

Ordinance No. 121525

Council Bill No. 114949

AN ORDINANCE relating to motor vehicles;  
amending, redesignating, adding and repealing  
various sections and subsections in chapters 11.20,  
11.30, 11.31, 11.52, 11.53, 11.56, 11.72 and 11.84  
of the Seattle Municipal Code.

CF No. \_\_\_\_\_

Date Introduced:	JUN 28 2004	
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JUN 28 2004		
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Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
7-6-04	8-0	
Date Presented to Mayor:	Date Approved:	
7-7-04	7-16-04	
Date Returned to City Clerk:	Date Published:	T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
7-16-04	14	
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department  
Council Bill/Ordinance sponsored by: \_\_\_\_\_

Committee Action:

7-6-04 Passed 8-0  
(Excused: Diago)

This file is complete and ready for presentation to Full Council. Com

Law Department

Law Department

Law Dept. Review

OMP  
Review

City Clerk  
Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by:

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Councilmember

6/29/04 Walk-in

Committee Action:

7-6-04 Passed 8-0

(Excused: Diego)

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Committee:

(Initial/Date)

Law Department

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ORDINANCE 121525

AN ORDINANCE relating to motor vehicles; amending, redesignating, adding and repealing various sections and subsections in chapters 11.20, 11.30, 11.31, 11.52, 11.53, 11.56, 11.72 and 11.84 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

**Section 1.** Section 11.20.100 of the Seattle Municipal Code is amended as follows:

**11.20.100 Display of nonvalid driver's license.**

No person shall display or cause or permit to be displayed or have in his or her possession any ~~((cancelled, revoked, suspended,))~~ fictitious or fraudulently altered driver's license or identicaid. (RCW 46.20.0921(1)(a))

**Section 2.** Section 11.20.230 of the Seattle Municipal Code and the title of that section are amended as follows:

**11.20.230 Ignition interlock ~~((or other biological or technical))~~ device authorized ~~((required))~~.**

~~((A.))~~ The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock ~~((or other biological or technical))~~ device. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started and the period of time for which interlock use will be required.

~~((B. If a person is convicted of a violation of Section 11.56.020 A or B, the court shall order that after a period of suspension, revocation, or denial of driving privileges, the person may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device. This requirement may not be suspended.~~

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1 C. The court shall establish a specific calibration setting at which the ignition interlock or other  
2 biological or technical device will prevent the motor vehicle from being started and the period of time  
3 that the person shall be subject to the restriction.

4 D. In the case of a person subject to the restriction under subsection B of this section, the  
5 duration of the restriction shall be as follows:

6 1. For a person subject to subsection N1b, N2 or N3 of Section 11.56.020 who has not  
7 previously been restricted under this section, RCW 46.20.720 or equivalent local ordinance, a period of  
8 not less than one (1) year;

9 2. For a person who has previously been restricted under subsection D1 of this section,  
10 RCW 46.20.720(3)(a), or equivalent local ordinance, a period of not less than five (5) years;

11 3. For a person who has previously been restricted under subsection D2 of this section,  
12 RCW 46.20.720(3)(b), or equivalent local ordinance, a period of not less than ten (10) years.

13 E. For purposes of this section, "convicted" means being found guilty of an offense or being  
14 placed on a deferred prosecution program under RCW Chapter 10.05.) (RCW 46.20.720)

15 Section 3. Section 11.20.345 of the Seattle Municipal Code is amended as follows:

16 **11.20.345 Post citation proof of financial responsibility.**

17 If a person cited for a violation of Section 11.20.340 appears in person before the court and  
18 provides written evidence that at the time the person was cited, he or she was in compliance with the  
19 financial responsibility requirements of Section 11.20.340, the citation shall be dismissed and the court  
20 may assess court administrative costs of Twenty-five Dollars (\$25.00) at the time of dismissal. In lieu of  
21 personal appearance, a person cited for a violation of the financial responsibility requirements of Section  
22 11.20.340 may, before the date scheduled for the person's appearance before the court, submit by mail to  
23 the court written evidence that at the time the person was cited, he or she was in compliance with the  
24

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financial responsibility requirements of Section 11.20.340, in which case the citation shall be dismissed without cost, except that the court may assess court administrative costs of Twenty-five Dollars (\$25) at the time of dismissal. (RCW 46.30.020(2))

**Section 4.** Subsection 11.30.040 A of the Seattle Municipal Code is amended as follows:

**11.30.040 When a vehicle may be impounded without prior notice.**

A. A vehicle may be impounded with or without citation and without giving prior notice to its owner as required in Section 11.30.060 hereof only under the following circumstances:

\* \* \*

2. When the vehicle is illegally occupying a truck, commercial load zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the Director of Transportation or Chiefs of Police or Fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four (24) hours giving notice that a vehicle will be removed if illegally parked in the zone and where such vehicle is interfering with the proper and intended use of such zones; or

\* \* \*

9. When the vehicle is impounded pursuant to Section 11.30.105A, but if the vehicle is a commercial vehicle and the driver is not the registered owner of the vehicle, then the police officer shall attempt in a reasonable and timely manner to contact the registered owner before impounding the vehicle and may release the vehicle to the registered owner if the registered owner is reasonably available, was not in the vehicle at the time it was stopped and the driver arrested, and has not received a prior release under this Subsection 11.30.040 A9 or Subsection 11.30.120 C2.

**Section 5.** Subsection 11.30.120 C of the Seattle Municipal Code is amended as follows:



**11.30.120 Redemption of impounded vehicles.**

Vehicles impounded by the City shall be redeemed only under the following circumstances:

\* \* \*

C. The Chief of Police or Municipal Court is authorized to release a vehicle impounded pursuant to Section 11.30.105 prior to the expiration of any period of impoundment;

1. Upon ((upon)) petition of the spouse of the driver, or the person registered pursuant to Ordinance 117244 as the domestic partner of the driver, based on economic or personal hardship to such spouse or domestic partner resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from release of the vehicle, including, but not limited to, the driver's criminal history, driving record, license status, and access to the vehicle; or

2. If the registered owner of the vehicle was not the driver, did not know that the driver's driver's license was suspended or revoked and has not received a prior release under this Subsection 11.30.120 C2 or Subsection 11.30.040 A9.

In order to avoid discriminatory application, the Chief of Police and Municipal Court shall deny release without discretion in all circumstances other than for the reasons set forth in this Subsection 11.30.120

C. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of Section 11.30.120 A and B.

\* \* \*

**Section 6.** Section 11.52.100 of the Seattle Municipal Code and the title of that section are amended as follows:

**11.52.100 Speed limit -- School or playground crosswalks or school or playground zones.**

Subject to Section 11.52.020 A, and except in those instances where a lower maximum speed is provided by this subtitle, no person shall operate any vehicle at a speed in excess of twenty (20) miles

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per hour when passing any marked school or playground crosswalk or when within any marked school or playground zone when such marked crosswalk or zone is fully posted with school speed limit signs or playground speed limit signs. The speed zone at the crosswalk shall extend three hundred (300) feet in either direction from the marked crosswalk, and the school or playground zone may extend three hundred (300) feet from the border of the school or playground, but may include only area consistent with active school or playground use. (RCW 46.61.440)

**Section 7.** Chapter 11.53 of the Seattle Municipal Code is amended to add the following section:

**11.53.230 High-occupancy vehicle lanes.**

No person shall operate a vehicle in violation of a designation by the Washington Department of Transportation, the Director of Transportation or the Traffic Engineer reserving all or any portion of a street or highway, including any lane or ramp, for the exclusive or preferential use of transit coaches or other public transportation vehicles or carpools. (RCW 46.61.165)

**Section 8.** Subsections A1a, B1a, and C1 of Section 11.56.020 of the Seattle Municipal Code and the title of that section are 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:

a. And the person has, within two (2) hours after driving, an alcohol concentration of 0.08 or higher, as shown by analysis of the person's breath or blood made under RCW 46.61.506 ((the provisions of this section)); or

\* \* \*

**B. Physical Control.**

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

a. And the person has, within two (2) hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher, as shown by analysis of the person's breath or blood made under RCW 46.61.506 ((the provisions of this section)); or

\* \* \*

C. Minor Driving Or Being In Actual Physical Control Of A Motor Vehicle After Consuming Alcohol.

1. Notwithstanding any other provision of this title, a person is guilty of minor driving or being in actual physical control of a motor vehicle after consuming alcohol if the person:

a. Operates or is in actual physical control of a motor vehicle in the City;

b. Is under the age of twenty-one (21); and

c. Has, within two (2) hours after operating or being in actual physical control of the motor vehicle, an alcohol concentration of at least 0.02 but less than 0.08, as shown by an analysis of the person's breath or blood made under RCW 46.61.506 ((the provisions of this section)).

\* \* \*

**Section 9.** Subsections D through P inclusive of Section 11.56.020 are repealed and Subsection 11.56.020 Q is redesignated as Subsection 11.56.020 D.

**Section 10.** A new section is added to Seattle Municipal Code Chapter 11.56 as follows:

**11.56.025 Penalty for persons under the influence of intoxicating liquor or any drug.**

A. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has no prior offense within seven (7) years and whose alcohol concentration was less than 0.15, or for any

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reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration, 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 Three Hundred Fifty Dollars (\$350) and not more than Five Thousand Dollars (\$5,000). In lieu of the mandatory minimum term of imprisonment required under this subsection, the court may order not less than fifteen (15) days of electronic home monitoring.

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has no prior offense within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than two (2) consecutive days nor more than one (1) year and a fine of not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000). In lieu of the mandatory minimum term of imprisonment required under this subsection, the court may order not less than thirty (30) days of electronic home monitoring.

B. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has one (1) prior offense within seven (7) years and whose alcohol concentration was less than 0.15, or for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration, shall be punished by imprisonment for not less than thirty (30) consecutive days nor more than one (1) year, sixty (60) days of electronic home monitoring, and a fine of not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000).

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has one (1) prior offense within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than forty-five (45) consecutive days nor more than one (1) year, ninety (90) days of electronic

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home monitoring, and a fine of not less than Seven Hundred Fifty Dollars (\$750) nor more than Five  
Thousand Dollars (\$5,000).

C. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two  
(2) or more prior offenses within seven (7) years and whose alcohol concentration was less than 0.15, or  
for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is  
no test result indicating the person's alcohol concentration, shall be punished by imprisonment for not  
less than ninety (90) consecutive days nor more than one (1) year, one hundred twenty (120) days of  
electronic home monitoring, and a fine of not less than One Thousand Dollars (\$1,000) nor more than  
Five Thousand Dollars (\$5,000).

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two  
(2) or more prior offenses within seven (7) years and whose alcohol concentration was 0.15 or more, or  
who refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for  
not less than one hundred twenty (120) consecutive days nor more than one (1) year, one hundred fifty  
(150) days of electronic home monitoring, and a fine of not less than One Thousand Five Hundred  
Dollars (\$1,500) nor more than Five Thousand Dollars (\$5,000).

D. "Prior offense" and "within seven (7) years" have the same meaning as in RCW 46.61.5055.

E. If a person convicted of a violation of Subsection 11.56.020 A or B committed the offense  
while a passenger under the age of sixteen (16) years was in the vehicle, the court shall order the use of  
an ignition interlock device under RCW 46.20.720 for not less than sixty (60) days following restoration  
of the person's license, permit or nonresident driving privilege or, in the case of a person for whom use  
of such a device is already required under RCW 46.20.720, order the use of such a device for an  
additional sixty (60) days.

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1 F. For purposes of sentencing under this section, the judge shall determine, based on a  
2 preponderance of the evidence, the number of prior offenses within seven (7) years the person has,  
3 whether the person's alcohol concentration was less than 0.15 or 0.15 or more, whether the person  
4 refused to take a test offered pursuant to RCW 46.20.308 or whether for any reason other than the  
5 person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the  
6 person's alcohol concentration and whether the person committed the offense while a passenger under  
7 the age of sixteen (16) years was in the vehicle. The prosecutor or the court may obtain an abstract of  
8 the person's driving record, which shall be prima facie evidence of the person's prior offenses.

9 G. Unless the judge finds the person to be indigent, the mandatory minimum fine shall not be  
10 suspended or deferred. Neither the mandatory minimum jail sentence nor the mandatory minimum  
11 period of electronic home monitoring shall be suspended or deferred unless the judge finds that the  
12 imposition of this sentence will pose a substantial risk to the defendant's physical or mental well-being.  
13 Whenever the mandatory minimum sentence is suspended or deferred, the judge must state, in writing,  
14 the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is  
15 based. Whenever the court sentences an offender to a period of electronic home monitoring, the court  
16 may also require the offender's home electronic monitoring device to include an alcohol detection  
17 breathalyzer and may restrict the amount of alcohol the offender may consume during the period of  
18 electronic home monitoring. The cost of electronic home monitoring shall be paid for by the offender  
19 and determined by the City. In exercising its discretion in setting penalties within the limits allowed by  
20 this section, the court shall particularly consider whether the person's driving at the time of the offense  
21 was responsible for injury or damage to another or another's property, whether the person's license,  
22 permit or privilege to drive was suspended, revoked, denied or in probationary status at the time of the  
23 offense, whether the person was in compliance with Section 11.20.340 at the time of the offense and  
24

whether the person was driving or in actual physical control of a vehicle with one (1) or more passengers at the time of the offense.

H. A person convicted of a violation of Subsection 11.56.020 A or B of this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

I. In addition to any nonsuspendable and nondeferrable jail sentence required by this subsection, whenever the court imposes less than one (1) year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five (5) years. The court shall impose conditions of probation that include: (1) not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (2) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two (2) hours after driving; and (3) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has probable cause to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. For each violation of mandatory conditions of probation (1), (2), or (3) of this subsection, the court shall order the convicted person to be confined for thirty (30) days, which shall not be suspended or deferred. For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the court shall suspend the person's license, permit or privilege to drive for thirty (30) days or, if the person's license, permit or privilege to drive already is suspended, revoked or denied at the time the finding of probation violation is made, then the suspension, revocation or denial then in effect shall be extended by thirty (30) days. The court shall notify the Washington State Department of Licensing of a person's violation of any mandatory condition of probation imposed under this subsection and the suspension of or extension of the suspension, revocation or denial of a person's license, permit or privilege to drive. The court may impose conditions of probation that include nonrepetition, installation

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of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

J. In addition to the penalties set forth in this section, a fee of One Hundred Twenty-five Dollars (\$125) 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 11.56.020 A or B, 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 person does not have the ability to pay. The fee shall be collected by the clerk of the court and distributed according to RCW 46.61.5054.

K. A court may waive the electronic home monitoring requirements of this section when (1) the offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system; (2) the offender does not reside in the State of Washington; or (3) the court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty. Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp. Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five (365) days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five (365) days.

**Section 11.** Subsection 11.56.320 C 4 of the Seattle Municipal Code is amended as follows:

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

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\* \* \*

1 C. A person who violates this section while an order of suspension or revocation prohibiting  
2 such operation is in effect and while the person is not eligible to reinstate his or her driver's license or  
3 driving privilege, other than for a suspension for the reasons described in subsection D of this section, is  
4 guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This  
5 subsection applies when a person's driver's license or driving privilege has been suspended or revoked  
6 by reason of:

\* \* \*

8 4. A conviction relating to the violation of restrictions of an occupational or temporary  
9 restricted driver's license;

\* \* \*

11 **Section 12.** Section 11.56.350 of the Seattle Municipal Code is amended as follows:

12 **11.56.350 Operation of motor vehicle without required ignition interlock or other**  
13 **biological or technical device.**

14 No person whose driving record includes a notation, pursuant to RCW 46.20.740, that the person  
15 may operate only a motor vehicle equipped with an ignition interlock ((~~or other biological or technical~~))  
16 device shall operate a motor vehicle that is not so equipped. Violation of this section is a misdemeanor.  
17 (RCW 46.20.740)

18 **Section 13.** Subsection 11.72.065 C of the Seattle Municipal Code is amended as follows:

19 **11.72.065 Disabled parking – Violation.**

\* \* \*

21 C. It is a parking infraction, with a monetary penalty of Two Hundred Fifty Dollars (\$250) for  
22 any person to stop, stand or park a vehicle in a parking space or stall for a physically disabled person,  
23 whether the stall is indicated as required by subsection A of this section, by pavement markings or a sign  
24





1 indicating that the stall is reserved for disabled parking, for any purpose or length of time unless such  
2 vehicle displays a special placard or license plate indicating that the vehicle is being used to transport a  
3 disabled person as defined under Chapter 46.16 RCW. If a person is charged with a violation, the  
4 person shall not be determined to have committed an infraction if the person produces in court or before  
5 the court appearance the special license plate or placard required under this section.

6 \* \* \*

7 **Section 14.** Section 11.84.290 of the Seattle Municipal Code is amended as follows:

8 **11.84.290 Helmets.**

9 A. It is unlawful for any person to operate or ride upon a motorcycle or motor-driven cycle, or  
10 moped on a street unless wearing upon his or her head a motorcycle helmet, except when the vehicle is  
11 an antique motor-driven cycle or automobile that is licensed as a motorcycle or when the vehicle is  
12 equipped with seat belts and roll bars approved by the Washington State Patrol. The motorcycle helmet  
13 neck or chin strap must be fastened securely while the motorcycle or motor-driven cycle is in motion.  
14 Persons operating electric-assisted bicycles shall comply with all laws and regulations related to the use  
15 of bicycle helmets.

16 B. For purposes of this section, "motorcycle helmet" means a protective covering for the head  
17 consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chin strap  
18 type retention system, with a sticker indicating that the motorcycle helmet meets standards established  
19 by the United States Department of Transportation. (RCW 46.37.530(1)(c) & (3))

20 (No person under the age of eighteen (18) years shall operate or ride upon a motorcycle or  
21 motor-driven cycle unless wearing upon his or her head a protective helmet of a type conforming to rules  
22 adopted by the State Patrol.

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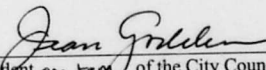
The helmet must be equipped with either a neck or chin strap which shall be fastened securely while the motorcycle or motor-driven cycle is in motion.)

**Section 15.** Section 11.31.110 of the Seattle Municipal Code is repealed.

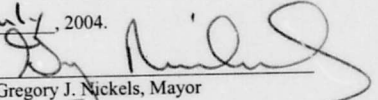
**Section 16.** Section 11.58.350 of the Seattle Municipal Code is repealed.

**Section 17.** 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 6<sup>th</sup> day of July, 2004, and signed by me in open session in authentication of its passage this 6<sup>th</sup> day of July, 2004.

  
President ~~pro tem~~ of the City Council

Approved by me this 16 day of July, 2004.

  
Gregory J. Nickels, Mayor

Filed by me this 16 day of July, 2004.

  
City Clerk

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## Seattle City Attorney

Thomas A. Carr

April 21, 2004

Honorable Jan Drago  
President, Seattle City Council  
600 Fourth Avenue Floor 2  
Seattle, Washington 98124

Dear Councilmember Drago:

Enclosed for the City Council's consideration is an ordinance making several changes to Seattle's traffic ordinances to reflect changes made to the corresponding state statutes by recent sessions of the Legislature. These changes are necessary because our traffic ordinances must be uniform with state law.

Section 1 clarifies the prohibition on displaying a false driver's license. Section 2 provides that the Municipal Court can prohibit a defendant convicted of an alcohol-related crime from driving a car unless it is equipped with an ignition interlock. Section 3 authorizes the Municipal Court to assess \$25 court costs if it dismisses a ticket for No Insurance because the driver had insurance at the time of the incident. Section 4 provides that a car can be impounded when it is parked in a street construction zone. Section 4 also requires that an officer impounding a commercial vehicle because the driver has a suspended driver's license must first contact the registered owner and release the car to him or her if available. Section 5 provides that a car impounded because the driver has a suspended driver's license can be released to the registered owner if he or she did not know that the driver had a suspended driver's license. Section 6 authorizes creation of a reduced-speed-limit zone around a school or playground. Section 7 prohibits driving in a carpool lane without passengers. Sections 8, 9 and 10 divide the current Driving Under the Influence and Physical Control ordinances into separate ordinances – one defining the crimes and another setting forth the penalties – and repealing some provisions that merely duplicate state law. Sections 11 and 12 make technical changes to the terminology used to describe an occupational driver's license and an ignition interlock device. Section 13 requires the Municipal court to dismiss a disabled parking violation if the person provides proof that he or she did have the required disabled parking placard at the time of the incident. Section 14 clarifies the requirement that a motorcyclist wear a helmet. Section 15 repeals the requirement that a speeding ticket include the speed of the driver's car and the speed limit. Section 16 repeals a provision on littering from a vehicle, which is covered by the solid waste code. The ordinance notes the effective date for the changes made to the state Driving Under the Influence and Physical Control statutes by the past

Seattle City Attorney's Office  
700 5th Ave Suite 5350, PO Box 94667, Seattle, WA 98124-4667  
Tel: (206) 684-7757 Fax: (206) 684-4648 TTY: (206) 233-7206  
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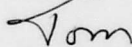
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April 21, 2004  
Page 2

session of the legislature. Again, because our ordinances must be uniform with state law, these changes are required.

I would be happy to provide any further information to the Public Safety Committee and the Council upon request.

Sincerely,



Thomas A. Carr  
Seattle City Attorney

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Author's Name:  
Date (Hard-Coded):  
Name of Companion Legislation:  
Version #:

Form revised March 16, 2004

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Law	Richard Greene / 4-8538	N/A

**Legislation Title:**

An ordinance relating to motor vehicles; amending, redesignating, adding and repealing various sections and subsections in chapters 11.20, 11.30, 11.52, 11.56, 11.72 and 11.84 of the Seattle Municipal Code.

• **Summary of the Legislation:**

This legislation makes several changes to Seattle's traffic ordinances to reflect changes made to the corresponding state statutes by recent sessions of the Legislature. These changes are necessary because our traffic ordinances must be uniform with state law.

- **Background:** (Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable).

- Please check one of the following:

☒ **This legislation does not have any financial implications.** (Stop here and delete the remainder of this document prior to saving and printing.)

☐ **This legislation has financial implications.** (Please complete all relevant sections that follow.)

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STATE OF WASHINGTON - KING COUNTY

--SS.

174853  
CITY OF SEATTLE, CLERKS OFFICE

No. ORDINANCE 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 12<sup>th</sup> 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:121525 ORD IN FULL

was published on

7/21/2004



*Michael D. ...*  
Subscribed and sworn to before me on  
7/21/2004 *Jennifer A. Pater*  
Notary public for the State of Washington,  
residing in Seattle

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# City of Seattle

ORDINANCE#122635

AN ORDINANCE relating to motor vehicles amending regulations and repealing various sections and subsections in chapters 11.20, 11.20, 11.31, 11.52, 11.53, 11.56, 11.72 and 11.84 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 11.20.100 of the Seattle Municipal Code is amended as follows:

11.20.100 Display of nonvalid driver's license.

No person shall display or cause or permit to be displayed or have in his or her possession any (nonvalid, altered, fictitious or fraudulently altered driver's license or identification) (RCW 46.20.092(1)(a)).

Section 2. Section 11.20.230 of the Seattle Municipal Code and the title of that section are amended as follows:

11.20.230 Ignition interlock (or other biological or technical) device authorized (required).

(A-3) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock (or other biological or technical) device. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started and the period of time for which interlock use will be required.

(B) If a person is convicted of a violation of section 11.20.090-A or B, the court shall order that after a period of suspension, revocation, or denial of driving privileges, the person may drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device. This requirement may not be suspended.

<Strike>1-C. The court shall establish a specific calibration setting at which the ignition interlock or other biological or technical device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction shall be as follows:

<Strike>1-D. In the case of a person subject to the restriction under subsection B of this section, the duration of the restriction shall be as follows:

<Strike>1-E. For a person subject to subsection N11, 32 or N3 of Section 11.56.020 who has not previously been restricted under this section, RCW 46.20.720 or equivalent local ordinance, a period of not less than one (1) year;

<Strike>1-F. For a person who has previously been restricted under subsection D1 of this section, RCW 46.20.720(3)(a), or equivalent local ordinance, a period of not less than five (5) years;

<Strike>1-G. For a person who has previously been restricted under subsection D2 of this section, RCW 46.20.720(3)(b), or equivalent local ordinance, a period of not less than ten (10) years.

<Strike>1-H. For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under RCW Chapter 10.05.) (RCW 46.20.720)

Section 3. Section 11.20.345 of the Seattle Municipal Code is amended as follows:

11.20.345 Post citation proof of financial responsibility.

If a person cited for a violation of Section 11.20.340 appears in person before the court and provides written evidence to the effect that the person was cited, he or she is in compliance with the financial responsibility requirements of Section 11.20.340.

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tion shall be dismissed and the court may assess court administrative costs of Twenty-five Dollars (\$25.00) at the time of dismissal. In lieu of personal appearance, a person cited for a violation of the financial responsibility requirements of Section 11.20.340 may appear before the court, submit by mail to the court written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of Section 11.20.340, in which case the citation shall be dismissed without cost, except that the court may assess court administrative costs of Twenty-five Dollars (\$25) at the time of dismissal. (RCW 46.30.005)

**Section 4. Subsection 11.30.040 A of the Seattle Municipal Code is amended as follows:**

**11.30.040 When a vehicle may be impounded without prior notice.**

A. A vehicle may be impounded with or without citation and without giving prior notice to its owner as required in Section 11.30.080 hereof only under the following circumstances:

2. When the vehicle is illegally occupying a truck, commercial load zone, restricted parking zone, bus loading, hooded meter, taxi, street construction, or maintenance, or other similar zone where, by order of the Director of Transportation or Chief of Police or five or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days, or at all times, if the zone has been established with signage for at least twenty-four (24) hours, excepting notice that a vehicle will be removed, illegally parked in the zone and where such vehicle is interfering with the proper and intended use of such zones;

9. When the vehicle is impounded pursuant to Section 11.30.100A, but if the vehicle is a commercial vehicle and the driver is not the registered owner of the vehicle, then the police officer shall attempt in a reasonable and timely manner to contact the registered owner before impounding the vehicle and may release the vehicle to the registered owner, if the registered owner is reasonably available, was not in the vehicle at the time it was seized, and the driver arrested, and has not received a prior release under this Subsection 11.30.040A or Subsection 11.30.120.C.

**Section 5. Subsection 11.30.120 C of the Seattle Municipal Code is amended as follows:**

**11.30.120 Redemption of impounded vehicles.**

Vehicles impounded by the City shall be redeemed only under the following circumstances:

C. The Chief of Police or Municipal Court is authorized to release a vehicle impounded pursuant to Section 11.30.105 prior to the expiration of any period of impoundment:

1. Upon (upon) petition of the spouse of the driver, or the person registered pursuant to Ordinance 117244 as the domestic partner of the driver, based on economic or personal hardship to such spouse or domestic partner resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from release of the vehicle, including but not limited to the driver's criminal history, driving record, license status, and access to the vehicle;

2. If the registered owner of the vehicle was not the driver, did not know that the driver's driver's license was suspended or revoked, and has not received a prior release under this Subsection 11.30.120.C or Subsection 11.30.140.AB.

In order to avoid this remedial application, the Chief of Police and Municipal Court shall deny release with no discretion in all circumstances other than for the reasons set forth in this Subsection 11.30.120.C. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of Section 11.30.120A and B.

**Section 6. Section 11.52.100 of the Seattle Municipal Code and the title of that section are amended as follows:**

**11.52.100 Speed limit - School or playground crosswalks or school or playground zones.**

Subject to Section 11.52.020 A, and except in those instances where a lower maximum speed is provided by this subtitle, no person shall operate any vehicle at a speed in excess of twenty (20) miles per hour when passing any marked school or playground crosswalk or when within any marked school or playground zone when such marked school or playground zone is fully posted with school speed limit signs or playground speed limit signs. The speed zone at the crosswalk shall extend three hundred (300) feet in either direction from the marked crosswalk, and the school or playground zone may extend three hundred (300) feet from the border of the school or playground, but may include any area consistent with active school or playground use. (RCW 46.61.440)

**Section 7. Chapter 11.53 of the Seattle Municipal Code is amended to add the following section:**

**11.53.230 High-occupancy vehicle lanes.**

No person shall operate a vehicle in violation of a designation by the Washington Department of Transportation or the Traffic Engineer reserving all or any portion of a street or highway, including any lane or ramp, for the exclusive or preferential use of transit coaches or other public transportation vehicles or carpools. (RCW 46.61.180)

**Section 8. Subsections 11A, 11B, and C of Section 11.56.020 of the Seattle Municipal Code and the title of that section are amended as follows:**

**11.56.020 Persons under the influence of intoxicating liquor or any drug (i.e., 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:

a. And the person has, within two (2) hours after driving, an alcohol concentration of 0.08 or higher, as shown by analysis of the person's breath or blood made under RCW 46.61.508 (the provisions of this section); or

B. Physical Control.

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

A. And the person has, within two (2) hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher, as shown by analysis of the person's breath or blood made under RCW 46.61.508 (the provisions of this section); or

C. Minor Driving Or Being In Actual Physical Control Of A Motor Vehicle After Consuming Alcohol.

1. Notwithstanding any other provision of this title, a person is guilty of minor driving or being in actual physical control of a motor vehicle after consuming alcohol if the

pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than two (2) consecutive days nor more than one (1) year, or a fine of not less than Five Hundred Dollars (\$500) nor more than Five Thousand Dollars (\$5,000). In lieu of the mandatory minimum term of imprisonment required under this subsection, the court may order minimum term of thirty (30) days of electronic home monitoring.

B. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has one (1) prior offense within seven (7) years and whose alcohol concentration was less than 0.15, or for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration, shall be punished by imprisonment for not less than one (1) year, sixty (60) days of electronic home monitoring, and a fine of not less than Five Thousand Dollars (\$5,000).

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has one (1) prior offense within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than forty-five (45) consecutive days nor more than one (1) year, ninety (90) days of electronic home monitoring, and a fine of not less than Seven Hundred Fifty Dollars (\$750) nor more than Five Thousand Dollars (\$5,000).

C. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two (2) or more prior offenses within seven (7) years and whose alcohol concentration was less than 0.15, or for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration shall be punished by imprisonment for not less than ninety (90) consecutive days nor more than one (1) year, one hundred twenty (120) days of electronic home monitoring, and a fine of not less than One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000).

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two (2) or more prior offenses within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not less than one hundred twenty (120) consecutive days nor more than one (1) year, one hundred fifty (150) days of electronic home monitoring, and a fine of not less than One Thousand Five Hundred Dollars (\$1,500) nor more than Five Thousand Dollars (\$5,000).

D. "Prior offense" and "within seven (7) years" have the same meaning as in RCW 46.61.505.

E. If a person convicted of a violation of Subsection 11.56.020 A or B committed the offense while a passenger under the age of sixteen (16) years in the vehicle, the court shall order the use of an ignition interlock device under RCW 46.20.720 for not less than sixty (60) days following restoration of the person's license, permit or nonresident driving privilege or, in the case of a person for whom use of a device is already required under RCW 46.20.720, order the use of such a device for an additional sixty (60) days.

F. For purposes of sentencing under this section, the judge shall determine, based on a preponderance of the evidence, the number of prior offenses within seven (7) years the person has, whether the person's alcohol concentration was less than 0.15 or 0.15 or more, whether the person refused to take a test offered pursuant to RCW 46.20.308 or whether for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration and whether the person committed the offense while a passenger under the age of sixteen (16) years in the vehicle. The prosecutor or the court may obtain an abstract of the person's driving record, which shall be prima facie evidence of the person's prior offenses.

G. Unless the judge finds the person to be indigent, the mandatory minimum fine shall not be suspended or deferred. Neither the mandatory minimum period of electronic home monitoring shall be suspended or deferred unless the judge finds that the imposition of this sentence will pose a substantial risk to the defendant's physical or mental well-being. Whenever the mandatory minimum 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. Whenever the court sentences an offender to a period of electronic home monitoring, the court may also require the offender's home electronic monitoring device to include an alcohol detection breathalyzer and may restrict the amount of alcohol the offender may consume during the period of electronic home monitoring. The cost of electronic home monitoring shall be paid for by the offender and determined by the City. In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another license, permit or privilege to drive was suspended, revoked, denied or in probationary status at the time of the offense, whether the person was in compliance with Section 11.20.340 at the time of the offense and whether the person was driving or in actual physical control of a vehicle with one (1) or more passengers at the time of the offense.

H. A person convicted of a violation of Subsection 11.56.020 A or B of this section is subject to the alcohol-related assessment and treatment provisions of RCW 46.61.509.

I. In addition to any nonsuspendable and nondeferable jail sentence required by this subsection, whenever the court imposes less than one (1) year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five (5) years. The court shall impose conditions of probation that include: (1) not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (2) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two (2) hours after driving; and (3) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer whose probable cause to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. For each violation of mandatory conditions of probation (1), (2), or (3) of this subsection, the court shall order the convicted person to be confined for thirty (30) days, which shall not be suspended or deferred. For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the court shall suspend the person's license, permit or privilege to drive for thirty (30) days or, if the person's license, permit or privilege to drive already is suspended, revoked or denied at the time the finding of probation violation is made, then the suspension, revocation or denial then in effect shall be extended by thirty (30) days. The court shall notify the Washington State Department of Licensing of a person's violation of any mandatory condition of probation imposed under this subsection and the suspension, revocation or denial of a person's license, permit or privilege to drive. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in subsection D of this section, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

A. A conviction relating to the violation of restrictions of an occupational or temporary restricted driver's license.

**Section 12. Section 11.56.350 of the Seattle Municipal Code is amended as follows:**

**11.56.350 Operation of motor vehicle without required ignition interlock or other biological or technical device.**

No person whose driving record includes a notation, pursuant to RCW 46.20.740, that the person may operate only a motor vehicle equipped with an ignition interlock (i.e., other biological or technical) device shall, operate a motor vehicle that is not so equipped. Violation of this section is a misdemeanor. (RCW 46.20.740)

**Section 13. Subsection 11.72.065 C of the Seattle Municipal Code is amended as follows:**

**11.72.065 Disabled parking -**

Violation.

C. It is a parking infraction, with a monetary penalty of Two Hundred Fifty Dollars (\$250) for any person to stop and park a vehicle in a parking space or stall for a physically disabled person, whether the stall is indicated as required by subsection A of this section, by pavement markings or a sign indicating that the stall is reserved for disabled parking, for any purpose or length of time unless such vehicle displays a special placard or license plate indicating that the vehicle is being used to transport a disabled person as defined by a violation.

**Section 14. Section 11.84.290 of the Seattle Municipal Code is amended as follows:**

**11.84.290 Helmets.**

A. It is unlawful for any person to operate or ride upon a motorcycle or motor-driven cycle, or to be on a motorcycle or motor-driven cycle, on a street, unless wearing upon his or her head a motorcycle helmet, except when the vehicle is an antique motorcycle or antique automobile that is licensed as a motorcycle or when the vehicle is equipped with an anti-lock and roll-over protection system, or when the vehicle is equipped with a neck or chin strap that is fastened securely while the motorcycle or motor-driven cycle is in motion. Persons operating antique motorcycles shall comply with all laws and regulations related to the use of bicycle helmets.

B. For purposes of this section, "motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, and a neck or chin strap that is fastened securely while the motorcycle or motor-driven cycle is in motion. The motorcycle helmet must also have a sticker indicating that the helmet meets the standards established by the United States Department of Transportation. (RCW 46.37.530(1)(c) & (d))

(No person under the age of eighteen (18) years shall operate or ride upon a motorcycle or motor-driven cycle unless wearing upon his or her head a protective helmet or a type conforming to rules adopted by the State Patrol.)

C. Strike: The helmet must be equipped with either a neck or chin strap which shall be fastened securely while the motorcycle or motor-driven cycle is in motion.

**Section 15. Section 11.31.110 of the Seattle Municipal Code is repealed.**

**Section 16. Section 11.58.350 of the Seattle Municipal Code is repealed.**

**Section 17. 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 6th day of July, 2004, and signed by me in open session in authentication of its passage this 6th day of July, 2004.

JAN DRAGO,

President of the City Council.

Approved by me this 16th day of July, 2004.

GREGORY J. NICKELS,

Mayor.

Filed by me this 16th day of July, 2004.

(Seal) JUDITH PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN,

City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, July 21, 2004.

2721(174853)

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Vehicles impounded by the City shall be redeemed only under the following circumstances:

...

C. The Chief of Police or Municipal Court is authorized to release a vehicle impounded pursuant to Section 11.30.105 prior to the expiration of any period of impoundment:

1. Upon (upon) petition of the spouse of the driver, or the person registered pursuant to Ordinance 117244 as the domestic partner of the driver, based on economic or personal hardship to such spouse or domestic partner resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from release of the vehicle, including, but not limited to, the driver's criminal history, driving record, license status, and access to the vehicle, or

2. If the registered owner of the vehicle was not the driver, did not know that the driver drove a license was suspended or revoked and has not received a prior release under this Subsection 11.30.120 C or Subsection 11.30.040 A2.

In order to avoid discriminatory application, the Chief of Police and Municipal Court shall deny release without discretion in all circumstances other than for the reasons set forth in this Subsection 11.30.120 C. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of Section 11.30.120 A and B.

...

Section 6. Section 11.52.100 of the Seattle Municipal Code and the title of that section are amended as follows:

11.52.100 Speed limit -- School or playground crosswalks or school or playground zones.

Subject to Section 11.52.020 A, and except in those instances where a lower maximum speed is provided by this subtitle, no person shall operate any vehicle at a speed in excess of twenty (20) miles per hour when passing any marked school or playground crosswalk or when within any marked school or playground zone when such marked crosswalk or zone is fully posted with school speed limit signs or playground speed limit signs. The speed zone at the crosswalk shall extend three hundred (300) feet in either direction from the marked crosswalk, and the school or playground zone may extend three hundred (300) feet from the border of the school or playground, but may include only areas contiguous with school or playground use. RCW 46.61.440.

Section 7. Chapter 11.53 of the Seattle Municipal Code is amended to add the following section:

11.53.230 High-occupancy vehicle lanes.

No person shall operate a vehicle in violation of a designation by the Washington Department of Transportation, the Director of Transportation or the Traffic Engineer reserving all or any portion of a street or highway, including any lane or ramp, for the exclusive or preferential use of transit buses or other public transportation vehicles or carpools. (RCW 46.61.165)

Section 8. Subsections A1a, B1a, and C1 of Section 11.56.020 of the Seattle Municipal Code and the title of that section are 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:

a. And the person has, within two (2) hours after driving, an alcohol concentration of 0.08 or higher, as shown by analysis of the person's breath or blood made under RCW 46.61.506 (the provisions of this section); or

...

B. Physical Control.

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

a. And the person has, within two (2) hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher, as shown by analysis of the person's breath or blood made under RCW 46.61.506 (the provisions of this section); or

...

C. Minor Driving Or Being In Actual Physical Control Of A Motor Vehicle After Consuming Alcohol.

1. Notwithstanding any other provision of this title, a person is guilty of minor driving or being in actual physical control of a motor vehicle after consuming alcohol if the person:

a. Operates or is in actual physical control of a motor vehicle in the City;

b. Is under the age of twenty-one (21); and

c. Has, within two (2) hours after operating or being in actual physical control of the motor vehicle, an alcohol concentration of at least 0.02 but less than 0.08, as shown by an analysis of the person's breath or blood made under RCW 46.61.506 (the provisions of this section).

...

Section 9. Subsections D through F inclusive of Section 11.56.020 are repealed and Subsection 11.56.020 Q is redesignated as Subsection 11.56.020 D.

Section 10. A new section is added to Seattle Municipal Code Chapter 11.56 as follows:

11.56.025 Penalty for persons under the influence of intoxicating liquor or any drug.

A. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has no prior offense within seven (7) years and whose alcohol concentration was less than 0.15, or for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration, 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 Three Hundred Fifty Dollars (\$350) and not more than Five Thousand Dollars (\$5,000). In lieu of the mandatory minimum term of imprisonment required under this subsection, the court may order not less than fifteen (15) days of electronic home monitoring.

2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has no prior offense within seven (7) years and whose alcohol concentration was 0.15 or more, or who refused to take a test offered

D. "Prior offense" and "within seven years" have the same meaning as in RCW 46.61.505A.

E. If a person convicted of a violation of Subsection 11.56.020 A or B committed the offense while a passenger under the age of sixteen (16) years was in the vehicle, the court shall order the use of an ignition interlock device under RCW 46.20.720 for not less than sixty (60) days following restoration of the person's license, permit or nonresident driving privilege; or, in the case of a person for whom use of such a device is already required under RCW 46.20.720, order the use of such a device for an additional sixty (60) days.

F. For purposes of sentencing under this section, the judge shall determine, based on a preponderance of the evidence, the number of prior offenses within seven (7) years the person has, whether the person's alcohol concentration was less than 0.15 or 0.15 or more, whether the person refused to take a test offered pursuant to RCW 46.20.308 or whether for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration and whether the person committed the offense while a passenger under the age of sixteen (16) years was in the vehicle. The prosecutor or the court may obtain an abstract of the person's driving record, which shall be prima facie evidence of the person's prior offenses.

G. Unless the judge finds the person to be indigent, the mandatory minimum fine shall not be suspended or deferred. Neither the mandatory minimum jail sentence nor the mandatory minimum period of electronic home monitoring shall be suspended or deferred unless the judge finds that the imposition of this sentence will pose a substantial risk to the defendant's physical or mental well-being. Whenever the mandatory minimum 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. Whenever the court sentences an offender to a period of electronic home monitoring, the court may also require the offender to include an alcohol detection breathalyzer and may restrict the amount of alcohol the offender may consume during the period of electronic home monitoring. The cost of electronic home monitoring shall be paid by the offender and determined by the City. In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another person's property, whether the person's license, permit or privilege to drive was suspended, revoked, denied or in probationary status at the time of the offense, whether the person was in compliance with Section 11.20.340 at the time of the offense and whether the person was driving or in actual physical control of a vehicle with one (1) or more passengers at the time of the offense.

H. A person convicted of a violation of Subsection 11.56.020 A or B of this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.505B.

I. In addition to any nonsuspendable and nondeferable jail sentence required by this subsection, whenever the court imposes less than one (1) year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five (5) years. The court shall impose conditions of probation that include: (1) not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (2) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two (2) hours after driving; and (3) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has probable cause to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. For each violation of mandatory conditions of probation (1), (2), or (3) of this subsection, the court shall order the convicted person to be confined for thirty (30) days, which shall not be suspended or deferred. For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the court shall suspend the person's license, permit or privilege to drive for thirty (30) days or, if the person's license, permit or privilege to drive already is suspended, revoked or denied at the time the finding of probation violation is made, then the suspension, revocation or denial then in effect shall be extended by thirty (30) days. The court shall notify the Washington State Department of Licensing of a person's violation of any mandatory condition of probation imposed under this subsection and the suspension, revocation or denial of a person's license, permit or privilege to drive. The court may impose conditions of probation that include noncompetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

J. In addition to the penalties set forth in this section, a fee of One Hundred Twenty-five Dollars (\$125) 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 11.56.020 A or B, RCW 46.61.526 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 person does not have the ability to pay. The fee shall be collected by the clerk of the court and distributed according to RCW 46.61.505A.

K. A court may waive the electronic home monitoring requirements of this section when (1) the offender does not have a dwelling, telephone service, or any other necessary to operate an electronic home monitoring system; (2) the offender does not reside in the State of Washington; or (3) the court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty. Whenever the monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp. Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five (365) days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five (365) days.

Section 11. Subsection 11.56.320 C 4 of the Seattle Municipal Code is amended as follows:

11.56.320 Driving while license is suspended or revoked.

...

C. A person who violates this section while an order of suspension or revocation

A. A person is unlawful for any person to operate or ride upon a motorcycle or motor-driven cycle, or moved on a street unless wearing upon his or her head a motorcycle helmet, except when the vehicle is an antique motor-driven cycle or automobile that is licensed as a motorcycle or when the vehicle is equipped with seat belts and roll bars approved by the Washington State Patrol. The motorcycle helmet, neck or chin strap must be fastened securely while the motorcycle or motor-driven cycle is in motion. Persons operating electric-assisted bicycles shall comply with all laws and regulations related to the use of bicycle helmets.

B. For purposes of this section, "motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chin strap type retention system, with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation. (RCW 46.37.530(c)(1) & (2))

(1) No person under the age of eighteen (18) years shall operate or ride upon a motorcycle or motor-driven cycle unless wearing upon his or her head a protective helmet of a type conforming to rules adopted by the State Patrol.

(2) Strike: The helmet must be equipped with either a neck or chin strap which shall be fastened securely while the motorcycle or motor-driven cycle is in motion.

Section 15. Section 11.31.110 of the Seattle Municipal Code is repealed.

Section 16. Section 11.58.350 of the Seattle Municipal Code is repealed.

Section 17. 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 6th day of July, 2004, and signed by me in open session to authentication of its passage this 6th day of July, 2004.

JAN DRAGO,

President of the City Council.

Approved by me this 16th day of July, 2004.

GREGORY J. NICKELS,

Mayor.

Filed by me this 16th day of July, 2004.

(Seal) JUDITH PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN,

City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, July 21, 2004.

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