

ORDINANCE No. 113824

Law Department

COUNCIL BILL No. 106546

The City of Seattle--Legislative

AN ORDINANCE relating to the City Traffic Code, amending Chapter 11.56.320, driving while license is suspended or revoked.

REPORT OF COMMITTEE

Honorable President:

Your Committee on

Public Safety

to which was referred the within Council Bill No. 106546 report that we have considered the same and respectfully recommend

*Do Pass
1-24-88*

2-0

COMPTROLLER FILE No. _____

Introduced: JAN 14 1988	By: <i>City Attorney</i>
Referred: JAN 14 1988	To: <i>Public Safety</i>
Referred:	To:
Referred:	To:
Reported: FEB 1 1988	Second Reading: FEB 1 1988
Third Reading: FEB 1 1988	Signed: FEB 1 1988
Presented to Mayor: FEB 2 1988	Approved: FEB 11 1988
Returned to City Clerk: FEB 14 1988	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: OK

FEB 2 1988

Do Pass

Norman B. Rice

Committee Chair

Law Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

Honorable President:

Your Committee on

Public Safety

to which was referred the within Council Bill No.

106546

report that we have considered the same and respectfully recommend that the same:

Do Pass

CONFIDENTIAL

Norman B. Rice

Committee Chair

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

#7 C.B. 106546

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ORDINANCE 113824

AN ORDINANCE relating to the City Traffic Code, amending Chapter 11.56.320, driving while license is suspended or revoked.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 11.56.320 of the Seattle Municipal Code, as last amended by Ordinance 109475 § 1 (part) is farther amended as follows:

11.56.320 Driving while license is suspended or revoked.

No person shall operate a motor vehicle on any street or alley or way open to the public at a time when that person is in a suspended or revoked status or when his or her privilege to do so is suspended or revoked or when his or her policy of insurance or bond required under RCW Chapter 46.20 shall ((or has)) have been canceled or terminated.

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(To be used for all Ordinances except Emergency.)

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Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 1st day of February, 1988,
and signed by me in open session in authentication of its passage this 1st day of
February, 1988.
President of the City Council.

Approved by me this 11th day of February, 1988
Charles Roper
Mayor.

Filed by me this 16th day of February, 1988

Attest: Howard J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published _____
By Theresa Dunbar
Deputy Clerk.

PUBLISH DO NOT PUBLISH
CITY ATTORNEY _____



Seattle City Council
Memorandum

#7
C.B.106546

Date: January 29, 1988
To: Full Council
From: Norman B. Rice, Chair
Public Safety Committee
Subject: C.B. 106546

Norman B. Rice

Enclosed is a proposed ordinance amending Seattle Municipal Code 11.56.320, restricting individuals who drive while their driver's license is suspended or revoked. The purpose of the amendment is to make the ordinance equally applicable to those individuals who have never had a driver's license, but who are driving while their status to obtain a license is suspended or revoked.

In a 1975 case, a defendant successfully challenged the wording of the state statute on the grounds that, since he had never had a driver's license, his "privilege to drive" could not have been suspended. The Washington Court of Appeals agreed with the defendant and held that a person must have previously possessed a valid driver's license in order to have violated the statute.

In response to this ruling, the Washington State Legislature enacted a new statute, RCW 46.20.416, specifically for individuals who drive while their status to obtain a license is either suspended or revoked.

The changes in the wording of SMC 11.56.320 will bring the City ordinance into compliance with the Court's holding. The City will be able to prosecute individuals who have never had a license and whose status to obtain one is suspended or revoked.

The Public Safety Committee unanimously voted to pass this proposed ordinance.

NR:ksr

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THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING, SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 684-8200

DOUGLAS N. JEWETT, CITY ATTORNEY

December 23, 1987

The Honorable Norm Rice
Chair, Public Safety Committee
Seattle City Council
Municipal Building

Re: Proposed amendment to driving while suspended ordinance

Dear Councilmember Rice:

Enclosed is a proposed ordinance amending Seattle Municipal Code § 11.56.320, which deals with individuals who drive while their driver's license is either suspended or revoked. The purpose of the change is to make the ordinance equally applicable to those individuals who have never had a driver's license, but who are driving while their status to obtain a license is suspended or revoked.

Several years ago, the language of SMC § 11.56.320 was virtually identical to RCW § 46.20.342. At that time, RCW § 46.20.342 read as follows:

Any person who drives a motor vehicle on any public highway of this state at a time when his privilege to do so is suspended or revoked or when his policy of insurance or bond, when required under this chapter, shall have been cancelled or terminated, shall be guilty of misdemeanor.

In a 1975 case, Aberdeen v. Cole, 13 Wn.App. 617, 537 P.2d 1073, a defendant successfully challenged the wording of this statute on the grounds that, since he had never had a driver's license, his "privilege to drive" could not have been suspended. The Washington Court of Appeals agreed with Mr. Cole and held that a person must have previously possessed a valid driver's license in order to have violated the statute.

In response to this ruling, the Washington State Legislature enacted a new statute, RCW 46.20.416, to specifically cover individuals who drive while their status to obtain a license is either suspended or revoked.

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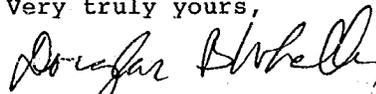
The Honorable Norm Rice
December 23, 1987
Page 2

In 1987 the legislature rewrote RCW 46.20.342 to incorporate all the necessary language from RCW 46.20.416, and this amendment is based upon that statute. A copy is attached.

The changes which we are requesting in the wording of SMC § 11.56.320 will bring the ordinance into compliance with the Cole holding. We will be able to prosecute individuals who have never had a license and whose status to obtain one is suspended or revoked.

I am available to answer any questions you or other council members may have. I request early consideration of this proposal.

Very truly yours,



DOUGLAS B. WHALLEY
Director
Criminal Division

cc: Leo Poort
Seattle Police Department
Anne Levinson
Mayor's Office

DBW:sr
II:LET2.
Enclosure

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C-341-X

Affidavit of Publication

City of Seattle

ORDINANCE 113824

AN ORDINANCE relating to the City Traffic Code, amending Chapter 11.56.320, driving while license is suspended or revoked.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 11.56.320 of the Seattle Municipal Code, as last amended by Ordinance 109475 § 1 (part) is further amended as follows:

11.56.320 Driving while license is suspended or revoked.

No person shall operate a motor vehicle on any street or alley or way open to the public at a time when THAT PERSON IS IN A SUSPENDED OR REVOKED STATUS OR WHEN his OR HER PRIVILEGE to do so is suspended or revoked or when his OR HER policy of insurance or bond required under RCW Chapter 46.20 shall (or has) HAVE been cancelled or terminated.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 1st day of February, 1988, and signed by me in open session in authentication of its passage this 1st day of February, 1988.

SAM SMITH,
President of the City Council.
Approved by me this 11th day of February, 1988.

CHARLES ROYER,
Mayor.
Filed by me this 16th day of February, 1988.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.
(Seal) By THERESA DUNBAR,
Deputy Clerk.
Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.
(Bold face denotes deletion.)
Date of official publication in Daily Journal of Commerce, Seattle, February 19, 1988. (C-341-X)

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a
Ordinance No. 113824

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was published on February 19, 1988
.....

.....
Subscribed and sworn to before me on
February 19, 1988

.....
Notary Public for the State of Washington,
residing in Seattle.

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