

ORDINANCE No. **111083**

COUNCIL BILL No. **103544**

*WP*

*Law Department*

AN ORDINANCE relating to the Seattle Criminal Code; amending Section 12A.24.050 (frequenting places where liquor unlawfully kept) of the Seattle Municipal Code to clarify that knowledge is an element of the violation.

CSS 20.14

# The City of Seattle

MR. PRESIDENT:

Your Committee on  
to which was referred

C.B. 103544 Relating to the  
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*4/6/83 Pass*

COMPROLLER FILE No. \_\_\_\_\_

Introduced: <b>FEB 28 1983</b>	By: <i>City Attorney</i>
Referred: <b>FEB 28 1983</b>	To: <i>PS &amp; H</i>
Referred:	To:
Referred:	To:
Reported: <b>APR 11 1983</b>	Second Reading: <b>APR 11 1983</b>
Third Reading: <b>APR 11 1983</b>	Signed: <b>APR 11 1983</b>
Presented to Mayor: <b>APR 12 1983</b>	Approved: <b>APR 25 1983</b>
Returned to City Clerk: <b>APR 25 1983</b>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

FILED IN COMP. FILE APR 11 1983

*Jack N. Richardson*

**OK**

Com

*Department*

# The City of Seattle--Legislative Department

PRESIDENT:

Your Committee on

was referred

Date Reported

and Adopted  
APR 11 1983

C.B. 103544

Relating to the Seattle Criminal Code; amending Section 12A.24.050 (frequenting places where liquor unlawfully kept) of the Seattle Municipal Code to clarify that knowledge is an element of the violation.

*W. H. Richards*

Chairman

Chairman

Committee

Committee

ORDINANCE 111083

AN ORDINANCE relating to the Seattle Criminal Code; amending Section 12A.24.050 (frequenting places where liquor unlawfully kept) of the Seattle Municipal Code to clarify that knowledge is an element of the violation.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 12A.24.050 of the Seattle Municipal Code (Ordinance 102843) as last amended by Ordinance 110856 (part), is further amended as follows:

12A.24.050 FREQUENTING PLACES WHERE LIQUOR  
UNLAWFULLY KEPT OR DISPOSED OF

A person is guilty of frequenting a place where liquor is unlawfully kept or disposed of if he frequents or is found in any place where intoxicating liquors are being kept or disposed of in violation of any provision of this chapter or the Washington State Liquor Act, and he has knowledge of the facts constituting the violation.

(To be used for all Ordinances except Emergency.)

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

Passed by the City Council the 11<sup>th</sup> day of April, 1983, and signed by me in open session in authentication of its passage this 11<sup>th</sup> day of April, 1983.

President of the City Council.

Approved by me this 25<sup>th</sup> day of April, 1983.

Mayor.

Filed by me this 25<sup>th</sup> day of April, 1983.

Attest:

City Comptroller and City Clerk.

(SEAL)

Published

By

Deputy Clerk.

# Your City, Seattle



Memorandum

Date February 9, 1983

To Don Stout, Advisory Division

From Doug Whalley

Subject Seattle City Code §12A.24.050

4764

A handwritten signature, possibly "DM", written in dark ink over a horizontal line.

CSS 25.3 (Rev. 4/75)

Superior Court Judge Arthur Piehler recently affirmed two Seattle Municipal Court decisions finding 12A.24.050 unconstitutional. The ordinance states:

A person is guilty of frequenting a place where liquor is unlawfully kept or disposed of if he frequents or is found in any place where intoxicating liquors are being kept or disposed of in violation of any provision of this chapter or the Washington State Liquor Act.

Judge Piehler ruled that the ordinance's failure to require knowledge by the defendant made it invalid.

If the City Council wishes to enact a valid ordinance, the following language would cure the problem:

A person is guilty of frequenting a place where liquor is unlawfully kept or disposed of if he frequents or is found in any place where intoxicating liquors are being kept or disposed of in violation of any provision of this chapter or the Washington State Liquor Act, and he has knowledge of the facts constituting the violation.

DBW:jlb

cc: file

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

February 17, 1983

City Council  
The City of Seattle

Re: Amendment to Seattle Municipal Code Section 12A.24.050  
Frequenting Places Where Liquor Unlawfully Kept or  
Disposed of

Honorable Members:

Attached for your consideration is proposed legislation  
that would clarify Seattle Municipal Code (SMC) § 12A.24.050.  
That section currently provides:

12A.24.050 FREQUENTING PLACES WHERE  
LIQUOR UNLAWFULLY KEPT OR DISPOSED OF

A person is guilty of frequenting a  
place where liquor is unlawfully kept  
or disposed of if he frequents or is  
found in any place where intoxicating  
liquors are being kept or disposed of  
in violation of any provision of this  
chapter or the Washington State Liquor  
Act.

A King County Superior Court judge has recently upheld  
two Seattle Municipal Court decisions declaring this section  
unconstitutional because it failed to require knowledge on  
the part of the defendant despite the general requirement  
of knowledge contained in SMC § 12.04.100.

We are proposing that the City amend the above section  
to read as follows:

A person is guilty of frequenting a  
place where liquor is unlawfully kept  
or disposed of if he frequents or is  
found in any place where intoxicating  
liquors are being kept or disposed of  
in violation of any provision of this  
chapter or the Washington State Liquor  
Act, and he has knowledge of the facts  
constituting the violation.

City Council  
February 17, 1983  
Page Two

This amendment should clarify that knowledge is a required element of the violation. A recent amendment of this section which changed the classification of the offense to a violation (Ordinance 110856) would not be affected by this new amendment.

Very truly yours,

DOUGLAS N. JEWETT  
City Attorney

By   
RODNEY ENG  
Assistant

RE:lf;pl

# Affidavit of Publication

## STATE OF WASHINGTON KING COUNTY—SS.

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

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a .....  
**Ordinance No. 111083**

.....  
was published on **April 26, 1983**  
.....

.....  
*[Signature]*  
.....

Subscribed and sworn to before me on  
**April 26, 1983**

.....  
*[Signature]*  
.....

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

ORDINANCE 11083

AN ORDINANCE relating to the Seattle Criminal Code, amending Section 12A.24.050 (frequenting places where liquor unlawfully kept) of the Seattle Municipal Code to clarify that knowledge is an element of the violation.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 12A.24.050 of the Seattle Municipal Code (Ordinance 102843) as last amended by Ordinance 110256 (part), is further amended as follows:

12A.24.050 FREQUENTING PLACES WHERE LIQUOR UNLAWFULLY KEPT OR DISPOSED OF

A person is guilty of frequenting a place where liquor is unlawfully kept or disposed of if he frequents or is found in any place where intoxicating liquors are being kept or disposed of in violation of any provision of this chapter or the Washington State Liquor Act, and he has knowledge of the facts constituting the violation.

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

Passed by the City Council the 11<sup>th</sup> day of April, 1923, and signed by me in open session in authentication of its passage this 11<sup>th</sup> day of

April, 1923.

President of the City Council

Approved by me this 25<sup>th</sup> day of

April, 1923.

Mayor.

Filed by me this 25<sup>th</sup> day of

April, 1923.

Attest:

Tim Hill

City Comptroller and City Clerk.

(SEAL)

By

Frances D. Dyer  
Deputy Clerk.

Publication ordered by TIM HILL, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, April 26, 1923. (C 160)