

ORDINANCE No. 11687a

COUNCIL BILL No. 109836

AN ORDINANCE preserving prosecutions under repealed or expired criminal or traffic ordinances, prohibiting off-street driving without a driver's license, correcting drafting errors in Code section numbers in the list of criminal traffic offenses, changing the definition of the crimes of Driving While Intoxicated and Physical Control with respect to the time period within which a breath or blood alcohol test is performed, et al.

# The City of Seattle - Legislative

## REPORT OF COMMITTEE

Honorable President:

Your Committee on \_\_\_\_\_  
to which was referred the within Council Bill No. \_\_\_\_\_  
report that we have considered the same and respectfully recommend that

*Full Council vote 7-0*

Committee Chair

### COMPTROLLER FILE No.

Introduced: <u>SEP 21 '93</u>	By: <u>PAGELER</u>
Referred: <u>SEP 23 '93</u>	To: <u>PUBLIC SAFETY COMMITTEE</u>
Referred:	To:
Referred:	To:
Reported: <u>SEP 27 '93</u>	Second Reading: <u>SEP 27 '93</u>
Third Reading: <u>SEP 27 '93</u>	Signed: <u>SEP 27 '93</u>
Presented to Mayor: <u>SEP 28 '93</u>	Approved: <u>SEP 30 '93</u>
Returned to City Clerk: <u>SEP 29 '93</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

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AN ORDINANCE preserving prosecutions under repealed or expired criminal or traffic ordinances, prohibiting off-street driving without a driver's license, correcting drafting errors in Code section numbers in the list of criminal traffic offenses, changing the definition of the crimes of Driving While Intoxicated and Physical Control with respect to the time period within which a breath or blood alcohol test is performed, providing an affirmative defense to Driving While Intoxicated and Physical Control regarding consumption of alcohol after driving or being in physical control of a vehicle but before performance of the breath or blood alcohol test, providing that evidence of a breath or blood alcohol test performed after this time period is admissible in a prosecution for Driving While Intoxicated or Physical Control, requiring that an alcohol evaluation performed on a person convicted of Driving While Intoxicated or Physical Control be sent to the Washington Department of Licensing, requiring that suspension or deferral of a minimum jail sentence for a person convicted of Driving While Intoxicated or Physical Control pose a substantial risk to the person's health, clarifying the conditions under which a minimum sentence is required for a person previously convicted of Driving While Intoxicated or Physical Control who commits one of these crimes while having a suspended or revoked driver's license, increasing the minimum fine required for a person previously convicted of Driving While Intoxicated or Physical Control who commits one of these crimes while having a suspended or revoked driver's license, clarifying the court's authority to sentence a person for a repeat conviction of Driving While Intoxicated or Physical Control, enlarging the period of probation for a repeat conviction of Driving While Intoxicated or Physical Control, imposing a fee on persons convicted of an offense or granted a deferred prosecution as a result of an arrest for Driving While Intoxicated, Physical Control, Vehicular Homicide or Vehicular Assault, reducing the mandatory minimum sentence for a person convicted of a third or subsequent Driving While License Suspended or Revoked 1°, expanding the definition of the crime of Driving While License Suspended or Revoked 3°, repealing the requirement that the mental state of a crime applies to each element, changing the definition of the crime of Assault, repealing the crime of Simple Assault, eliminating one means of committing the crime of Menacing, creating the crime of Stalking, prohibiting certain conduct at bus stops and in the bus tunnel, expanding the list of crimes conviction of which precludes a person from obtaining a concealed pistol license, revising the requirements for applying for a concealed pistol license, increasing the fee for issuance and renewal of a concealed pistol license, expanding the grounds for denial and revocation of a concealed pistol license, correcting a drafting error in the definition of the crime of Unlawful Use of Weapons, repealing a redundant provision for forfeiture of a firearm found in the possession of an intoxicated person, amending Sections 11.20.010, 11.34.020, 11.56.020, 11.56.320, 12A.06.010, 12A.06.030, 12A.12.040, 12A.14.010, 12A.14.020, 12A.14.035 and 12A.14.080, adding sections to Chapter 11.10, Chapter 12A.02 and Chapter 12A.06 and repealing Sections 12A.04.020, 12A.04.040, 12A.06.015 and 12A.14.150 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapter 11.10 of the Seattle Municipal Code (Ordinance 108200, as amended) is further amended by adding the following section:

11.10.130 Prosecution under expired or repealed ordinance.

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1 No offense committed and no penalty or forfeiture incurred  
2 previous to the time when any ordinance expires or is repealed,  
3 whether such repeal be express or implied, shall be affected by  
4 such expiration or repeal, unless a contrary intention is  
5 expressly declared in the expiring or repealing ordinance, and  
6 no prosecution for any offense or for the recovery of any  
7 penalty or forfeiture pending at the time any ordinance expires  
8 or is repealed, whether such repeal be express or implied, shall  
9 be affected by such expiration or repeal, but the same shall  
10 proceed in all respects as if such ordinance had not expired or  
11 been repealed, unless a contrary intention is expressly declared  
12 in the expiring or repealing ordinance. Whenever any ordinance  
13 defining an offense or making conduct unlawful is amended or  
14 repealed, whether such amendment or repeal be express or  
15 implied, any offense committed, conduct engaged in or penalty or  
16 forfeiture incurred while the ordinance was in force shall be  
17 punished or enforced as if the ordinance were in force,  
18 notwithstanding such amendment or repeal, unless a contrary  
19 intention is expressly declared in the amendatory or repealing  
20 ordinance, and every such amendatory or repealing ordinance  
21 shall be so construed as to save all proceedings under the  
22 amended or repealed ordinance pending at the time of the  
23 amendatory or repealing ordinance, unless a contrary intention  
24 is expressly declared therein.

25 Section 2. Section 11.20.010 of the Seattle Municipal Code  
26 (Ordinance 108200 § 1 (11.20.010), as last amended by Ordinance  
27 109476 § 3), is further amended as follows:

28 **11.20.010 Driver's license required -- Exception.**

No person, except those expressly exempted by RCW Chapter  
46.20, shall operate a motor vehicle (~~upon any street or  
alley~~) within the City unless such person has a valid driver's  
license issued under the provisions of RCW Chapter 46.20 (RCW  
46.20.021).

Section 3. Section 11.34.020 of the Seattle Municipal Code  
(Ordinance 108200 § 2 (11.34.020), as last amended by Ordinance

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116538 § 2) is further amended as follows:

**11.34.020 Penalties for criminal offenses.**

A. Any person convicted of any of the following offenses  
1 may be punished by a fine in any sum not to exceed Five Thousand  
2 Dollars (\$5,000.00) or by imprisonment for a term not to exceed  
3 one (1) year, or by both such fine and imprisonment:

4 1. Section 11.55.340((-)) Vehicles carrying  
5 explosives, flammable liquids and poison gas, liquefied  
6 petroleum gas (LPG) and cryogenics must stop at all railroad  
7 grade crossings;

8 2. Section 11.56.120, Reckless driving;

9 3. Section 11.56.320(B), Driving while license is  
10 suspended or revoked in the first degree;

11 4. Section 11.56.320(C), Driving while license is  
12 suspended or revoked in the second degree;

13 5. Section 11.56.340, Operation of motor vehicle  
14 prohibited while license is suspended or revoked;

15 6. Section 11.56.420, Hit and run (attended);

16 7. Section 11.56.445, Hit and run (by an unattended  
17 vehicle);

18 8. Section 11.56.450, Hit and run (pedestrian or  
19 person on a device propelled by human power);

20 9. Section 11.60.690, Transportation of liquefied  
21 petroleum gas;

22 10. Section 11.62.020, Flammable liquids, combustible  
23 liquids and hazardous chemicals;

24 11. Section 11.62.040, Explosives;

25 12. Section 11.80.140(B), Certain vehicles to carry  
26 flares or other warning devices (subsection B only);

27 13. Section 11.80.160(E), Display of warning devices  
28 when vehicle disabled (subsection E only);

14. Section 11.84.380, Fire extinguishers;

15. Section 11.86.080, Flammable or combustible  
labeling;

16. Section 11.86.100, Explosive cargo labeling;

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17. Section 11.34.040, with respect to aiding and abetting the foregoing criminal offenses.

B. Any person convicted of any of the following offenses may be punished by a fine in any sum not to exceed One Thousand Dollars (\$1,000.00) or by imprisonment for a term not to exceed ninety (90) days, or by both such fine and imprisonment:

1. Section 11.20.010, Driver's license required -- Exception;

2. Section 11.20.100, Display of nonvalid driver's license;

3. Section 11.20.120, Loaning driver's license;

4. Section 11.20.140, Displaying the driver's license of another;

5. Section 11.20.160, Unlawful use of driver's license;

6. Section 11.20.((250—E))350, Providing false evidence of financial responsibility;

7. Section 11.31.090, Failure to respond-- Written and signed promise;

8. Section 11.31.100, Failure to respond-- Parked, stopped or standing notice;

9. Section 11.32.100, Failure to appear;

10. Section 11.40.430, Prohibited entry to no admittance area;

11. Section 11.56.((230—B))320(D), Driving while license is suspended or revoked in the third degree;

12. Section 11.56.430, Hit and run (unattended vehicle) -- Duty in case of accident with unattended vehicle;

13. Section 11.56.440, Hit and run (property damage) -- Duty in case of accident with property;

14. Section 11.58.190, Leaving minor children in unattended vehicle;

15. Section 11.59.010, Obedience to peace officers, flaggers, and firefighters;

16. Section 11.59.040, Refusal to give information to

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or to cooperate with officer;

17. Section 11.59.060, Refusal to stop;

18. Section 11.59.080, Examination of equipment;

19. Section 11.59.090, Duty to obey peace officer--

Traffic infraction;

20. Section 11.34.040, Aiding and abetting with respect to the criminal offenses in this subsection.

Section 4. Section 11.56.020 of the Seattle Municipal Code (Ordinance 108200 § 2(11.56.020), as last amended by Ordinance 113550 § 1) is further amended as follows:

**11.56.020 Persons under the influence of intoxicating liquor or any drug-- Chemical analysis-- Tests, evidence and penalties.**

A. Driving While Intoxicated.

1. A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within the City ((while)):

a. and the ((The)) person has 0.10 grams or more of alcohol per two hundred ten (210) liters of breath within two (2) hours after driving, as shown by analysis of the person's breath made under the provisions of this section; or

b. and the ((The)) person has 0.10 percent or more by weight of alcohol in the person's blood within two (2) hours after driving, as shown by analysis of the person's blood made under the provisions of this section; or

c. while the ((The)) person is under the influence of or affected by intoxicating liquor or any drug; or

d. while the ((The)) person is under the combined influence of or affected by intoxicating liquor and any drug.

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

3. It is an affirmative defense to a violation of subsections 1a and 1b of this section which the defendant must

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1 prove by a preponderance of the evidence that the defendant  
2 consumed a sufficient quantity of alcohol after the time of  
3 driving and before the administration of an analysis of the  
4 person's breath or blood to cause the defendant's alcohol  
5 concentration to be 0.10 or more within two (2) hours after  
6 driving. The court shall not adm't evidence of this defense  
7 unless the defendant notifies the prosecution prior to the  
8 omnibus or pretrial hearing in the case of the defendant's  
9 intent to assert the affirmative defense.

10 4. Analysis of blood or breath samples obtained more  
11 than two (2) hours after the alleged driving may be used as  
12 evidence that within two (2) hours after the alleged driving a  
13 person had 0.10 grams or more of alchoh' per two hundred ten  
14 (210) liters of breath or 0.10 percent or more of alcohol in the  
15 person's blood, pursuant to subsections Ala and Alb of this  
16 section, and may be used in evidence that a person was under the  
17 influence of or affected by intoxicating liquor or any drug,  
18 pursuant to subsections A1c and A1d of this section.

19 B. Physical Control.

20 1. A person is guilty of being in actual physical  
21 control of a motor vehicle while under the influence of  
22 intoxicating liquor or any drug if the person has actual  
23 physical control of a vehicle within the City ((while)):

24 a. and the ((The)) person has 0.10 grams or  
25 more of alcohol per two hundred ten (210) liters of breath  
26 within two (2) hours after being in actual physical control of  
27 a motor vehicle, as shown by analysis of the person's breath  
28 made under the provisions of this section; or

b. and the ((The)) person has 0.10 percent or  
more by weight of alcohol in the person's blood within two (2)  
hours after being in actual physical control of a motor vehicle,  
as shown by analysis of the person's blood made under the  
provisions of this section; or

c. while the ((The)) person is under the  
influence of or affected by intoxicating liquor or any drug; or

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d. while the ((The)) person is under the combined influence of or affected by intoxicating liquor and any drug.

1           2. The fact that any person charged with a violation  
2 of this subsection is or has been entitled to use such drug  
3 under the laws of this state shall not constitute a defense  
4 against any charge of violating this subsection. No person may  
5 be convicted under this subsection if, prior to being pursued by  
6 a law enforcement officer, the person has moved the vehicle  
7 safely off the roadway.

8           3. It is an affirmative defense to a violation of  
9 subsections B1a and B1b of this section which the defendant must  
10 prove by a preponderance of the evidence that the defendant  
11 consumed a sufficient quantity of alcohol after the time of  
12 being in actual physical control of a motor vehicle and before  
13 the administration of an analysis of the person's breath or  
14 blood to cause the defendant's alcohol concentration to be 0.10  
15 or more within two (2) hours after being in actual physical  
16 control of a motor vehicle. The court shall not admit evidence  
17 of this defense unless the defendant notifies the prosecution  
18 prior to the omnibus or pretrial hearing in the case of the  
19 defendant's intent to assert the affirmative defense.

20           4. Analysis of blood or breath samples obtained more  
21 than two (2) hours after the alleged actual physical control of  
22 a motor vehicle may be used as evidence that within two (2)  
23 hours after the alleged being in actual physical control of a  
24 motor vehicle a person had 0.10 grams or more of alcohol per two  
25 hundred ten (210) liters of breath or 0.10 percent or more of  
26 alcohol in the person's blood, pursuant to subsections B1a and  
27 B1b of this section, and may be used in evidence that a person  
28 was under the influence of or affected by intoxicating liquor or  
any drug, pursuant to subsections B1c and B1d of this section.

C. Implied Consent ((Control)).

Any person who operates a motor vehicle within the City is deemed to have given consent, subject to the provisions of this

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1 section, to a test or tests of his or her breath or blood for  
2 the purpose of determining the alcoholic content of his or her  
3 breath or blood if arrested for any offense where, at the time  
4 of the arrest, the arresting officer has reasonable grounds to  
5 believe the person had been driving or was in actual physical  
6 control of a motor vehicle while under the influence of  
7 intoxicating liquor. The test or tests of breath shall be  
8 administered at the direction of a law enforcement officer  
9 having reasonable grounds to believe the person to have been  
10 driving or in actual physical control of a motor vehicle within  
11 the City while under the influence of intoxicating liquor.  
12 However, in those instances where: (1) the person is incapable  
13 due to physical injury, physical incapacity, or other physical  
14 limitation, of providing a breath sample; or (2) as a result of  
15 a traffic accident the person is being treated for a medical  
16 condition in a hospital, clinic, doctor's office, or other  
17 similar facility in which a breath testing instrument is not  
18 present, a blood test shall be administered by a qualified  
19 person as provided in RCW 46.61.506(4).

20 The officer shall inform the person of the person's  
21 right to refuse the breath or blood test, and of the person's  
22 right to have additional tests administered by any qualified  
23 person of the person's choosing as provided elsewhere in this  
24 section. The officer shall warn the driver that the driver's  
25 privilege to drive will be revoked or denied if the driver  
26 refuses to submit to the test. The officer shall warn the  
27 driver that the driver's refusal to take the test may be used in  
28 a criminal trial. Except as provided in this section, the test  
administered shall be of the breath only. If an individual is  
unconscious or is under arrest for the crime of vehicular  
homicide as provided in RCW 46.61.520, or vehicular assault as  
provided in RCW 46.61.522, or if an individual is under arrest  
for the crime of driving while under the influence of  
intoxicating liquor or drugs as provided in this section, which  
arrest results from an accident in which another person has been

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injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested.

D. Person Incapable of Refusal.

Any person who is dead, unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection C of this section and the test or tests may be administered, subject to the provisions hereof, and the person shall be deemed to have received the warnings required under subsection C of this section.

E. Refusal to Submit to Test.

If, following his/her arrest and receipt of warnings under subsection C of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test of his/her breath or blood, no test shall be given except as authorized under subsection C or D of this section. The law enforcement officer shall forward to the Department of Licensing a sworn report that the officer has reasonable grounds to believe that the arrested person had been driving or was in actual physical control of a motor vehicle within the City under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that such refusal would result in the revocation or denial of his/her privilege to drive.

F. Admissibility of Evidence.

Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the amount of alcohol in the person's blood or breath at the time alleged as shown by analysis of the person's blood or breath is less than 0.10 percent by weight of alcohol in the

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1 person's blood or 0.10 grams of alcohol per two hundred ten  
2 (210) liters of the person's breath, it is evidence that may be  
3 considered with other competent evidence in determining whether  
4 the person was under the influence of intoxicating liquor or any  
5 drug. The breath analysis shall be based upon grams of alcohol  
6 per two hundred ten (210) liters of breath. The foregoing  
7 provisions of this subsection shall not be construed as limiting  
8 the introduction of any other competent evidence bearing upon  
9 the question whether the person was under the influence of  
10 intoxicating liquor or any drug.

11 G. Methods of Analysis.

12 Analysis of the person's blood or breath to be considered  
13 valid under the provisions of this section shall have been  
14 performed according to methods approved by the State  
15 Toxicologist and by an individual possessing a valid permit  
16 issued by the State Toxicologist for this purpose.

17 H. Blood Tests.

18 When a blood test is administered in accordance with this  
19 section, the withdrawal of blood for the purpose of determining  
20 its alcoholic content may be performed only by a physician, a  
21 registered nurse, or a qualified technician. This limitation  
22 shall not apply to the taking of breath specimens.

23 I. Right to Additional Tests.

24 The person tested may have a physician or a qualified  
25 technician, chemist, registered nurse or other qualified person  
26 of his or her own choosing administer one (1) or more tests in  
27 addition to any administered at the direction of a law  
28 enforcement officer. The failure or inability to obtain an  
additional test by a person shall not preclude the admission of  
evidence relating to the test or tests taken at the direction of  
a law enforcement officer.

J. Right to Information.

Upon the request of the person who shall submit to a test  
or tests at the request of a law enforcement officer, full  
information concerning this test or tests shall be made

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available to him/her or his/her attorney.

K. Penalty.

1. Every person who is convicted of a violation of the provisions of this section shall be punished by imprisonment for not less than twenty-four (24) consecutive hours nor more than one (1) year, and by a fine of not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00). Unless the judge finds the person to be indigent, Two Hundred Fifty Dollars (\$250.00) of the fine shall not be suspended or deferred. The convicted person shall, in addition, be required to complete a course at an alcohol information school approved by the Washington Department of Social and Health Services or more intensive treatment in a program approved by the Washington Department of Social and Health Services, as determined by the court. A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the Washington Department of Social and Health Services or a qualified probation department approved by the Washington Department of Social and Health Services. The report shall be sent to the Washington Department of Licensing. Based on the diagnostic evaluation, the court shall determine whether the convicted person shall be required to complete a course in an alcohol information school approved by the Washington Department of Social and Health Services or more intensive treatment in a program approved by the Washington Department of Social and Health Services. (~~(If, after completing an alcohol evaluation at the alcohol information school, the convicted person is found to have a serious alcohol problem, the alcohol information school may recommend more intensive alcoholism treatment in a program approved by the Washington State Department of Social and Health Services. In the alternative, the court may bypass alcohol information school if the court determines that more intensive alcoholism treatment in a program approved by the Department of Social and Health Services is appropriate.)~~)

1 Twenty-four (24) consecutive hours of the jail sentence shall  
2 not be suspended or deferred unless the judge finds that the  
3 imposition of the jail sentence will pose a substantial risk to  
4 the defendant's physical or mental well-being. Whenever the  
5 mandatory jail sentence is suspended or deferred, the judge must  
6 state, in writing, the reason for granting the suspension or  
7 deferral and the facts upon which the suspension or deferral is  
8 based. The court may impose conditions of probation that may  
9 include nonrepetition of the offense, alcohol or drug treatment,  
10 supervised probation, or other conditions which may be  
11 appropriate.

12 2. Upon a second or subsequent conviction for a  
13 violation of the provisions of this section within a five (5)  
14 year period, a person shall be punished by imprisonment for not  
15 less than seven (7) days nor more than one (1) year and by a  
16 fine of not less than Five Hundred Dollars (\$500.00) and not  
17 more than Two Thousand Dollars (\$2,000.00). Unless the judge  
18 finds the person to be indigent, Five Hundred Dollars (\$500.00)  
19 of the fine shall not be suspended or deferred. The minimum  
20 jail sentence shall not be suspended or deferred unless the  
21 judge finds that the imposition of a jail sentence will pose a  
22 substantial risk to the defendant's physical or mental  
23 well-being. Whenever the mandatory jail sentence is suspended  
24 or deferred, the judge must state, in writing, the reason for  
25 granting the suspension or deferral and the facts upon which the  
26 suspension or deferral is based. If, at the time of the arrest  
27 on a second or subsequent ((conviction)) offense, the driver is  
28 without a license or permit because of a previous suspension or  
revocation for a reason listed in Section 11.56.320 B, Section  
11.56.320 C, Section 11.56.320 D (if the original suspension or  
revocation was the result of a conviction of subsection A or B  
of this section, RCW 46.61.502 or RCW 46.61.504), RCW  
46.20.342(1)(a), RCW 46.20.342(1)(b) or RCW 46.20.342(1)(c) (if  
the original suspension or revocation was the result of a  
conviction of subsection A or B of this section, RCW 46.61.502

1 or RCW 46.61.504), the minimum mandatory sentence shall be  
2 ninety (90) days in jail and a ~~((Two))~~ Five Hundred Dollar  
3 ~~(\$((2))500.00)~~ fine. The penalty so imposed shall not be  
4 suspended or deferred. The person shall, in addition, be  
5 required to complete a diagnostic evaluation by ~~((at))~~ an  
6 alcoholism agency ~~((program))~~ approved by the Washington State  
7 Department of Social and Health Services or a qualified  
8 probation department approved by the Washington Department of  
9 Social and Health Services ~~((other diagnostic evaluation as the~~  
10 court designates)). The report shall be sent to the Washington  
11 Department of Licensing. If the person is found to have an  
12 alcohol or drug problem requiring treatment, the person shall  
13 complete treatment at an approved alcoholism treatment program  
14 ~~((facility))~~ or approved drug treatment center.

15 In addition to any nonsuspendable and nondeferrable  
16 jail sentence required by the preceding paragraph relating to a  
17 second or subsequent conviction, whenever the court imposes less  
18 than one (1) year in jail, the court shall ~~((sentence a person~~  
19 ~~to a term of imprisonment not exceeding one hundred and eighty~~  
20 ~~(180) days and shall))~~ also suspend but shall not defer ((the  
21 sentence)) a period of confinement for a period not exceeding  
22 two (2) ((one (1))) years.

23 The suspension of the sentence may be conditioned upon  
24 nonrepetition, alcohol or drug treatment, supervised probation,  
25 or other conditions that may be appropriate. The sentence may  
26 be imposed in whole or in part upon violation of a condition of  
27 suspension during the suspension period.

28 3. Until June 30, 1995, in addition to the penalties  
set forth in this subsection, a fee of One Hundred Twenty-Five  
Dollars (\$125.00) shall be assessed to a person who is either  
convicted, sentenced to a lesser charge or given a deferred  
prosecution as a result of an arrest for violating subsection A  
or B of this section, RCW 46.61.520 or RCW 46.61.522. Upon a  
verified petition by the person assessed the fee, the court may  
suspend payment of all or part of the fee if it finds that the

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person does not have the ability to pay. The fee shall be collected by the clerk of the court and distributed according to RCW 46.61.515(6).

1 L. Refusal Admissible.

2 The refusal of a person to submit to a test of the  
3 alcoholic content of the person's blood or breath under Seattle  
4 Municipal Code Section 11.56.020 C is admissible into evidence  
5 at a subsequent criminal trial.

6 Section 5. Section 11.56.320 of the Seattle Municipal Code  
7 (Ordinance 108200 § 2 (11.56.320), as last amended by Ordinance  
8 115757 § 3) is further amended as follows:

9 **11.56.320 Driving while license is suspended or revoked.**

10 A. It is unlawful for any person to drive a motor vehicle  
11 within the City while that person is in a suspended or revoked  
12 status or when his or her privilege to drive is suspended or  
13 revoked in this or any other state.

14 B. A person found to be an habitual offender under  
15 chapter 46.65 RCW, who violates this section while an order of  
16 revocation issued under chapter 46.65 RCW prohibiting such  
17 operation is in effect, is guilty of driving while license  
18 suspended or revoked in the first degree, a gross misdemeanor.  
19 Upon the first such conviction, the person shall be punished by  
20 imprisonment for not less than ten (10) days. Upon the second  
21 conviction, the person shall be punished by imprisonment for not  
22 less than ninety (90) days. Upon the third or subsequent  
23 conviction, the person shall be punished by imprisonment for not  
24 less than one (~~(1) year~~) hundred eighty (180) days. If the  
25 person is also convicted of the offense defined in Section  
26 11.56.020(A) or Section 11.56.020(B), when both convictions  
27 arise from the same event, the minimum sentence of confinement  
28 shall be not less than ninety (90) days. The minimum sentence  
of confinement required shall not be suspended or deferred.

C. A person who violates this section while an order of  
suspension or revocation prohibiting such operation is in effect  
and while the person is not eligible to reinstate his or her

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1 driver's license or driving privilege, other than for a  
2 suspension for the reasons described in subsection D of this  
3 section, is guilty of driving while license suspended or revoked  
4 in the second degree, a gross misdemeanor. This subsection  
5 applies when a person's driver's license or driving privilege  
6 has been suspended or revoked by reason of:

7 (1) A conviction of a felony in the commission of  
8 which a motor vehicle was used;

9 (2) A previous conviction under this section;

10 (3) A notice received by the Washington  
11 ~~((d))~~ Department of Licensing from a court or diversion unit as  
12 provided by RCW 46.20.265, relating to a minor who has  
13 committed, or who has entered a diversion ~~((unit))~~ agreement  
14 concerning an offense relating to alcohol, legend drugs,  
15 controlled substances, or imitation controlled substances;

16 (4) A conviction relating to the violation of  
17 restrictions of an occupational driver's license;

18 (5) A conviction relating to the operation of a motor  
19 vehicle with a suspended or revoked license;

20 (6) A conviction relating to duty in case of injury  
21 to or death of a person or damage to an attended vehicle;

22 (7) A conviction relating to attempting to elude  
23 pursuing police vehicles;

24 (8) A conviction relating to reckless driving;

25 (9) A conviction relating to a person under the  
26 influence of intoxicating liquor or drugs;

27 (10) A conviction relating to vehicular homicide;

28 (11) A conviction relating to vehicular assault;

(12) A conviction relating to racing of vehicles on  
highways;

(13) A conviction relating to leaving children in an  
unattended vehicle with motor running;

(14) A conviction relating to attempting, aiding,  
abetting, coercing, and committing crimes; or

(15) An administrative action taken by the Washington

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((d)) Department of Licensing under chapter 46.20 RCW.

1 D. A person who violates this section when his or her  
2 driver's license or driving privilege is, at the time of the  
3 violation, suspended or revoked solely because (1) the person  
4 must furnish proof of satisfactory progress in a required  
5 alcoholism or drug treatment program, (2) the person must  
6 furnish proof of financial responsibility for the future as  
7 provided by chapter 46.29 RCW, (3) the person has failed to  
8 comply with the provisions of chapter 46.29 RCW relating to  
9 uninsured accidents, ((e)) (4) the person has committed an  
10 offense in another state that, if committed in this state, would  
11 not be grounds for the suspension or revocation of the person's  
12 driver's license, (5) the person has been suspended or revoked  
13 by reason of one or more of the items listed in subsection C of  
14 this section, but was eligible to reinstate his or her driver's  
15 license or driving privilege at the time of the violation, or  
16 (6) the person has failed to respond to a notice of traffic  
17 infraction, failed to appear at a requested hearing, violated a  
18 written promise to appear in court or has failed to comply with  
19 the terms of a notice of traffic infraction or citation, as  
20 provided in Washington Laws of 1993, Chapter 501, section 1, or  
21 any combination of (1) through ((4))6), is guilty of driving  
22 while license suspended or revoked in the third degree, a  
23 misdemeanor.

20 Section 6. Chapter 12A.02 of the Seattle Municipal Code  
21 (Ordinance 102843, as amended) is further amended by adding the  
22 following section:

22 12A.02.035 Prosecution under expired or repealed  
23 ordinance.

24 No offense committed and no penalty or forfeiture incurred  
25 previous to the time when any ordinance expires or is repealed,  
26 whether such repeal be express or implied, shall be affected by  
27 such expiration or repeal, unless a contrary intention is  
28 expressly declared in the expiring or repealing ordinance, and  
no prosecution for any offense or for the recovery of any  
penalty or forfeiture pending at the time any ordinance expires

1 or is repealed, whether such repeal be express or implied, shall  
2 be affected by such expiration or repeal, but the same shall  
3 proceed in all respects as if such ordinance had not expired or  
4 been repealed, unless a contrary intention is expressly declared  
5 in the expiring or repealing ordinance. Whenever any ordinance  
6 defining an offense or making conduct unlawful is amended or  
7 repealed, whether such amendment or repeal be express or  
8 implied, any offense committed, conduct engaged in or penalty or  
9 forfeiture incurred while the ordinance was in force shall be  
10 punished or enforced as if the ordinance were in force,  
11 notwithstanding such amendment or repeal, unless a contrary  
12 intention is expressly declared in the amendatory or repealing  
13 ordinance, and every such amendatory or repealing ordinance  
14 shall be so construed as to save all proceedings under the  
15 amended or repealed ordinance pending at the time of the  
16 amendatory or repealing ordinance, unless a contrary intention  
17 is expressly declared therein.

18 Section 7. Section 12A.06.010 of the Seattle Municipal  
19 Code (Ordinance 102843 § 12A.04.020) is amended as follows:

20 **12A.06.010 Assault**

21 A person is guilty of assault when(+

22 ~~A. With intent to cause bodily injury to any person, he  
23 causes bodily injury to any person; or~~

24 ~~B. He recklessly causes bodily injury to another person;  
25 or~~

26 ~~C. With criminal negligence, he causes bodily injury to  
27 another person by means of a deadly weapon)) he or she  
28 intentionally assaults another person.~~

29 Section 8. Section 12A.06.030 of the Seattle Municipal  
30 Code (Ordinance 102843 § 12A.04.050, as last amended by  
31 Ordinance 112333 § 1) is further amended as follows:

32 **12A.06.030 Menacing**

33 A. A person is guilty of menacing when(+

34 ~~1. By physical action he intentionally causes or  
35 attempts to cause another person reasonably to fear imminent~~

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~~bodily injury or the commission of a criminal act upon their person, or upon property in their immediate possession; or~~

1           2. ~~B))~~ by a present threat to another person  
2 subsequent to a history of threats or violence between himself  
3 or herself and such other person, he or she intentionally causes  
4 or attempts to cause such other person reasonably to fear  
5 serious bodily injury or death.

6           B. ~~((As used in this section, "physical action" means an~~  
7 ~~action as defined in Section 12A.02.150 1 or an action~~  
8 ~~accompanied by words or threats but not words alone.~~

9           C.) As used in this section, "threat" has the meaning  
10 specified in Section 12A.08.050 L1.

11           ((D)) C. As used in this section, "history of threats or  
12 violence" means one (1) or more of the following:

- 13                   1. Two (2) or more threats; or
- 14                   2. One (1) or more assaults as defined in  
15 Section 12A.06.010 ~~((or~~
- 16                   3. ~~One (1) or more menacings as defined in~~  
17 ~~subsection A1 of this section.~~

18           E. ~~As used in this section, "bodily injury" has the~~  
19 ~~meaning specified in Section 12.01.150 (4)).~~

20           Section 9. Chapter 12A.06 of the Seattle Municipal Code  
21 (Ordinance 102843, as amended) is further amended by adding the  
22 following section:

23           **12A.06.035 Stalking.**

24           A. A person is guilty of stalking when, without lawful  
25 authority:

- 26                   1. he or she intentionally and repeatedly follows  
27 another person to that person's home, school, place of  
28 employment, business or any other location or follows that  
person while that person is in transit between locations; and
2. the person being followed is intimidated,  
harassed or placed in fear that the stalker intends to injure  
that person or property of that person or of another person; and
3. a reasonable person in the same situation and

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under the same circumstances as the person being followed would feel intimidated, harassed or afraid that the stalker intends to injure the person or property of that person or of another person; and

4. the stalker either:

a. intends to intimidate, harass or frighten the person being followed; or

b. knows or reasonably should know that the person being followed is intimidated, harassed or afraid.

B. It is not a defense to the crime of stalking:

1. under subsection A4a of this section that the stalker was not given actual notice that the person being followed did not want the stalker to contact or follow that person;

2. under subsection A4b of this section that the stalker did not intend to intimidate, harass or frighten the person being followed.

C. It is an affirmative defense to the crime of stalking that the defendant is a licensed private detective acting within the capacity of his or her license as provided by Chapter 18.165 RCW.

D. Attempts to contact or follow the person after being given actual notice that such person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate, harass or frighten such person.

E. Stalking is a gross misdemeanor.

Section 10. Section 12A.12.040 of the Seattle Municipal Code (Ordinance 111860 § 7) is amended as follows:

**12A.12.040 Disorderly conduct on buses.**

A. A person is guilty of disorderly bus conduct if while on or in a municipal transit (~~each of the METRO Transit System~~) vehicle, as defined by RCW 46.04.355, or in or at an underground municipal transit station, and with knowledge that such conduct is prohibited, he or she:

((A))1. Smokes or carries a lighted or smoldering pipe,

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cigar, or cigarette;

((B))2. Discards litter other than in a designated receptacles; or

1 ((C))3. Plays any radio, recorder, or other sound  
2 producing or reproducing equipment except that nothing herein  
3 shall prohibit the use of such equipment when connected to  
4 earphones that limit the sound to individual listeners or the  
5 use of a communication device by an employee of the owner or  
6 operator of the municipal transit vehicle or private  
7 communication devices used to summon or notify individuals  
8 ("beepers"); or

9 ((D))4. Spits or expectorates; or

10 ((E))5. Carries any flammable or combustible liquid,  
11 explosive, (~~(non-flammable explosive,)~~) acid, or other article  
12 or material in a manner that is likely to cause harm to others  
13 except nothing herein shall prevent a person from carrying a  
14 cigarette lighter, cigar lighter, or pipe lighter, or carrying  
15 a firearm or ammunition in a way that is not otherwise  
16 prohibited by law; or

17 ((F))6. Unreasonably disturbs others by engaging in loud  
18 or raucous behavior.

19 B. As used in this section, "municipal transit station"  
20 means all facilities, structures, lands, interest in lands, air  
21 rights over lands, and rights of way of all kinds that are  
22 owned, leased, held, or used by a public agency for the purpose  
23 of providing public transportation.

24 C. Disorderly bus conduct is a misdemeanor.

25 Section 11. Section 12A.14.010 of the Seattle Municipal  
26 Code (Ordinance 102843 § 12A.17.010, as last amended by  
27 Ordinance 113547 § 1) is further amended as follows:

28 **12A.14.010 Definitions.**

The following definitions apply in this chapter:

A. "Aerosol tear gas personal protection device" means a container for dispensing tear gas, the active ingredient of which is either chloracetophenone (CN) or O-chlorobenzylidene

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malonotrile (CS) within the range of 0.8% to 1.2% of the net contents by volume, which container has a net weight of one hundred fifty (150) grams or less.

1 B. "Commercial seller" means a person who has a federal  
2 firearms license.

3 C. "Crime of violence" means:

4 1. Any of the following felonies, as now existing or  
5 hereafter amended: (~~(1-)~~) Any felony defined under any law as a  
6 class A felony or an attempt to commit a class A felony,  
7 criminal solicitation of or criminal conspiracy to commit a  
8 class A felony, manslaughter in the first degree, manslaughter  
9 in the second degree, indecent liberties if committed by  
10 forcible compulsion, rape in the second degree, kidnapping in  
11 the second degree, arson in the second degree, assault in the  
12 second degree, assault of a child in the second degree,  
13 extortion in the first degree, burglary in the second degree,  
14 and robbery in the second degree;

15 2. Any conviction or adjudication for a felony  
16 offense in effect at any time prior to July 1, 1976, which is  
17 comparable to a felony classified as a crime of violence in  
18 subsection C1 of this section; and

19 3. Any federal or out-of-state conviction or  
20 adjudication for an offense comparable to a felony classified as  
21 a crime of violence under subsection C1 or 2 of this section.

22 D. "Dangerous knife" means any fixed-blade knife and any  
23 other knife having a blade more than three and one-half inches  
24 (3 1/2") in length.

25 E. "Fixed-blade knife" means any knife, regardless of  
26 blade length, with a blade which is permanently open and does  
27 not fold, (~~(or)~~) retract or slide into the handle of the knife,  
28 and includes any dagger, sword, bayonet, bolo knife, hatchet,  
axe, straight-edged razor, or razor blade not in a package,  
dispenser or shaving appliance.

F. "Firearm" means a weapon or device from which a  
projectile may be fired by an explosive such as gunpowder.

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1 G. "Gas pen," "gas pencil," "gas bomb" and "gas pistol"  
2 means any pen, pencil, bomb, pistol or other device which is  
3 capable of containing and emitting tear gas or any noxious  
4 liquid, gas or substance.

5 H. "Short firearm" or "pistol" means any firearm having  
6 a barrel less than twelve inches (12") in length.

7 I. "Switchblade knife" means any knife having a blade  
8 which opens automatically by hand pressure applied to a button,  
9 spring mechanism, or other device, or a blade that opens, falls  
10 or is ejected into position by force of gravity or by an  
11 outward, downward, or centrifugal thrust or movement.

12 Section 12. Section 12A.14.020 of the Seattle Municipal  
13 Code (Ordinance 102843 § 12A.17.020, as last amended by  
14 Ordinance 112103 § 2) is further amended as follows:

15 **12A.14.020 License application for concealed pistol and**  
16 **fees.**

17 A. Any person applying to the Chief of Police of the City  
18 pursuant to RCW 9.41.070 for a license to carry a pistol  
19 concealed on his or her person shall file with the Chief of  
20 Police, on a form to be provided by the Chief of Police, an  
21 application in writing which shall include at a minimum the  
22 following information and material:

23 ((A))1. Name, ~~((and))~~ address and place of birth of  
24 the applicant;

25 ((B))2. The applicant's citizenship, and if not a  
26 United States citizen whether the applicant has declared the  
27 intent to become a citizen and whether the applicant has been  
28 required to register with the state or federal government and  
any identification or registration number, if applicable, and  
age;

29 ((C))3. A statement whether the applicant:

30 ~~((1. Has ever been convicted in any court of a crime~~  
31 ~~of violence, or is at the time of such application under~~  
32 ~~indictment for or charged by information with any such crime,))~~

33 a. Is ineligible to own a pistol under the  
34 provisions of RCW 9.41.040,

((2))b. Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor,

1 ((3. ~~Is ineligible to own a pistol under the~~  
2 ~~provisions of RCW 9.41.040,~~

3 4))c. Is subject to a court order or injunction  
4 regarding firearms pursuant to RCW 10.((49))99.040, 10.99.045,  
5 or 26.09.060,

6 ((5))d. Is free on bond or personal recognizance  
7 pending trial, appeal, or sentencing for a crime of violence,

8 e. Has been ordered to forfeit a firearm under RCW  
9 9.41.098(1)(d) or Section 12A.14.085 A4 within one year before  
10 filing such application,

11 f. Has been convicted of assault in the third  
12 degree, indecent liberties, malicious mischief in the first  
13 degree, possession of stolen property in the first or second  
14 degree or theft in the first or second degree;

15 ((D))4. A photograph of the applicant, taken within sixty  
16 (60) days immediately prior to the date of filing of the  
17 application, which shall be two inches (2") by two inches (2")  
18 showing the head and shoulders of the applicant in a clear and  
19 distinguishing manner;

20 ((E))5. The applicant's fingerprints;

21 ((F))6. A statement of the applicant's reasons for  
22 desiring such license, including such factual information as the  
23 Chief of Police finds reasonably necessary to effectuate the  
24 purpose of, and determine compliance with, this chapter and RCW  
25 Chapter 9.41.

26 B. The license shall be in triplicate, in a form to be  
27 prescribed by the Washington Department of Licensing, and shall  
28 bear the name, address, description, fingerprints, and signature  
of the licensee and the licensee's driver's license number or  
state identification card number if used for identification in  
applying for the license. The license application shall contain  
a warning substantially as follows:

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1 CAUTION: Although state and local laws do not differ,  
2 federal law and state law on the possession of  
3 firearms differ. If you are prohibited by federal law  
4 from possessing a firearm, you may be prosecuted in  
5 federal court. A state license is not a defense to a  
6 federal prosecution.

7 C. The license application shall contain a description of  
8 the major differences between state and federal law and an  
9 explanation of the fact that local laws and ordinances on  
10 firearms are preempted by state law and must be consistent with  
11 state law.

12 D. The original license application shall be delivered to  
13 the licensee, the duplicate shall within seven (7) days be sent  
14 by registered mail to the Washington Director of Licensing and  
15 the triplicate shall be preserved for six (6) years by the  
16 Seattle Police Department.

17 E. The fee for the original issuance of a four (4) year  
18 license shall be Twenty-Three Dollars (\$23.00).

19 F. The fee for the renewal of such license shall be  
20 Fifteen Dollars (\$15.00).

21 G. A licensee renewing after the expiration date of the  
22 license must pay a late renewal penalty of Ten Dollars (\$10.00)  
23 in addition to the renewal fee specified in subsection F of this  
24 section.

25 Section 13. Section 12A.14.035 of the Seattle Municipal  
26 Code (Ordinance 112103 § 4, as last amended by Ordinance 112705  
27 § 1) is further amended as follows:

28 12A.14.035 License issuance ((and)), denial,  
revocation and renewal.

A. The Chief of Police shall, within thirty (30) days  
after the filing of an application of any person, issue a  
license to such person to carry a pistol concealed on his or her  
person within this state for four (4) years from the date of  
issue, for the purposes of protection or while engaged in  
business, sport or while traveling. However, if the applicant

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1 does not have a valid permanent Washington driver's license or  
2 Washington State identification card or has not been a resident  
3 of the state for the previous ninety (90) days, the Chief of  
4 Police shall have up to sixty (60) days after the filing of the  
5 application to issue a license. An application (~~citizen's~~  
6 ~~constitutional right to bear arms~~) shall not be denied unless  
7 the applicant (~~he or she~~):

8 1. Is ineligible to own a pistol under the  
9 provisions of RCW 9.41.040; or

10 2. Is under twenty-one (21) years of age; or

11 3. Is subject to a court order or injunction  
12 regarding firearms pursuant to RCW 10.99.040, 10.99.045, or  
13 26.09.060; or

14 4. Is free of bond or personal recognizance pending  
15 trial, appeal, or sentencing for a crime of violence; or

16 5. Has an outstanding warrant for his or her arrest  
17 from any court of competent jurisdiction for a felony or  
18 misdemeanor; or

19 6. Has been ordered to forfeit a firearm under RCW  
20 9.41.098(1)(d) or Section 12A.14.085 A4 within one (1) year  
21 before filing an application to carry a pistol concealed on his  
22 or her person; or

23 7. Has been convicted of any of the following  
24 offenses: Assault in the third degree, indecent liberties,  
25 malicious mischief in the first degree, possession of stolen  
26 property in the first or second degree, or theft in the first or  
27 second degree.

28 An applicant who is not eligible for a concealed pistol  
license may have his or her eligibility restored as provided in  
RCW 9.41.070(1)(g) or RCW 9.41.070(2).

B. The license (~~permit~~) shall be revoked immediately  
upon conviction of a crime which makes such a person ineligible  
to own a pistol or upon the third conviction for a violation of  
this chapter within five (5) calendar years. (~~The license~~  
shall be in triplicate, in a form to be prescribed by the

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1 ~~Washington State Department of Licensing, and shall bear the~~  
2 ~~name, address, and description, fingerprints, and signature of~~  
3 ~~the licensee and the licensee's driver's license number or state~~  
4 ~~identification card number if used for identification in~~  
5 ~~applying for the license. The license application shall contain~~  
6 ~~a warning substantially as follows:~~

7 ~~CAUTION: Although state and local laws do not differ,~~  
8 ~~federal law and state law on the possession of~~  
9 ~~firearms differ. If you are prohibited by federal law~~  
10 ~~from possessing a firearm, you may be prosecuted in~~  
11 ~~federal court. A state permit is not a defense to a~~  
12 ~~federal prosecution.~~

13 ~~The license application shall contain a description of the~~  
14 ~~major differences between state and federal law and an~~  
15 ~~explanation of the fact that local laws and ordinances on~~  
16 ~~firearms are preempted by state law and must be consistent with~~  
17 ~~state law.~~

18 ~~The original thereof shall be delivered to the licensee,~~  
19 ~~the duplicate shall within seven (7) days be sent by registered~~  
20 ~~mail to the Washington State Director of Licensing and the~~  
21 ~~triplicate shall be preserved for six (6) years, by the Seattle~~  
22 ~~Police Department.~~

23 ~~C. The fee for the original issuance of a four (4) year~~  
24 ~~license shall be Twenty Dollars (\$20.00).~~

25 ~~D. The fee for the renewal of such license shall be~~  
26 ~~Twelve Dollars (\$12.00).)~~

27 ~~C. Upon an order to forfeit a firearm under RCW~~  
28 ~~9.41.098(1)(d) or Section 12A.14.085 A4 the Chief of Police~~  
~~shall:~~

1. ~~On the first forfeiture, revoke the license for~~  
~~one (1) year;~~

2. ~~On the second forfeiture, revoke the license for~~  
~~two (2) years;~~

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3. On the third or subsequent forfeiture, revoke the license for five (5) years.

1 D. Any person whose license is revoked as a result of a  
2 forfeiture of a firearm under RCW 9.41.098(1)(d) or Section  
3 12A.14.085 A4 may not reapply for a new license until the end of  
4 the revocation period. The Chief of Police shall notify, in  
5 writing, the Washington Department of Licensing.

6 E. The Chief of Police may renew a license if the  
7 licensee applies for renewal within ninety (90) days before or  
8 after the expiration date of the license. A license so renewed  
9 shall take effect on the expiration date of the prior license.  
10 ~~((A licensee renewing after the expiration date of the license~~  
11 ~~must pay a late renewal penalty of Ten Dollars (\$10.00) in~~  
12 ~~addition to the renewal fee specified in subsection D of this~~  
13 ~~section.))~~

14 F. The Chief of Police may issue a temporary emergency  
15 license for good cause pending review under subsection A of this  
16 section.

17 Section 14. Section 12A.14.080 of the Seattle Municipal  
18 Code (Ordinance 102843 § 12A.17.140, as last amended by  
19 Ordinance 113547 § 3) is further amended as follows:

20 **12A.14.080 Unlawful use of weapons.**

21 It is unlawful for a person knowingly to:

22 A. Sell, manufacture, purchase, possess or carry any  
23 blackjack, sand-club, metal knuckles, switchblade knife, chako  
24 sticks, or throwing stars; or

25 B. Carry concealed or unconcealed on his((+)) or her  
26 person any dangerous knife, or carry concealed on his((+)) or  
27 her person any deadly weapon other than a pistol; or

28 C. Carry a loaded pistol in any vehicle or carry a pistol  
concealed on his or her person, except when in his or her place  
of abode or fixed place of business, without a license therefor  
as provided in RCW Chapter 9.41 and Section 12A.14.((030))035;  
or

D. Sell or give away to any person under eighteen (18)

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1 years of age any dangerous knife or deadly weapon, or for any  
2 person under eighteen (18) years of age to purchase any  
3 dangerous knife or deadly weapon, or for any person under  
4 eighteen (18) years of age to possess any dangerous knife or  
5 deadly weapon except when under the direct supervision of an  
6 adult; or

7 E. Set a spring gun; or

8 F. Use any device or attachment of any kind designed,  
9 used or intended for use in silencing the noise of any firearm;  
10 or

11 G. Sell, purchase, possess or carry any gas pen, gas  
12 pencil, gas bomb or gas pistol except as provided in Section  
13 12A.14.090.

14 Section 15. Section 12A.04.020 of the Seattle Municipal  
15 Code (Ordinance 102843 § 12A.02.030(1), as last amended by  
16 Ordinance 109674 § 1), Section 12A.04.040 of the Seattle  
17 Municipal Code (Ordinance 102843 § 12A.02.030(3), as last  
18 amended by Ordinance 109674 § 1), Section 12A.06.015 of the  
19 Seattle Municipal Code (Ordinance 110786 § 2) and Section  
20 12A.14.150 of the Seattle Municipal Code (Ordinance 112238 § 2)  
21 are each repealed.

22 Section 16. The provisions of this ordinance are declared  
23 to be separate and severable. The invalidity of any clause,  
24 sentence, paragraph, subdivision, section or portion of this  
25 ordinance, or the invalidity of the application thereof to any  
26 person or circumstance shall not affect the validity of the  
27 remainder of this ordinance, or the validity of its application  
28 to other persons or circumstances.

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Section 1.7. 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 27th day of September, 1923  
and signed by me in open session in authentication of its passage this 27th day of September, 1923  
Geo. V. Benson  
President of the City Council.

Approved by me this 30th day of September, 1923  
Mumford Bree  
Mayor.

Filed by me this 30th day of September, 1923

(SEAL)

Published.....

By Margaret Carter  
Deputy Clerk.

PUBLISH  DO NOT PUBLISH

CITY ATTORNEY \_\_\_\_\_

ORDINANCE

1 AN ORDINANCE preserving prosecutions under repealed or expired  
2 criminal or traffic ordinances, prohibiting off-street driving  
3 without a driver's license, correcting drafting errors in Code  
4 section numbers in the list of criminal traffic offenses,  
5 changing the definition of the crimes of Driving While  
6 Intoxicated and Physical Control with respect to the time period  
7 within which a breath or blood alcohol test is performed,  
8 providing an affirmative defense to Driving While Intoxicated  
9 and Physical Control regarding consumption of alcohol after  
10 driving or being in physical control of a vehicle but before  
11 performance of the breath or blood alcohol test, providing that  
12 evidence of a breath or blood alcohol test performed after this  
13 time period is admissible in a prosecution for Driving While  
14 Intoxicated or Physical Control, requiring that an alcohol  
15 evaluation performed on a person convicted of Driving While  
16 Intoxicated or Physical Control be sent to the Washington  
17 Department of Licensing, requiring that suspension or deferral  
18 of a minimum jail sentence for a person convicted of Driving  
19 While Intoxicated or Physical Control pose a substantial risk to  
20 the person's health, clarifying the conditions under which a  
21 minimum sentence is required for a person previously convicted  
22 of Driving While Intoxicated or Physical Control who commits one  
23 of these crimes while having a suspended or revoked driver's  
24 license, increasing the minimum fine required for a person  
25 previously convicted of Driving While Intoxicated or Physical  
26 Control who commits one of these crimes while having a suspended  
27 or revoked driver's license, clarifying the court's authority to  
28 sentence a person for a repeat conviction of Driving While  
Intoxicated or Physical Control, enlarging the period of  
probation for a repeat conviction of Driving While Intoxicated  
or Physical Control, imposing a fee on persons convicted of an  
offense or granted a deferred prosecution as a result of an  
arrest for Driving While Intoxicated, Physical Control,  
Vehicular Homicide or Vehicular Assault, reducing the mandatory  
minimum sentence for a person convicted of a third or subsequent  
Driving While License Suspended or Revoked 1°, expanding the  
definition of the crime of Driving While License Suspended or  
Revoked 3°, repealing the requirement that the mental state of  
a crime applies to each element, changing the definition of the  
crime of Assault, repealing the crime of Simple Assault,  
eliminating one means of committing the crime of Menacing,  
creating the crime of Stalking, prohibiting certain conduct at  
bus stops and in the bus tunnel, expanding the list of crimes  
conviction of which precludes a person from obtaining a  
concealed pistol license, revising the requirements for applying  
for a concealed pistol license, increasing the fee for issuance  
and renewal of a concealed pistol license, expanding the grounds  
for denial and revocation of a concealed pistol license,  
correcting a drafting error in the definition of the crime of  
Unlawful Use of Weapons, repealing a redundant provision for  
forfeiture of a firearm found in the possession of an  
intoxicated person, amending Sections 11.20.010, 11.34.020,  
11.56.020, 11.56.320, 12A.06.010, 12A.06.030, 12A.12.040,  
12A.14.010, 12A.14.020, 12A.14.035 and 12A.14.080, adding  
sections to Chapter 11.10, Chapter 12A.02 and Chapter 12A.06 and  
repealing Sections 12A.04.020, 12A.04.040, 12A.06.015 and  
12A.14.150 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapter 11.10 of the Seattle Municipal Code  
(Ordinance 108200, as amended) is further amended by adding the  
following section:

**11.10.130 Prosecution under expired or repealed ordinance.**

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1 No offense committed and no penalty or forfeiture incurred  
2 previous to the time when any ordinance expires or is repealed,  
3 whether such repeal be express or implied, shall be affected by  
4 such expiration or repeal, unless a contrary intention is  
5 expressly declared in the expiring or repealing ordinance, and  
6 no prosecution for any offense or for the recovery of any  
7 penalty or forfeiture pending at the time any ordinance expires  
8 or is repealed, whether such repeal be express or implied, shall  
9 be affected by such expiration or repeal, but the same shall  
10 proceed in all respects as if such ordinance had not expired or  
11 been repealed, unless a contrary intention is expressly declared  
12 in the expiring or repealing ordinance. Whenever any ordinance  
13 defining an offense or making conduct unlawful is amended or  
14 repealed, whether such amendment or repeal be express or  
15 implied, any offense committed, conduct engaged in or penalty or  
16 forfeiture incurred while the ordinance was in force shall be  
17 punished or enforced as if the ordinance were in force,  
18 notwithstanding such amendment or repeal, unless a contrary  
19 intention is expressly declared in the amendatory or repealing  
20 ordinance, and every such amendatory or repealing ordinance  
21 shall be so construed as to save all proceedings under the  
22 amended or repealed ordinance pending at the time of the  
23 amendatory or repealing ordinance, unless a contrary intention  
24 is expressly declared therein.

25 Section 2. Section 11.20.010 of the Seattle Municipal Code  
26 (Ordinance 108200 § 1 (11.20.010)), as last amended by Ordinance  
27 109476 § 3), is further amended as follows:

28 **11.20.010 Driver's license required -- Exception.**

No person, except those expressly exempted by RCW Chapter  
46.20, shall operate a motor vehicle (~~upon any street or  
alley~~) within the City unless such person has a valid driver's  
license issued under the provisions of RCW Chapter 46.20 (RCW  
46.20.021).

Section 3. Section 11.34.020 of the Seattle Municipal Code  
(Ordinance 108200 § 2 (11.34.020)), as last amended by Ordinance

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116538 § 2) is further amended as follows:

**11.34.020 Penalties for criminal offenses.**

1 A. Any person convicted of any of the following offenses  
2 may be punished by a fine in any sum not to exceed Five Thousand  
3 Dollars (\$5,000.00) or by imprisonment for a term not to exceed  
4 one (1) year, or by both such fine and imprisonment:

5 1. Section 11.55.340((+))<sub>1</sub> Vehicles carrying  
6 explosives, flammable liquids and poison gas, liquefied  
7 petroleum gas (LPG) and cryogenics must stop at all railroad  
8 grade crossings;

9 2. Section 11.56.120, Reckless driving;

10 3. Section 11.56.320(B), Driving while license is  
11 suspended or revoked in the first degree;

12 4. Section 11.56.320(C), Driving while license is  
13 suspended or revoked in the second degree;

14 5. Section 11.56.340, Operation of motor vehicle  
15 prohibited while license is suspended or revoked;

16 6. Section 11.56.420, Hit and run (attended);

17 7. Section 11.56.445, Hit and run (by an unattended  
18 vehicle);

19 8. Section 11.56.450, Hit and run (pedestrian or  
20 person on a device propelled by human power);

21 9. Section 11.60.690, Transportation of liquefied  
22 petroleum gas;

23 10. Section 11.62.020, Flammable liquids, combustible  
24 liquids and hazardous chemicals;

25 11. Section 11.62.040, Explosives;

26 12. Section 11.80.140(B), Certain vehicles to carry  
27 flares or other warning devices (subsection B only);

28 13. Section 11.80.160(E), Display of warning devices  
when vehicle disabled (subsection E only);

14 Section 11.84.380, Fire extinguishers;

15 Section 11.86.080, Flammable or combustible  
labeling;

16 Section 11.86.100, Explosive cargo labeling;

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17. Section 11.34.040, with respect to aiding and abetting the foregoing criminal offenses.

1 B. Any person convicted of any of the following offenses  
2 may be punished by a fine in any sum not to exceed One Thousand  
3 Dollars (\$1,000.00) or by imprisonment for a term not to exceed  
4 ninety (90) days, or by both such fine and imprisonment:

5 1. Section 11.20.010, Driver's license required --  
6 Exception;

7 2. Section 11.20.100, Display of nonvalid driver's  
8 license;

9 3. Section 11.20.120, Loaning driver's license;

10 4. Section 11.20.140, Displaying the driver's  
11 license of another;

12 5. Section 11.20.160, Unlawful use of driver's  
13 license;

14 6. Section 11.20.((250—E))350, Providing false  
15 evidence of financial responsibility;

16 7. Section 11.31.090, Failure to respond-- Written  
17 and signed promise;

18 8. Section 11.31.100, Failure to respond-- Parked,  
19 stopped or standing notice;

20 9. Section 11.32.100, Failure to appear;

21 10. Section 11.40.430, Prohibited entry to no  
22 admittance area;

23 11. Section 11.56.((230—B))320(D), Driving while  
24 license is suspended or revoked in the third degree;

25 12. Section 11.56.430, Hit and run (unattended  
26 vehicle) -- Duty in case of accident with unattended vehicle;

27 13. Section 11.56.440, Hit and run (property damage)  
28 -- Duty in case of accident with property;

14. Section 11.58.190, Leaving minor children in  
unattended vehicle;

15. Section 11.59.010, Obedience to peace officers,  
flaggers, and firefighters;

16. Section 11.59.040, Refusal to give information to

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or to cooperate with officer;

17. Section 11.59.060, Refusal to stop;

18. Section 11.59.080, Examination of equipment;

19. Section 11.59.090, Duty to obey peace officer--  
Traffic infraction;

20. Section 11.34.040, Aiding and abetting with  
respect to the criminal offenses in this subsection.

Section 4. Section 11.56.020 of the Seattle Municipal Code  
(Ordinance 108200 § 2(11.56.020), as last amended by Ordinance  
113550 § 1) is further amended as follows:

**11.56.020 Persons under the influence of intoxicating liquor or  
any drug-- Chemical analysis-- Tests, evidence and  
penalties.**

**A. Driving While Intoxicated**

1. A person is guilty of driving while under the  
influence of intoxicating liquor or any drug if the person  
drives a vehicle within the City ~~((while))~~:

a. and the ~~((The))~~ person has 0.10 grams or  
more of alcohol per two hundred ten (210) liters of breath  
within two (2) hours after driving, as shown by analysis of the  
person's breath made under the provisions of this section; or

b. and the ~~((The))~~ person has 0.10 percent or  
more by weight of alcohol in the person's blood within two (2)  
hours after driving, as shown by analysis of the person's blood  
made under the provisions of this section; or

c. while the ~~((The))~~ person is under the  
influence of or affected by intoxicating liquor or any drug; or

d. while the ~~((The))~~ person is under the  
combined influence of or affected by intoxicating liquor and any  
drug.

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

3. It is an affirmative defense to a violation of  
subsections A1a and A1b of this section which the defendant must

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1 prove by a preponderance of the evidence that the defendant  
2 consumed a sufficient quantity of alcohol after the time of  
3 driving and before the administration of an analysis of the  
4 person's breath or blood to cause the defendant's alcohol  
5 concentration to be 0.10 or more within two (2) hours after  
6 driving. The court shall not admit evidence of this defense  
7 unless the defendant notifies the prosecution prior to the  
8 omnibus or pretrial hearing in the case of the defendant's  
9 intent to assert the affirmative defense.

10 4. Analysis of blood or breath samples obtained more  
11 than two (2) hours after the alleged driving may be used as  
12 evidence that within two (2) hours after the alleged driving a  
13 person had 0.10 grams or more of alcohol per two hundred ten  
14 (210) liters of breath or 0.10 percent or more of alcohol in the  
15 person's blood, pursuant to subsections A1a and A1b of this  
16 section, and may be used in evidence that a person was under the  
17 influence of or affected by intoxicating liquor or any drug,  
18 pursuant to subsections A1c and A1d of this section.

19 B. Physical Control.

20 1. A person is guilty of being in actual physical  
21 control of a motor vehicle while under the influence of  
22 intoxicating liquor or any drug if the person has actual  
23 physical control of a vehicle within the City ((while)):

24 a. and the ((The)) person has 0.10 grams or  
25 more of alcohol per two hundred ten (210) liters of breath  
26 within two (2) hours after being in actual physical control of  
27 a motor vehicle, as shown by analysis of the person's breath  
28 made under the provisions of this section; or

b. and the ((The)) person has 0.10 percent or  
more by weight of alcohol in the person's blood within two (2)  
hours after being in actual physical control of a motor vehicle,  
as shown by analysis of the person's blood made under the  
provisions of this section; or

c. while the ((The)) person is under the  
influence of or affected by intoxicating liquor or any drug; or

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d. while the ((The)) person is under the combined influence of or affected by intoxicating liquor and any drug.

1           2. The fact that any person charged with a violation  
2 of this subsection is or has been entitled to use such drug  
3 under the laws of this state shall not constitute a defense  
4 against any charge of violating this subsection. No person may  
5 be convicted under this subsection if, prior to being pursued by  
6 a law enforcement officer, the person has moved the vehicle  
7 safely off the roadway.

8           3. It is an affirmative defense to a violation of  
9 subsections B1a and B1b of this section which the defendant must  
10 prove by a preponderance of the evidence that the defendant  
11 consumed a sufficient quantity of alcohol after the time of  
12 being in actual physical control of a motor vehicle and before  
13 the administration of an analysis of the person's breath or  
14 blood to cause the defendant's alcohol concentration to be 0.10  
15 or more within two (2) hours after being in actual physical  
16 control of a motor vehicle. The court shall not admit evidence  
17 of this defense unless the defendant notifies the prosecution  
18 prior to the omnibus or pretrial hearing in the case of the  
19 defendant's intent to assert the affirmative defense.

20           4. Analysis of blood or breath samples obtained more  
21 than two (2) hours after the alleged actual physical control of  
22 a motor vehicle may be used as evidence that within two (2)  
23 hours after the alleged being in actual physical control of a  
24 motor vehicle a person had 0.10 grams or more of alcohol per two  
25 hundred ten (210) liters of breath or 0.10 percent or more of  
26 alcohol in the person's blood, pursuant to subsections B1a and  
27 B1b of this section, and may be used in evidence that a person  
28 was under the influence of or affected by intoxicating liquor or  
any drug, pursuant to subsections B1c and B1d of this section.

C. Implied Consent ((Control)).

Any person who operates a motor vehicle within the City is deemed to have given consent, subject to the provisions of this

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1 section, to a test or tests of his or her breath or blood for  
2 the purpose of determining the alcoholic content of his or her  
3 breath or blood if arrested for any offense where, at the time  
4 of the arrest, the arresting officer has reasonable grounds to  
5 believe the person had been driving or was in actual physical  
6 control of a motor vehicle while under the influence of  
7 intoxicating liquor. The test or tests of breath shall be  
8 administered at the direction of a law enforcement officer  
9 having reasonable grounds to believe the person to have been  
10 driving or in actual physical control of a motor vehicle within  
11 the city while under the influence of intoxicating liquor.  
12 However, in those instances where: (1) the person is incapable  
13 due to physical injury, physical incapacity, or other physical  
14 limitation, of providing a breath sample; or (2) as a result of  
15 a traffic accident the person is being treated for a medical  
16 condition in a hospital, clinic, doctor's office, or other  
17 similar facility in which a breath testing instrument is not  
18 present, a blood test shall be administered by a qualified  
19 person as provided in RCW 46.61.506(4).

20 The officer shall inform the person of the person's  
21 right to refuse the breath or blood test, and of the person's  
22 right to have additional tests administered by any qualified  
23 person of the person's choosing as provided elsewhere in this  
24 section. The officer shall warn the driver that the driver's  
25 privilege to drive will be revoked or denied if the driver  
26 refuses to submit to the test. The officer shall warn the  
27 driver that the driver's refusal to take the test may be used in  
28 a criminal trial. Except as provided in this section, the test  
administered shall be of the breath only. If an individual is  
unconscious or is under arrest for the crime of vehicular  
homicide as provided in RCW 46.61.520, or vehicular assault as  
provided in RCW 46.61.522, or if an individual is under arrest  
for the crime of driving while under the influence of  
intoxicating liquor or drugs as provided in this section, which  
arrest results from an accident in which another person has been

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1 injured and there is a reasonable likelihood that such other  
2 person may die as a result of injuries sustained in the  
3 accident, a breath or blood test may be administered without the  
4 consent of the individual so arrested.

5 D. Person Incapable of Refusal.

6 Any person who is dead, unconscious, or who is otherwise in  
7 a condition rendering the person incapable of refusal, shall be  
8 deemed not to have withdrawn the consent provided by subsection  
9 C of this section and the test or tests may be administered,  
10 subject to the provisions hereof, and the person shall be deemed  
11 to have received the warnings required under subsection C of  
12 this section.

13 E. Refusal to Submit to Test.

14 If, following his/her arrest and receipt of warnings under  
15 subsection C of this section, the person arrested refuses upon  
16 the request of a law enforcement officer to submit to a test of  
17 his/her breath or blood, no test shall be given except as  
18 authorized under subsection C or D of this section. The law  
19 enforcement officer shall forward to the Department of Licensing  
20 a sworn report that the officer has reasonable grounds to  
21 believe that the arrested person had been driving or was in  
22 actual physical control of a motor vehicle within the City under  
23 the influence of intoxicating liquor and that the person had  
24 refused to submit to the test upon the request of the law  
25 enforcement officer after being informed that such refusal would  
26 result in the revocation or denial of his/her privilege to  
27 drive.

28 F. Admissibility of Evidence.

Upon the trial of any civil or criminal action or  
proceeding arising out of acts alleged to have been committed by  
any person while driving or in actual physical control of a  
vehicle while under the influence of intoxicating liquor or any  
drug, if the amount of alcohol in the person's blood or breath  
at the time alleged as shown by analysis of the person's blood  
or breath is less than 0.10 percent by weight of alcohol in the

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1 person's blood or 0.10 grams of alcohol per two hundred ten  
2 (210) liters of the person's breath, it is evidence that may be  
3 considered with other competent evidence in determining whether  
4 the person was under the influence of intoxicating liquor or any  
5 drug. The breath analysis shall be based upon grams of alcohol  
6 per two hundred ten (210) liters of breath. The foregoing  
7 provisions of this subsection shall not be construed as limiting  
8 the introduction of any other competent evidence bearing upon  
9 the question whether the person was under the influence of  
10 intoxicating liquor or any drug.

11 G. Methods of Analysis.

12 Analysis of the person's blood or breath to be considered  
13 valid under the provisions of this section shall have been  
14 performed according to methods approved by the State  
15 Toxicologist and by an individual possessing a valid permit  
16 issued by the State Toxicologist for this purpose.

17 H. Blood Tests.

18 When a blood test is administered in accordance with this  
19 section, the withdrawal of blood for the purpose of determining  
20 its alcoholic content may be performed only by a physician, a  
21 registered nurse, or a qualified technician. This limitation  
22 shall not apply to the taking of breath specimens.

23 I. Right to Additional Tests.

24 The person tested may have a physician or a qualified  
25 technician, chemist, registered nurse or other qualified person  
26 of his or her own choosing administer one (1) or more tests in  
27 addition to any administered at the direction of a law  
28 enforcement officer. The failure or inability to obtain an  
additional test by a person shall not preclude the admission of  
evidence relating to the test or tests taken at the direction of  
a law enforcement officer.

J. Right to Information.

Upon the request of the person who shall submit to a test  
or tests at the request of a law enforcement officer, full  
information concerning this test or tests shall be made

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available to him/her or his/her attorney.

K. Penalty.

1           1. Every person who is convicted of a violation of  
2 the provisions of this section shall be punished by imprisonment  
3 for not less than twenty-four (24) consecutive hours nor more  
4 than one (1) year, and by a fine of not less than Two Hundred  
5 Fifty Dollars (\$250.00) and not more than One Thousand Dollars  
6 (\$1,000.00). Unless the judge finds the person to be indigent,  
7 Two Hundred Fifty Dollars (\$250.00) of the fine shall not be  
8 suspended or deferred. The convicted person shall, in addition,  
9 be required to complete a course at an alcohol information  
10 school approved by the Washington Department of Social and  
11 Health Services or more intensive treatment in a program  
12 approved by the Washington Department of Social and Health  
13 Services, as determined by the court. A diagnostic evaluation  
14 and treatment recommendation shall be prepared under the  
15 direction of the court by an alcoholism agency approved by the  
16 Washington Department of Social and Health Services or a  
17 qualified probation department approved by the Washington  
18 Department of Social and Health Services. The report shall be  
19 sent to the Washington Department of Licensing. Based on the  
20 diagnostic evaluation, the court shall determine whether the  
21 convicted person shall be required to complete a course in an  
22 alcohol information school approved by the Washington Department  
23 of Social and Health Services or more intensive treatment in a  
24 program approved by the Washington Department of Social and  
25 Health Services. ((If, after completing an alcohol evaluation  
26 at the alcohol information school, the convicted person is found  
27 to have a serious alcohol problem, the alcohol information  
28 school may recommend more intensive alcoholism treatment in a  
program approved by the Washington State Department of Social  
and Health Services. In the alternative, the court may bypass  
alcohol information school if the court determines that more  
intensive alcoholism treatment in a program approved by the  
Department of Social and Health Services is appropriate.))

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Twenty-four (24) consecutive hours of the jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a substantial risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. The court may impose conditions of probation that may include nonrepetition of the offense, alcohol or drug treatment, supervised probation, or other conditions which may be appropriate.

2. Upon a second or subsequent conviction for a violation of the provisions of this section within a five (5) year period, a person shall be punished by imprisonment for not less than seven (7) days nor more than one (1) year and by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Two Thousand Dollars (\$2,000.00). Unless the judge finds the person to be indigent, Five Hundred Dollars (\$500.00) of the fine shall not be suspended or deferred. The minimum jail sentence shall not be suspended or deferred unless the judge finds that the imposition of a jail sentence will pose a substantial risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. If, at the time of the arrest on a second or subsequent ((conviction)) offense, the driver is without a license or permit because of a previous suspension or revocation for a reason listed in Section 11.56.320 B, Section 11.56.320 C, Section 11.56.320 D (if the original suspension or revocation was the result of a conviction of subsection A or B of this section, RCW 46.61.502 or RCW 46.61.504), RCW 46.20.342(1)(a), RCW 46.20.342(1)(b) or RCW 46.20.342(1)(c) (if the original suspension or revocation was the result of a conviction of subsection A or B of this section, RCW 46.61.502

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1 or RCW 46.61.504), the minimum mandatory sentence shall be  
2 ninety (90) days in jail and a ~~((Two))~~ Five Hundred Dollar  
3 ~~(\$((2))500.00)~~ fine. The penalty so imposed shall not be  
4 suspended or deferred. The person shall, in addition, be  
5 required to complete a diagnostic evaluation by ~~((at))~~ an  
6 alcoholism agency ~~((program))~~ approved by the Washington State  
7 Department of Social and Health Services or a qualified  
8 probation department approved by the Washington Department of  
9 Social and Health Services ~~((other diagnostic evaluation as the~~  
10 ~~court designates))~~. The report shall be sent to the Washington  
11 Department of Licensing. If the person is found to have an  
12 alcohol or drug problem requiring treatment, the person shall  
13 complete treatment at an approved alcoholism treatment program  
14 ~~((facility))~~ or approved drug treatment center.

15 In addition to any nonsuspendable and nondeferrable  
16 jail sentence required by the preceding paragraph relating to a  
17 second or subsequent conviction, whenever the court imposes less  
18 than one (1) year in jail, the court shall ~~((sentence a person~~  
19 ~~to a term of imprisonment not exceeding one hundred and eighty~~  
20 ~~(180) days and shall))~~ also suspend but shall not defer ~~((the~~  
21 ~~sentence))~~ a period of confinement for a period not exceeding  
22 two (2) ~~((one (1)))~~ years.

23 The suspension of the sentence may be conditioned upon  
24 nonrepetition, alcohol or drug treatment, supervised probation,  
25 or other conditions that may be appropriate. The sentence may  
26 be imposed in whole or in part upon violation of a condition of  
27 suspension during the suspension period.

28 3. Until June 30, 1995, in addition to the penalties  
set forth in this subsection, a fee of One Hundred Twenty-Five  
Dollars (\$125.00) shall be assessed to a person who is either  
convicted, sentenced to a lesser charge or given a deferred  
prosecution as a result of an arrest for violating subsection A  
or B of this section, RCW 46.61.520 or RCW 46.61.522. Upon a  
verified petition by the person assessed the fee, the court may  
suspend payment of all or part of the fee if it finds that the

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person does not have the ability to pay. The fee shall be collected by the clerk of the court and distributed according to RCW 46.61.515(6).

1 L. Refusal Admissible.

2 The refusal of a person to submit to a test of the  
3 alcoholic content of the person's blood or breath under Seattle  
4 Municipal Code Section 11.56.020 C is admissible into evidence  
5 at a subsequent criminal trial.

6 Section 5. Section 11.56.320 of the Seattle Municipal Code  
7 (Ordinance 108200 § 2 (11.56.320), as last amended by Ordinance  
8 115757 § 3) is further amended as follows.

9 **11.56.320 Driving while license is suspended or revoked.**

10 A. It is unlawful for any person to drive a motor vehicle  
11 within the City while that person is in a suspended or revoked  
12 status or when his or her privilege to drive is suspended or  
13 revoked in this or any other state.

14 B. A person found to be an habitual offender under  
15 chapter 46.65 RCW, who violates this section while an order of  
16 revocation issued under chapter 46.65 RCW prohibiting such  
17 operation is in effect, is guilty of driving while license  
18 suspended or revoked in the first degree, a gross misdemeanor.  
19 Upon the first such conviction, the person shall be punished by  
20 imprisonment for not less than ten (10) days. Upon the second  
21 conviction, the person shall be punished by imprisonment for not  
22 less than ninety (90) days. Upon the third or subsequent  
23 conviction, the person shall be punished by imprisonment for not  
24 less than one (~~(1) year~~) hundred eighty (180) days. If the  
25 person is also convicted of the offense defined in Section  
26 11.56.020(A) or Section 11.56.020(B), when both convictions  
27 arise from the same event, the minimum sentence of confinement  
28 shall be not less than ninety (90) days. The minimum sentence  
of confinement required shall not be suspended or deferred.

C. A person who violates this section while an order of  
suspension or revocation prohibiting such operation is in effect  
and while the person is not eligible to reinstate his or her

1 driver's license or driving privilege, other than for a  
2 suspension for the reasons described in subsection D of this  
3 section, is guilty of driving while license suspended or revoked  
4 in the second degree, a gross misdemeanor. This subsection  
5 applies when a person's driver's license or driving privilege  
6 has been suspended or revoked by reason of:

7 (1) A conviction of a felony in the commission of  
8 which a motor vehicle was used;

9 (2) A previous conviction under this section;

10 (3) A notice received by the Washington  
11 ((d)) Department of Licensing from a court or diversion unit as  
12 provided by RCW 46.20.265, relating to a minor who has  
13 committed, or who has entered a diversion ((unit)) agreement  
14 concerning an offense relating to alcohol, legend drugs,  
15 controlled substances, or imitation controlled substances;

16 (4) A conviction relating to the violation of  
17 restrictions of an occupational driver's license;

18 (5) A conviction relating to the operation of a motor  
19 vehicle with a suspended or revoked license;

20 (6) A conviction relating to duty in case of injury  
21 to or death of a person or damage to an attended vehicle;

22 (7) A conviction relating to attempting to elude  
23 pursuing police vehicles;

24 (8) A conviction relating to reckless driving;

25 (9) A conviction relating to a person under the  
26 influence of intoxicating liquor or drugs;

27 (10) A conviction relating to vehicular homicide;

28 (11) A conviction relating to vehicular assault;

(12) A conviction relating to racing of vehicles on  
highways;

(13) A conviction relating to leaving children in an  
unattended vehicle with motor running;

(14) A conviction relating to attempting, aiding,  
abetting, coercing, and committing crimes; or

(15) An administrative action taken by the Washington

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((d)) Department of Licensing under chapter 46.20 RCW.

1 D. A person who violates this section when his or her  
2 driver's license or driving privilege is, at the time of the  
3 violation, suspended or revoked solely because (1) the person  
4 must furnish proof of satisfactory progress in a required  
5 alcoholism or drug treatment program, (2) the person must  
6 furnish proof of financial responsibility for the future as  
7 provided by chapter 46.29 RCW, (3) the person has failed to  
8 comply with the provisions of chapter 46.29 RCW relating to  
9 uninsured accidents, ((e)) (4) the person has committed an  
10 offense in another state that, if committed in this state, would  
11 not be grounds for the suspension or revocation of the person's  
12 driver's license, (5) the person has been suspended or revoked  
13 by reason of one or more of the items listed in subsection C of  
14 this section, but was eligible to reinstate his or her driver's  
15 license or driving privilege at the time of the violation, or  
16 (6) the person has failed to respond to a notice of traffic  
17 infraction, failed to appear at a requested hearing, violated a  
18 written promise to appear in court or has failed to comply with  
19 the terms of a notice of traffic infraction or citation, as  
20 provided in Washington Laws of 1993, Chapter 501, section 1, or  
21 any combination of (1) through (((4))6), is guilty of driving  
22 while license suspended or revoked in the third degree, a  
23 misdemeanor.

24 Section 6. Chapter 12A.02 of the Seattle Municipal Code  
25 (Ordinance 102843, as amended) is further amended by adding the  
26 following section:

27 **12A.02.035 Prosecution under expired or repealed**  
28 **ordinance.**

No offense committed and no penalty or forfeiture incurred  
previous to the time when any ordinance expires or is repealed,  
whether such repeal be express or implied, shall be affected by  
such expiration or repeal, unless a contrary intention is  
expressly declared in the expiring or repealing ordinance, and  
no prosecution for any offense or for the recovery of any  
penalty or forfeiture pending at the time any ordinance expires

1 or is repealed, whether such repeal be express or implied, shall  
2 be affected by such expiration or repeal, but the same shall  
3 proceed in all respects as if such ordinance had not expired or  
4 been repealed, unless a contrary intention is expressly declared  
5 in the expiring or repealing ordinance. Whenever any ordinance  
6 defining an offense or making conduct unlawful is amended or  
7 repealed, whether such amendment or repeal be express or  
8 implied, any offense committed, conduct engaged in or penalty or  
9 forfeiture incurred while the ordinance was in force shall be  
10 punished or enforced as if the ordinance were in force,  
11 notwithstanding such amendment or repeal, unless a contrary  
12 intention is expressly declared in the amendatory or repealing  
13 ordinance, and every such amendatory or repealing ordinance  
14 shall be so construed as to save all proceedings under the  
15 amended or repealed ordinance pending at the time of the  
16 amendatory or repealing ordinance, unless a contrary intention  
17 is expressly declared therein.

18 Section 7. Section 12A.06.010 of the Seattle Municipal  
19 Code (Ordinance 102843 § 12A.04.020) is amended as follows:

20 **12A.06.010 Assault**

21 A person is guilty of assault when((+

22 ~~A. With intent to cause bodily injury to any person, he  
23 causes bodily injury to any person; or~~

24 ~~B. He recklessly causes bodily injury to another person;~~

25 ~~C. With criminal negligence, he causes bodily injury to  
26 another person by means of a deadly weapon)) he or she  
27 intentionally assaults another person.~~

28 Section 8. Section 12A.06.030 of the Seattle Municipal  
Code (Ordinance 102843 § 12A.04.050, as last amended by  
Ordinance 112333 § 1) is further amended as follows:

**12A.06.030 Menacing**

A. A person is guilty of menacing when((+

~~A. By physical action he intentionally causes or  
attempts to cause another person reasonably to fear imminent~~

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~~bodily injury or the commission of a criminal act upon their person, or upon property in their immediate possession; or~~

1           2. ~~B))~~ by a present threat to another person  
2 subsequent to a history of threats or violence between himself  
3 or herself and such other person, he or she intentionally causes  
4 or attempts to cause such other person reasonably to fear  
5 serious bodily injury or death.

6           B. ~~((As used in this section, "physical action" means an~~  
7 ~~action as defined in Section 12A.07.150 1 or an action~~  
8 ~~accompanied by words or threats but not words alone.~~

9           ~~C.)~~ As used in this section, "threat" has the meaning  
10 specified in Section 12A.08.050 L1.

11           ~~((D))~~ C. As used in this section, "history of threats or  
12 violence" means one (1) or more of the following:

- 13                   1. Two (2) or more threats; or
- 14                   2. One (1) or more assaults as defined in  
15 Section 12A.06.010 ~~((1) or~~
- 16                   3. ~~One (1) or more menacings as defined in~~  
17 ~~subsection A1 of this section.~~

18           ~~E. As used in this section, "bodily injury" has the~~  
19 ~~meaning specified in Section 12.01.150 (4)).~~

20           Section 9. Chapter 12A.06 of the Seattle Municipal Code  
21 (Ordinance 102843, as amended) is further amended by adding the  
22 following section:

23           **12A.06.035 Stalking.**

24           A. A person is guilty of stalking when, without lawful  
25 authority:

- 26                   1. he or she intentionally and repeatedly follows  
27 another person to that person's home, school, place of  
28 employment, business or any other location or follows that  
person while that person is in transit between locations; and
2. the person being followed is intimidated,  
harassed or placed in fear that the stalker intends to injure  
that person or property of that person or of another person; and
3. a reasonable person in the same situation and

1 under the same circumstances as the person being followed would  
2 feel intimidated, harassed or afraid that the stalker intends to  
3 injure the person or property of that person or of another  
4 person; and

5 4. the stalker either:

6 a. intends to intimidate, harass or frighten  
7 the person being followed; or

8 b. knows or reasonably should know that the  
9 person being followed is intimidated, harassed or afraid.

10 B. It is not a defense to the crime of stalking:

11 1. under subsection A4a of this section that the  
12 stalker was not given actual notice that the person being  
13 followed did not want the stalker to contact or follow that  
14 person;

15 2. under subsection A4b of this section that the  
16 stalker did not intend to intimidate, harass or frighten the  
17 person being followed.

18 C. It is an affirmative defense to the crime of stalking  
19 that the defendant is a licensed private detective acting within  
20 the capacity of his or her license as provided by Chapter 18.165  
21 RCW.

22 D. Attempts to contact or follow the person after being  
23 given actual notice that such person does not want to be  
24 contacted or followed constitutes prima facie evidence that the  
25 stalker intends to intimidate, harass or frighten such person.

26 E. Stalking is a gross misdemeanor.

27 Section 10. Section 12A.12.040 of the Seattle Municipal  
28 Code (Ordinance 111860 § 7) is amended as follows:

12A.12.040 D. disorderly conduct on buses.

A. A person is guilty of disorderly bus conduct if while  
on or in a municipal transit (~~each of the METRO Transit  
System~~) vehicle, as defined by RCW 46.04.355, or in or at an  
underground municipal transit station, and with knowledge that  
such conduct is prohibited, he or she:

((A)) 1. Smokes or carries a lighted or smoldering pipe,

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cigar, or cigarette;

((B))2. Discards litter other than in a designated receptacles; or

1 ((C))3. Plays any radio, recorder, or other sound  
2 producing or reproducing equipment except that nothing herein  
3 shall prohibit the use of such equipment when connected to  
4 earphones that limit the sound to individual listeners or the  
5 use of a communication device by an employee of the owner or  
6 operator of the municipal transit vehicle or private  
7 communication devices used to summon or notify individuals  
8 ("beepers"); or

9 ((D))4. Spits or expectorates; or

10 ((E))5. Carries any flammable or combustible liquid,  
11 explosive, ((non-flammable explosive,)) acid, or other article  
12 or material in a manner that is likely to cause harm to others  
13 except nothing herein shall prevent a person from carrying a  
14 cigarette lighter, cigar lighter, or pipe lighter, or carrying  
15 a firearm or ammunition in a way that is not otherwise  
16 prohibited by law; or

17 ((F))6. Unreasonably disturbs others by engaging in loud  
18 or raucous behavior.

19 B. As used in this section, "municipal transit station"  
20 means all facilities, structures, lands, interest in lands, air  
21 rights over lands, and rights of way of all kinds that are  
22 owned, leased, held, or used by a public agency for the purpose  
23 of providing public transportation.

24 C. Disorderly bus conduct is a misdemeanor.

25 Section 11. Section 12A.14.010 of the Seattle Municipal  
26 Code (Ordinance 102843 § 12A.17.010, as last amended by  
27 Ordinance 13547 § 1) is further amended as follows:

28 **12A.14.010 Definitions.**

The following definitions apply in this chapter:

A. "Aerosol tear gas personal protection device" means a container for dispensing tear gas, the active ingredient of which is either chloracetophenone (CN) or O-chlorobenzylidene

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malonotrile (CS) within the range of 0.8% to 1.2% of the net contents by volume, which container has a net weight of one hundred fifty (150) grams or less.

1 B. "Commercial seller" means a person who has a federal  
2 firearms license.

3 C. "Crime of violence" means:

4 1. Any of the following felonies, as now existing or  
5 hereafter amended: ~~((1-))~~ Any felony defined under any law as a  
6 class A felony or an attempt to commit a class A felony,  
7 criminal solicitation of or criminal conspiracy to commit a  
8 class A felony, manslaughter in the first degree, manslaughter  
9 in the second degree, indecent liberties if committed by  
10 forcible compulsion, rape in the second degree, kidnapping in  
11 the second degree, assault of a child in the second degree,  
12 extortion in the first degree, burglary in the second degree,  
13 and robbery in the second degree;

14 2. Any conviction or adjudication for a felony  
15 offense in effect at any time prior to July 1, 1976, which is  
16 comparable to a felony classified as a crime of violence in  
17 subsection C1 of this section; and

18 3. Any federal or out-of-state conviction or  
19 adjudication for an offense comparable to a felony classified as  
20 a crime of violence under subsection C1 or 2 of this section.

21 D. "Dangerous knife" means any fixed-blade knife and any  
22 other knife having a blade more than three and one-half inches  
23 (3 1/2") in length.

24 E. "Fixed-blade knife" means any knife, regardless of  
25 blade length, with a blade which is permanently open and does  
26 not fold, ~~((or))~~ retract or slide into the handle of the knife,  
27 and includes any dagger, sword, bayonet, bolo knife, hatchet,  
28 axe, straight-edged razor, or razor blade not in a package,  
dispenser or shaving appliance.

F. "Firearm" means a weapon or device from which a  
projectile may be fired by an explosive such as gunpowder.

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1 G. "Gas pen," "gas pencil," "gas bomb" and "gas pistol"  
2 means any pen, pencil, bomb, pistol or other device which is  
3 capable of containing and emitting tear gas or any noxious  
4 liquid, gas or substance.

5 H. "Short firearm" or "pistol" means any firearm having  
6 a barrel less than twelve inches (12") in length.

7 I. "Switchblade knife" means any knife having a blade  
8 which opens automatically by hand pressure applied to a button,  
9 spring mechanism, or other device, or a blade that opens, falls  
10 or is ejected into position by force of gravity or by an  
11 outward, downward, or centrifugal thrust or movement.

12 Section 12. Section 12A.14.020 of the Seattle Municipal  
13 Code (Ordinance 102843 § 12A.17.020, as last amended by  
14 Ordinance 112103 § 2) is further amended as follows:

15 **12A.14.020 License application for concealed pistol and**  
16 **fees.**

17 **A.** Any person applying to the Chief of Police of the City  
18 pursuant to RCW 9.41.070 for a license to carry a pistol  
19 concealed on his or her person shall file with the Chief of  
20 Police, on a form to be provided by the Chief of Police, an  
21 application in writing which shall include at a minimum the  
22 following information and material:

23 **((A))1.** Name, ~~((and))~~ address and place of birth of  
24 the applicant;

25 **((B))2.** The applicant's citizenship, and if not a  
26 United States citizen whether the applicant has declared the  
27 intent to become a citizen and whether the applicant has been  
28 required to register with the state or federal government and  
any identification or registration number, if applicable, and  
age;

**((C))3.** A statement whether the applicant:

~~((1. Has ever been convicted in any court of a crime  
of violence, or is at the time of such application under  
indictment for or charged by information with any such crime,))~~

a. Is ineligible to own a pistol under the  
provisions of RCW 9.41.040,

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1 ((2))b. Has an outstanding warrant for his or her  
2 arrest from any court of competent jurisdiction for a felony or  
3 misdemeanor,

4 ~~((3. Is ineligible to own a pistol under the  
5 provisions of RCW 9.41.040,6~~

7 4))c. Is subject to a court order or injunction  
8 regarding firearms pursuant to RCW 10.((49))99.040, 10.99.045,  
9 or 26.09.060,

10 ((5))d. Is free on bond or personal recognizance  
11 pending trial, appeal, or sentencing for a crime of violence,

12 e. Has been ordered to forfeit a firearm under RCW  
13 9.41.098(1)(d) or Section 12A.14.085 A4 within one year before  
14 filing such application.

15 f. Has been convicted of assault in the third  
16 degree, indecent liberties, malicious mischief in the first  
17 degree, possession of stolen property in the first or second  
18 degree or theft in the first or second degree;

19 ((D))4. A photograph of the applicant, taken within sixty  
20 (60) days immediately prior to the date of filing of the  
21 application, which shall be two inches (2") by two inches (2")  
22 showing the head and shoulders of the applicant in a clear and  
23 distinguishing manner;

24 ((E))5. The applicant's fingerprints;

25 ((F))6. A statement of the applicant's reasons for  
26 desiring such license, including such factual information as the  
27 Chief of Police finds reasonably necessary to effectuate the  
28 purpose of, and determine compliance with, this chapter and RCW  
Chapter 9.41.

B. The license shall be in triplicate, in a form to be  
prescribed by the Washington Department of Licensing, and shall  
bear the name, address, description, fingerprints, and signature  
of the licensee and the licensee's driver's license number or  
state identification card number if used for identification in  
applying for the license. The license application shall contain  
a warning substantially as follows:

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1 CAUTION: Although state and local laws do not differ,  
2 federal law and state law on the possession of  
3 firearms differ. If you are prohibited by federal law  
4 from possessing a firearm, you may be prosecuted in  
5 federal court. A state license is not a defense to a  
6 federal prosecution.

7 C. The license application shall contain a description of  
8 the major differences between state and federal law and an  
9 explanation of the fact that local laws and ordinances on  
10 firearms are preempted by state law and must be consistent with  
11 state law.

12 D. The original license application shall be delivered to  
13 the licensee, the duplicate shall within seven (7) days be sent  
14 by registered mail to the Washington Director of Licensing and  
15 the triplicate shall be preserved for six (6) years by the  
16 Seattle Police Department.

17 E. The fee for the original issuance of a four (4) year  
18 license shall be Twenty-Three Dollars (\$23.00).

19 F. The fee for the renewal of such license shall be  
20 Fifteen Dollars (\$15.00).

21 G. A licensee renewing after the expiration date of the  
22 license must pay a late renewal penalty of Ten Dollars (\$10.00)  
23 in addition to the renewal fee specified in subsection F of this  
24 section.

25 Section 13. Section 12A.14.035 of the Seattle Municipal  
26 Code (Ordinance 112103 § 4, as last amended by Ordinance 112705  
27 § 1) is further amended as follows:

28 12A.14.035 License issuance ((and)), denial,  
revocation and renewal.

A. The Chief of Police shall, within thirty (30) days  
after the filing of an application of any person, issue a  
license to such person to carry a pistol concealed on his or her  
person within this state for four (4) years from the date of  
issue, for the purposes of protection or while engaged in  
business, sport or while traveling. However, if the applicant

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1 does not have a valid permanent Washington driver's license or  
2 Washington State identification card or has not been a resident  
3 of the state for the previous ninety (90) days, the Chief of  
4 Police shall have up to sixty (60) days after the filing of the  
5 application to issue a license. An ~~((citizen's))~~ applicant's  
6 constitutional right to bear arms shall not be denied unless he  
7 or she:

8 1. Is ineligible to own a pistol under the  
9 provisions of RCW 9.41.040; or

10 2. Is under twenty-one (21) years of age; or

11 3. Is subject to a court order or injunction  
12 regarding firearms pursuant to RCW 10.99.040, 10.99.045, or  
13 26.09.060; or

14 4. Is free on bond or personal recognizance pending  
15 trial, appeal, or sentencing for a crime of violence; or

16 5. Has an outstanding warrant for his or her arrest  
17 from any court of competent jurisdiction for a felony or  
18 misdemeanor; or

19 6. Has been ordered to forfeit a firearm under RCW  
20 9.41.098(1)(d) or Section 12A.14.085 A4 within one (1) year  
21 before filing an application to carry a pistol concealed on his  
22 or her person; or

23 7. Has been convicted of any of the following  
24 offenses: Assault in the third degree, indecent liberties,  
25 malicious mischief in the first degree, possession of stolen  
26 property in the first or second degree, or theft in the first or  
27 second degree.

28 An applicant who is not eligible for a concealed pistol  
license may have his or her eligibility restored as provided in  
RCW 9.41.070(1)(g) or RCW 9.41.070(2).

B. The license ~~((permit))~~ shall be revoked immediately  
upon conviction of a crime which makes such a person ineligible  
to own a pistol or upon the third conviction for a violation of  
this chapter within five (5) calendar years. ~~((The license~~  
~~shall be in triplicate, in a form to be prescribed by the~~

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1 ~~Washington State Department of Licensing, and shall bear the~~  
2 ~~name, address, and description, fingerprints, and signature of~~  
3 ~~the licensee and the licensee's driver's license number or state~~  
4 ~~identification card number if used for identification in~~  
5 ~~applying for the license. The license application shall contain~~  
6 ~~a warning substantially as follows:~~

7 ~~CAUTION: Although state and local laws do not differ,~~  
8 ~~federal law and state law on the possession of~~  
9 ~~firearms differ. If you are prohibited by federal law~~  
10 ~~from possessing a firearm, you may be prosecuted in~~  
11 ~~federal court. A state permit is not a defense to a~~  
12 ~~federal prosecution.~~

13 ~~The license application shall contain a description of the~~  
14 ~~major differences between state and federal law and an~~  
15 ~~explanation of the fact that local laws and ordinances on~~  
16 ~~firearms are preempted by state law and must be consistent with~~  
17 ~~state law.~~

18 ~~The original thereof shall be delivered to the licensee,~~  
19 ~~the duplicate shall within seven (7) days be sent by registered~~  
20 ~~mail to the Washington State Director of Licensing and the~~  
21 ~~triplicate shall be preserved for six (6) years, by the Seattle~~  
22 ~~Police Department.~~

23 ~~C. The fee for the original issuance of a four (4) year~~  
24 ~~license shall be Twenty Dollars (\$20.00).~~

25 ~~D. The fee for the renewal of such license shall be~~  
26 ~~Twelve Dollars (\$12.00.-))~~

27 ~~C. Upon an order to forfeit a firearm under RCW~~  
28 ~~9.41.098(1)(d) or Section 12A.14.085 A4 the Chief of Police~~  
shall:

1. On the first forfeiture, revoke the license for one (1) year;
2. On the second forfeiture, revoke the license for two (2) years;

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3. On the third or subsequent forfeiture, revoke the license for five (5) years.

1 D. Any person whose license is revoked as a result of a  
2 forfeiture of a firearm under RCW 9.41.098(1)(d) or Section  
3 12A.14.085 A4 may not reapply for a new license until the end of  
4 the revocation period. The Chief of Police shall notify, in  
5 writing, the Washington Department of Licensing.

6 E. The Chief of Police may renew a license if the  
7 licensee applies for renewal within ninety (90) days before or  
8 after the expiration date of the license. A license so renewed  
9 shall take effect on the expiration date of the prior license.  
10 ~~((A licensee renewing after the expiration date of the license  
11 must pay a late renewal penalty of Ten Dollars (\$10.00) in  
12 addition to the renewal fee specified in subsection D of this  
13 section.))~~

14 F. The Chief of Police may issue a temporary emergency  
15 license for good cause pending review under subsection A of this  
16 section.

17 Section 14. Section 12A.14.080 of the Seattle Municipal  
18 Code (Ordinance 102543 § 12A.17.140, as last amended by  
19 Ordinance 113547 § 3) is further amended as follows:

20 **12A.14.080 Unlawful use of weapons.**

21 It is unlawful for a person knowingly to:

22 A. Sell, manufacture, purchase, possess or carry any  
23 blackjack, sand-club, metal knuckles, switchblade knife, chako  
24 sticks, or throwing stars; or

25 B. Carry concealed or unconcealed on his((+)) or her  
26 person any dangerous knife, or carry concealed on his((+)) or  
27 her person any deadly weapon other than a pistol; or

28 C. Carry a loaded pistol in any vehicle or carry a pistol  
concealed on his or her person, except when in his or her place  
of abode or fixed place of business, without a license therefor  
as provided in RCW Chapter 9.41 and Section 12A.14.((030))035;  
or

D. Sell or give away to any person under eighteen (18)

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1 years of age any dangerous knife or deadly weapon, or for any  
2 person under eighteen (18) years of age to purchase any  
3 dangerous knife or deadly weapon, or for any person under  
4 eighteen (18) years of age to possess any dangerous knife or  
5 deadly weapon except when under the direct supervision of an  
6 adult; or

7 E. Set a spring gun; or

8 F. Use any device or attachment of any kind designed,  
9 used or intended for use in silencing the noise of any firearm;  
10 or

11 G. Sell, purchase, possess or carry any gas pen, gas  
12 pencil, gas bomb or gas pistol except as provided in Section  
13 12A.14.090.

14 Section 15. Section 12A.04.020 of the Seattle Municipal  
15 Code (Ordinance 102843 § 17A.02.030(1), as last amended by  
16 Ordinance 109674 § 1), Section 12A.04.040 of the Seattle  
17 Municipal Code (Ordinance 102843 § 12A.02.030(3), as last  
18 amended by Ordinance 109674 § 1), Section 12A.06.015 of the  
19 Seattle Municipal Code (Ordinance 110786 § 2) and Section  
20 12A.14.150 of the Seattle Municipal Code (Ordinance 112238 § 2)  
21 are each repealed.

22 Section 16. The provisions of this ordinance are declared  
23 to be separate and severable. The invalidity of any clause,  
24 sentence, paragraph, subdivision, section or portion of this  
25 ordinance, or the invalidity of the application thereof to any  
26 person or circumstance shall not affect the validity of the  
27 remainder of this ordinance, or the validity of its application  
28 to other persons or circumstances.

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Section 17. 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 \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,  
and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

President \_\_\_\_\_ of the City Council.

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Mayor.

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Attest: \_\_\_\_\_  
City Comptroller and City Clerk.

(SEAL)

Published \_\_\_\_\_

By \_\_\_\_\_  
Deputy Clerk.

PUBLISH  DO NOT PUBLISH  
CITY ATTORNEY \_\_\_\_\_

CS 0.1.0

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MARK H. SIDRAN  
CITY ATTORNEY

MEMORANDUM

TO: Councilmember Margaret Pageler  
FROM: Ted Inkley and Richard Greene, Law Department  
RE: Proposed ordinance  
DATE: July 21, 1993

The attached ordinance incorporates all but one of the amendments to the criminal and traffic provisions of the Seattle Municipal Code proposed in our March 4 memorandum, as well as several amendments addressing issues of concern to the Law Department which have arisen since then.

Sections 1 and 6 provide that criminal proceedings initiated under a criminal or traffic ordinance which later expires or is repealed are not extinguished by the expiration or repeal of the ordinance. These sections are patterned on the state statute, RCW 10.01.040.

Section 2 was not discussed in our March 4 memorandum. This section is designed to make the traffic offense of No Valid Operator's License (NVOL) a lesser offense of Driving While License Suspended or Revoked (DWLS), as it is under state law. Making NVOL a lesser offense of DWLS allows a judge or jury to convict a person of NVOL when he or she is charged with DWLS if the evidence turns out not to support the greater charge.

Sections 3 and 14 correct drafting errors.

Section 4, which was not discussed in our March 4 memorandum, incorporates three recent amendments to the state Driving While Intoxicated (DWI) statutes.

The first amendment changes the definition of the offenses of DWI and Physical Control to provide that the analysis of the defendant's breath or blood for alcohol content may be done up to two hours after the driving or being in physical control of the vehicle. This amendment is designed to eliminate the issue of "retrograde extrapolation," i.e., whether a breath alcohol measurement taken some time after the defendant is stopped is sufficient to prove his breath alcohol level at the time of driving. The amendment provides a defense that defendant consumed alcohol after driving but before testing. The amendment also provides that evidence of a breath alcohol test done more than two hours after the driving or being in physical control of a vehicle is admissible to show the defendant's breath alcohol level within two hours after driving or to show that the defendant was under the influence of or affected by alcohol.

The second amendment clarifies the prerequisites for imposing a mandatory minimum sentence on a defendant convicted of a second or subsequent DWI or Physical Control who also has a suspended or revoked driver's license and clarifies the court's sentencing authority in cases of a repeat offender.

The third amendment requires the imposition of a special fee on a defendant convicted of any offense or granted a deferred prosecution resulting from an arrest for DWI, Physical Control, Vehicular Homicide or Vehicular Assault.

In addition, Section 4 clarifies the court's responsibility in ordering a convicted defendant to complete alcohol treatment, requires that an alcohol evaluation performed on a convicted defendant be sent to the Department of Licensing and lengthens the probation period for a repeat offender to two years. These changes conform our ordinance to the state statute.

Section 5 creates two new methods of committing DWLS 3<sup>o</sup> -- driving after the period of suspension has expired but without a valid driver's license and driving after a suspension because of the driver's unpaid traffic citations or failure to respond to traffic citations. This latter method was not discussed in our March 4 memorandum as it was added to the state statute by the 1993 Legislature. This section also reduces the mandatory minimum sentence for a third DWLS 1<sup>o</sup> from one year to 180 days, corresponding to the change made to the state statute by the 1993 Legislature.

Section 7 amends the Assault ordinance to make it conform to state statute. Section 8 eliminates one means of committing Menacing as that means now will be an Assault.

Section 9 creates the crime of Stalking, which was added to state law by the 1992 Legislature.

Section 10 prohibits certain conduct in the bus tunnel which already is prohibited on a bus. The 1992 Legislature amended the corresponding state statute to prohibit this conduct, except smoking, at any bus station. Unlike the statute, this section does not prohibit littering, playing a radio, spitting, carrying a flammable liquid or engaging in loud behavior at an above-ground bus stop.

Sections 11 and 12 expand the list of crimes conviction of which preclude a person from obtaining a concealed pistol license. Section 12 increases the fee for such a license. Sections 12 and 13 reorganize the provisions regarding the application for and the Chief of Police's granting, refusing and revoking such a license. This change was not discussed in our March 4 memorandum. The provisions regarding the information required for the application are compiled in Section 12 and revised to conform to state law.

The provisions regarding action on the application and subsequent revocation of the license are compiled in Section 13 and also revised to conform to state law.

Section 15 repeals two ordinances regarding the mental state required for crimes which have been confusing to judges and juries and unreasonably burdensome to prosecutors. This section also repeals the Simple Assault ordinance as the conduct that ordinance prohibits now will be prohibited by the revised Assault ordinance. This section also repeals an ordinance which duplicates another ordinance regarding forfeiture of a firearm found in the possession of an intoxicated person.

This ordinance does not adopt the Model Traffic Ordinance (MTO), as suggested in our March 4 memorandum. Adoption of the MTO would require review of over 600 statutes to determine how they differ from our current traffic ordinances and would require repeal of almost the entire Seattle Traffic Code. A review of the pertinent statutes and ordinances will take a significant period of time. In addition, the 1993 Legislature has delegated its authority to make changes in the MTO to the Department of Licensing. While we believe Seattle ultimately should adopt the MTO, this will have to be done by a separate ordinance to be submitted at a later time.

We would like to discuss this proposed ordinance with you soon, but recognize that the Public Safety Committee has many other matters on its agenda. Please feel free to call Ted Inkley at 684-7757 or 684-7778 (voice mail) at your convenience.

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TIME AND DATE STAMP

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THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

*Margaret Pejer*

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COMMITTEE(S) REFERRED TO:

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**STATE OF WASHINGTON - KING COUNTY**

35651  
City of Seattle

-ss.

No. IN FULL

**Affidavit of Publication**

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

ORD: 116872

was published on

10/08/93

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

*J. Buldo*

Subscribed and sworn to before me on

10/08/93

*William D. Lafer*

Notary Public for the State of Washington,  
residing in Seattle

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