gratuitously.
17 If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket
18 expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an
19 employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of
20 membership or qualification in any state, local government, or publicly supported retirement system
21 other than that provided under RCW Chapter 41.24
22
23
24

5. Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under RCW Chapter 41.24

6. Any newspaper vendor or carrier; newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

7. Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

8. Any individual engaged in forest protection and fire prevention activities;

9. Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

10. Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

11. Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

12. Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

13. All vessel operating crews of the Washington state ferries operated by the
1 Washington State Department of Transportation;

2 14. Any individual employed as a seaman on a vessel other than an American vessel;

3 C. "Employer" includes any individual, partnership, association, corporation, business trust, or
4 any person or group of persons acting directly or indirectly in the interest of an employer in relation to
5 an employee;

6 D. "Occupation" means any occupation, service, trade, business, industry, or branch or group of
7 industries or employment or class of employment in which employees are gainfully employed;

8 E. "Wage" means compensation due to an employee by reason of employment, payable in legal
9 tender of the United States or checks on banks convertible into cash on demand at full face value,
10 subject to such deductions, charges, or allowances as may be permitted by rules of the Washington State
11 Director of Labor and Industries.

12 Section 42. A new section is added to Seattle Municipal Code Chapter 12A.28 as follows

13 **12A.28.210 Prohibited acts of employers.**

14 A. Any employer who commits any of the following violations is guilty of a gross misdemeanor
15 subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed
16 for such violation and none of the mental states described in Section 12A.04.030 need be proved:

17 1. hinders or delays the Washington State Director of Labor and Industries or his or her
18 authorized representatives in the performance of his or her duties in the enforcement of RCW Chapter
19 49.46;

20 2. refuses to admit the Washington State Director of Labor and Industries or his or her
21 authorized representatives to any place of employment;
22
23
24

3. fails to make, keep, and preserve any records as required under the provisions of RCW
1 Chapter 49.46;

2 4. falsifies any such record, or refuses to make any record accessible to the Washington
3 State Director of Labor and Industries or his or her authorized representatives upon demand, or refuses
4 to furnish a sworn statement of such record or any other information required for the proper enforcement
5 of this chapter to the Washington State Director of Labor and Industries or his or her authorized
6 representatives upon demand;

7 5. pays or agrees to pay wages at a rate less than the rate applicable under RCW Chapter
8 49.46;

9 6. otherwise violates any provision of RCW Chapter 49.46 or of any regulation issued
10 under RCW Chapter 49.46; or

11 7. discharges or in any other manner discriminates against any employee because
12 a. such employee has made any complaint to his or her employer, to the
13 Washington State Director of Labor and Industries or his or her authorized representatives that he or she
14 has not been paid wages in accordance with the provisions of RCW Chapter 49.46 or that the employer
15 has violated any provision of RCW Chapter 49.46;

16 b. such employee has caused to be instituted or is about to cause to be instituted
17 any proceeding under or related to RCW Chapter 49.46; or

18 c. because such employee has testified or is about to testify in any such
19 proceeding.
20

21 Section 43. Section 16.20.110 of the Seattle Municipal Code is amended as follows:

22 **16.20.110 Intoxication.**
23
24

1 A. 1. It shall be unlawful for any person to operate or be in actual physical control of any
2 vessel or watercraft:

3 a. And the person has, within two (2) hours after operating or being in actual
4 physical control, an alcohol concentration of 0.08 or higher (~~more~~), as shown by analysis of the
5 person's breath or blood made under RCW 46.61.506 (~~Section 11.56.020~~)

6 b. And the person has, within two (2) hours after operating or being in actual
7 physical control, a THC concentration of 5.00 or higher as shown by analysis of the person's blood
8 made under RCW 46.61.506;

9 c. While the person is under the influence of or affected by intoxicating liquor,
10 marijuana or any drug; or

11 d. (~~e.~~) While the person is under the combined influence of or affected by
12 intoxicating liquor, marijuana and any drug.

13 2. The fact that a person charged with a violation of this subsection is or has been
14 entitled to use a drug under the laws of this state shall not constitute a defense against a charge of
15 violating this subsection.

16 3. a. Analysis of blood or breath samples obtained more than two (2) hours after the
17 alleged operating or being in actual physical control may be used as evidence that within two (2) hours
18 after the alleged operating or being in actual physical control a person had an alcohol concentration of
19 0.08 or higher (~~more~~) in violation of subsection A1a of this section, and in any case in which the
20 analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the
21 influence of or affected by intoxicating liquor or any drug in violation of subsections (~~A1b-0e~~) A1c or
22 A1d of this section.

1 b. Analyses of blood samples obtained more than two (2) hours after the alleged
2 operating or being in actual physical control may be used as evidence that within two (2) hours of the
3 alleged operating or being in actual physical control a person had a THC concentration of 5.00 or higher
4 in violation of subsection A1b of this section, and in any case in which the analysis shows a THC
5 concentration above 0.00 may be used as evidence that a person was under the influence of or affected
6 by marijuana in violation of subsection A1c or A1d of this section.

7 4. "Alcohol concentration" has the same meaning as in Section 11.14.023

8 5. "Drug" has the same meaning as in Section 11.14.183

9 6. "THC concentration" has the same meaning as in Section 11.14.637.

10 7. Notwithstanding Section 16.64.040, violation of this subsection is a gross
11 misdemeanor. In addition to the statutory penalties imposed, the court may order the defendant to pay
12 restitution for any damages or injuries resulting from the offense.

13 B. It shall be unlawful for the owner of any vessel or watercraft or any person having such in
14 charge or in control to authorize or knowingly permit the same to be operated by any person who is
15 under the influence of intoxicating liquor, marijuana or any drug.

16 C. Whenever it appears reasonably certain to any police or harbor officer that any person under
17 the influence of, or affected by the use of, intoxicating liquor, marijuana or of any drug is about to
18 operate a watercraft or vessel in violation of subsection A of this section, the officer may take reasonable
19 measures to prevent any such person from so doing, either by taking from him the keys of such
20 watercraft or vessel and locking the same, or by some other appropriate means. In any such case, the
21 officer shall immediately report the facts to his Commanding Officer of the Harbor Department, and
22 shall, as soon as possible, deposit the keys or other articles, if any, taken from the watercraft or vessel or
23 person with the Commanding Officer. Such keys or other articles may be returned to any person upon
24

his demand and proper identification of himself when it appears that he is no longer under the influence
1 of intoxicating liquor, marijuana or any drug.

2 Section 44. A new section is added to Seattle Municipal Code Chapter 16.20 as follows:

3 **16.20.112 Refusal to submit to test.**

4 A. A person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 is a class 1 civil
5 infraction under RCW 7.80.120, for which the maximum penalty and default amount is One Thousand
6 Dollars (\$1,000.00).

7 B. The refusal of a person to submit to a test of the alcohol concentration, THC concentration or
8 presence of any drug in the person's breath or blood is not admissible into evidence at a subsequent
9 criminal trial.

10 Section 45. Section 16.64.050 of the Seattle Municipal Code is amended as follows:

11 **16.64.050 Penalties for criminal offenses.**

12 The following offenses are misdemeanors and any person convicted of any of the following
13 offenses may be punished as described in Section 12A.02.070 of the Seattle Municipal Code:

- 14
- 15 1. Section 16.20.100—Reckless operation;
 - 16 2. ~~((Section 16.20.110—Intoxication;~~
 - 17 3.)) Section 16.20.140—Failure to obey; and
 - 18 3. ~~((4.))~~ Section 16.20.150—Failure to obey.

19 The following offenses are gross misdemeanors and any person convicted of any of the
20 following offenses may be punished as described in Section 12A.02.070 of the Seattle Municipal Code:

- 21
- 22 1. Section 16.20.110—Intoxication
 - 23 2. Section 16.20.115—Failure to stop;
 - 24 3. ~~((2.))~~ Section 16.24.010—Information and assistance.

Section 46. Subsection C of section 18.12.279 of the Seattle Municipal Code is amended as

1 follows:

2 **18.12.279 Trespass in parks—Definition—Punishment.**

3 * * *

4 C. Any person convicted of this crime may be punished by a fine in any sum not to exceed Five
5 Thousand Dollars (\$5,000) or by imprisonment in the City Jail for a term not to exceed three hundred
6 sixty-four (364) days (~~one (1) year~~), or by both such fine and imprisonment.

7 Section 47. This ordinance shall take effect and be in force thirty (30) days from and after its
8 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
9 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

10 Passed by the City Council the ____ day of _____, 2013, and signed by
11 me in open session in authentication of its passage this
12 ____ day of _____, 2013.

14 _____
President _____ of the City Council

15 Approved by me this ____ day of _____, 2013.

17 _____
Michael McGinn, Mayor

18 Filed by me this ____ day of _____, 2013.

19 _____
Monica Martinez Simmons, City Clerk

20 (Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Law	Richard Greene/684-8538	

Legislation Title:

AN ORDINANCE relating to the City's criminal code; amending and adding various sections and subsections in Chapters 6.240, 12A.02, 12A.06, 12A.08, 12A.10, 12A.14, 12A.16, 12A.24, 12A.28, 16.20, 16.64, 18.12 of the Seattle Municipal Code to conform with changes in state law.

Summary of the Legislation:

This ordinance adopts into Seattle's criminal code several crimes that are defined by state law, including the sale of tobacco products to a minor, assault with sexual motivation, violation of a Stalking no-contact order, unlawful imprisonment, forgery, possession of another person's identification, identity theft, trafficking in stolen property, computer trespass, indecent exposure, communicating with a minor for immoral purposes, aiming a firearm at a person, displaying a firearm, carrying a pistol without a concealed pistol license, failing to register as a firearms offender, carrying a loaded rifle in a car, possessing a firearm or other weapon at a school, jail, court, mental health facility, tavern or airport, delivery of a pistol by a dealer to an unauthorized person, sale of a firearm by a person without a dealer's license, altering the identifying marks of a firearm, discharging a laser, making a false statement to a public servant, disarming a law enforcement officer, selling alcohol without a license, selling alcohol to an intoxicated person, selling or purchasing food stamps, paying an employee less than minimum wage, and operating a watercraft with a THC concentration of 5.00. This ordinance also authorizes Municipal Court to issue a Stalking no-contact order as a condition of pretrial release or as a sentence condition and reduces the maximum jail sentence for Trespass in the Parks from 365 days to 364 days.

Background:

This ordinance is designed to make changes to Seattle's criminal code to reflect changes made to identical or similar state statutes by the 2013 Legislature and to add to the criminal code crimes defined by state law that are or might be charged by the City Attorney in Municipal Court.

Please check one of the following:

 X **This legislation does not have any financial implications.**

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

- b) **What is the financial cost of not implementing the legislation?** None seems apparent.
- c) **Does this legislation affect any departments besides the originating department?**
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** Doing nothing, as these crimes are already crimes under state law.
- e) **Is a public hearing required for this legislation?** No.
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** No.
- g) **Does this legislation affect a piece of property?** No.
- h) **Other Issues:**

List attachments to the fiscal note below:



Seattle City Attorney

Peter S. Holmes

August 27, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

Enclosed for the City Council's consideration is an ordinance making several changes to Seattle's criminal code to reflect changes made to the corresponding state statutes by the 2013 Legislature and to add to the code several crimes that currently are defined in state law.

Sections 1, 2 and 3 prohibit the sale of tobacco products to a minor. Section 5 creates the crime of assault with sexual motivation. Sections 6, 7 and 9 authorize Municipal Court to issue a stalking no-contact order as a condition of pretrial release or as a condition of sentence. Section 8 provides that violation of such an order is a crime. Sections 4 and 10 create the crime of unlawful imprisonment. Section 11 creates the crime of forgery. Section 12 creates the crime of possessing another's identification. Section 13 creates the crime of identity theft. Section 14 creates the crime of trafficking in stolen property. Section 15 creates the crime of computer trespass. Section 16 provides that the fee paid to redeem a car impounded because the owner was arrested for patronizing a prostitute remains with the City. Section 17 imposes a \$50 fee on a defendant convicted of indecent exposure. Section 18 creates the crime of indecent exposure. Section 19 creates the crime of communicating with a minor for immoral purposes. Section 20 creates the crime of aiming a firearm. Section 21 creates the crime of displaying a firearm to intimidate. Section 22 prohibits using a silencer. Section 23 creates the crime of failing to register as a firearms offender. Section 24 creates the crime of unlawful carrying a pistol. Section 25 creates the crime of possessing a loaded rifle in a car. Section 26 prohibits possessing a weapon at a school. Section 27 prohibits possessing a weapon at a jail, court, mental health facility, tavern or airport. Section 28 prohibits a gun dealer from delivering a pistol to an unauthorized person. Section 29 prohibits a person from selling a firearm without a dealer's license. Section 30 prohibits altering the identifying marks of a firearm. Section 31 prohibits discharge of a laser. Sections 4 and 32 prohibit making a false statement to a public servant. Section 33 creates the crime of disarming a law enforcement officer. Sections 34 and 38 prohibit selling alcohol without a license. Section 35 provides that a minor who seeks medical assistance for alcohol poisoning shall not be charged with the crime of being a minor in

August 27, 2013

Page 2

possession of alcohol. Section 36 prohibits a person from permitting his identification to be used by another person to enter a tavern. Section 37 prohibits selling alcohol to an intoxicated person. Section 39 prohibits the sale of food stamps. Section 40 prohibits trafficking in food stamps. Sections 41 and 42 prohibit an employer from paying less than minimum wage. Sections 43 and 45 prohibit operating a watercraft with a specified THC concentration. Section 44 creates the infraction of operating a watercraft and refusing to submit to breath or blood test for alcohol or drugs. Section 46 reduces the maximum jail penalty for trespassing in a park from 365 days to 364 days.

The reason for adding these state crimes to Seattle's criminal code is that a 2012 Supreme Court decision created some uncertainty as to the authority of the City Attorney to prosecute state crimes in Municipal Court and these are the crimes for which my office has filed charges in the past or might file charges in the future.

Thank you for your consideration of this legislation. Should you have questions, please contact Richard Greene at 684-8538.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter S. Holmes", written over a horizontal line.

Peter S. Holmes
Seattle City Attorney