

Ordinance No. 120057

Council Bill No. 113312

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to persons under the influence of intoxicating liquor or any drug, amending Subsection 11.56.020 Q of the Seattle Municipal Code.

CF No. _____

Date Introduced: <u>JUL 24 2000</u>		
Date 1st Referred: <u>JUL 24 2000</u>	To: (committee)	Public Safety & Technology Committee
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>8/7/00</u>	Full Council Vote: <u>8-0</u>	
Date Presented to Mayor: <u>8/8/00</u>	Date Approved: <u>8-14-00</u>	
Date Returned to City Clerk: <u>8-14-00</u>	Date Published: <u>8/23/00</u>	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by:

[Handwritten Signature]
Councilmember

Committee Action:

Duggan aye
Compton aye

This file is complete and ready for presentation to Full Council. Committee: _____

(initial/date)

Law Department

Law Dept. Review

OMP
Review

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City Clerk
Review

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ORDINANCE 12057

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3 AN ORDINANCE relating to persons under the influence of intoxicating liquor or any drug, amending
Subsection 11.56.020 Q of the Seattle Municipal Code.

4 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

5 **Section 1.** Subsection Q of Section 11.56.020 of the Seattle Municipal Code (Ordinance
6 108200 § 2 (11.56.020), as last amended by Ordinance 119189 § 6) is further amended as follows:

7 **11.56.020 Persons under the influence of intoxicating liquor or any drug --**
8 **Chemical analysis --Tests, evidence and penalties.**

9 * * *

10 Q. Mandatory Appearance after ~~((Arrest or))~~ Charging.

11 1. A defendant who is charged with ~~((arrested for))~~ a violation of this section shall be
12 required to appear in person before a judicial officer ~~((judge or magistrate))~~ within one (1) judicial day
13 after the arrest if the defendant is served with a citation or complaint at the time of the arrest. The
14 Municipal Court may by local court rule waive the requirement for an appearance within one judicial
15 day if it provides for the appearance at the earliest practicable day following arrest and establishes the
16 method for identifying that day in the rule.

17 2. A defendant who is charged ~~((by citation, complaint or information))~~ with a violation
18 of this section and who is not served with a citation or complaint at the time of the incident ~~((arrested))~~
19 shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen
20 (14) days after the next day on which court is in session following the issuance of the citation or the
21 filing of the complaint or information.
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23
24



3. At the time of an appearance required by this subsection, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

4. Appearances required by this subsection are mandatory and may not be waived.

5. Failure of the court to comply with the requirements of this subsection shall not be grounds for dismissal of any charge under this section nor the establishment of a constructive date of arraignment for purposes of Criminal Rule for Courts of Limited Jurisdiction 3.3.

Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 7 day of August, 2000, and signed by me in open session in authentication of its passage this 7 day of August, 2000.

Margaret E. Pappas
President _____ of the City Council

Approved by me this 14th day of AUGUST, 2000.

Paul Sallee
Mayor

Filed by me this 14th day of August, 2000.

Judith E. Pappas
City Clerk

(Seal)



SEATTLE CITY ATTORNEY

MARK H. SIDRAN

July 10, 2000

Honorable Jim Compton
Chair, Public Safety and Technology Committee
Seattle City Council
1106 Municipal Building
Seattle, Washington 98104

Dear Councilmember Compton:

Attached for the City Council's consideration are three ordinances conforming the Seattle Municipal Code to changes made to the corresponding state statutes in the past session of the Legislature. Although the Council is not required to adopt any of these measures, it would be both convenient and helpful to the Municipal Court and attorneys to have the City Code reflect parallel provisions of state law. Obviously, state law is controlling in this context and failure to pass parallel ordinances does not affect the applicability of the state statutes.

The first proposed ordinance concerns Driving While Intoxicated (DWI) and authorizes Municipal Court to change the requirement that a person cited for DWI appear in court one judicial day after arrest by extending the time in which this hearing must occur. The purpose of this hearing is for the court to arraign the defendant and determine bail and conditions of release pending trial, such as alcohol treatment or driving restrictions. This requirement of a "next day" court appearance on a DWI charge was passed by the Legislature in 1999 and was intended to assure that alleged drunk drivers were subject to judicial oversight as soon as possible. Several practical issues arose when the courts attempted to implement this law and the 2000 Legislature responded by modifying state law to allow the courts to set the date for the hearing by court rule, provided that the hearing occur at the earliest practicable day following the DWI incident. The Legislature also clarified that a person who is not cited at the time of the DWI incident (e.g., a collision requiring a follow-up investigation, blood alcohol analysis, etc.) is required to appear in court within 14 days after charges are filed.

The second proposed ordinance concerns traffic infraction hearings and allows the Municipal Court to "defer findings" and in effect put the driver on probation for up to one year and then dismiss the citation if the person complies with the conditions (e.g., pay "costs", attend traffic safety school, no further violations, etc.). A person is eligible for this procedure only once every seven years.

CIVIL DIVISION

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600 FOURTH AVENUE, 10TH FLOOR, SEATTLE, WASHINGTON 98104-1877
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Honorable Jim Compton

June 30, 2000

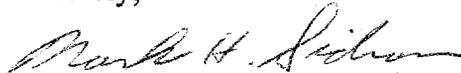
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The third proposed ordinance largely concerns domestic violence and authorizes a court issuing a no-contact or protection order to require the defendant to stay a certain distance away from a specified location, such as the victim's home, school or workplace and provides that violation of the court's order constitutes a separate crime. The Legislature was responding to two Court of Appeals decisions holding that the prior law did not establish the violation of such a prohibition as a crime.

Primarily in response to the Linda David case and other instances of child, elder and vulnerable adult abuse and neglect, the Legislature created the new crime of "Criminal Mistreatment", making it a gross misdemeanor to substantially harm a dependent person by withholding the basic necessities of life. The third proposed ordinance also adds a parallel law to the Municipal Code.

I encourage you to bring these proposals before the City Council at your earliest convenience. As always, we would be happy to provide any further information that would be useful to the Council upon request.

Sincerely,



Mark H. Sidran
Seattle City Attorney



STATE OF WASHINGTON - KING COUNTY

121770
City of Seattle, City Clerk

—ss.

No. FULL ORD

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

CT:120057 ORDINANCE

was published on
08/16/00

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

H. Peterson

Subscribed and sworn to before me on
08/16/00
McClivary

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 120057

AN ORDINANCE relating to persons under the influence of intoxicating liquor or any drug, amending Subsection 11.56.020 Q of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Subsection Q of Section 11.56.020 of the Seattle Municipal Code (Ordinance 108200 § 2 (11.56.020), as last amended by Ordinance 119189 § 6) is further amended as follows:

11.56.020 PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG -- CHEMICAL ANALYSIS -- TESTS, EVIDENCE AND PENALTIES.

Q. Mandatory Appearance after (Arrest or) Charging.

1. A defendant who is charged with (arrested for) a violation of this section shall be required to appear in person before a judicial officer (judge or magistrate) within one (1) judicial day after the arrest if the defendant is served with a citation or complaint at the time of the arrest. The Municipal Court may by local court rule waive the requirement for an appearance within one judicial day if it provides for the appearance at the earliest practicable day following arrest and establishes the method for identifying that day in the rule.

2. A defendant who is charged (by citation, complaint or information) with a violation of this section and who is not served with a citation or complaint at the time of the incident (arrested) shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen (14) days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

3. At the time of an appearance required by this subsection, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

4. Appearances required by this subsection are mandatory and may not be waived.

5. Failure of the court to comply with the requirements of this subsection shall not be grounds for dismissal of any charge under this section nor the establishment of a constructive date of arraignment for purposes of Criminal Rule for Courts of Limited Jurisdiction 3.3.

SECTION 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 7th day of August, 2000, and signed by me in open session in authentication of its passage this 7th day of August, 2000.

MARGARET PAGELER,

President of the City Council.

Approved by me this 14th day of August, 2000.

PAUL SCHELL,

Mayor.

Filed by me this 14th day of August, 2000.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN, City Clerk.

((Boldface denotes deletion.))

Date of official publication in Daily Journal of Commerce, Seattle, August 16, 2000. 8/16(121770C1)