



Seattle City Attorney

Peter S. Holmes

June 14, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

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 the 2012 Legislature. These changes are necessary because our traffic ordinances must be uniform with state law.

Sections 1 and 9 create a new form of the misdemeanor crime of Negligent Driving 1st degree, defined as driving negligently, in a manner that endangers a person or property and while exhibiting the effects of having inhaled or ingested a chemical for its intoxicating effects. Section 2 provides that a commercial driver's license is not necessary to drive a farm vehicle. Section 3 prohibits displaying on a vehicle a license plate not issued to that vehicle, displaying an altered or illegible license plate, operating a vehicle without a license plate, transferring a license plate to another vehicle and failing to endorse the registration certificate and deliver the license plate to the purchaser of the vehicle. Section 4 reduces the minimum time period between a court notifying a person of a requested contested traffic infraction hearing and the actual hearing from 15 to seven days and precludes a deferred finding for the traffic infraction of Negligent Driving 2nd degree involving a vulnerable road user victim. Section 5 limits the monetary penalty for a traffic infraction detected through the use of an automated traffic safety camera to the monetary penalty for the traffic infraction of disobeying a traffic control device, currently \$124. Sections 6 and 10 eliminate the requirement for a signature on a notice of traffic infraction. Section 7 changes the classification of improper backing on a limited access road from a crime to an infraction. Section 8 authorizes conversion of the mandatory minimum period of electronic home monitoring for a defendant convicted of Driving Under the Influence/Physical Control (DUI) to jail; increases from 60 days to six months the period of required ignition interlock for a defendant convicted of DUI involving a passenger under 16 years of age and imposes an additional monetary penalty in such cases, but authorizes the court to waive, reduce or suspend this monetary penalty; and transfers from the sentencing court to the Washington Department of Licensing the responsibility for enforcing the ignition interlock requirements for a defendant convicted

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of DUI. Section 11 authorizes the use of tires with alternate traction devices where the use of tires with metal studs is authorized.

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

Thank you for your consideration of this legislation. Should you have questions, please contact Richard Greene at 684-8538.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter S. Holmes", written in black ink.

Peter S. Holmes
Seattle City Attorney

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City's traffic code; amending various sections and subsections in Chapters 11.14, 11.22, 11.31, 11.32, 11.54, 11.56, 11.58, 11.59 and 11.84 of the Seattle Municipal Code to conform with changes in state law.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 11.14.183 of the Seattle Municipal Code is amended as follows:

11.14.183 Drug.

"Drug" means and includes, but is not limited to, those drugs and substances regulated by RCW Chapters 69.41 and 69.50 and any chemical inhaled or ingested for its intoxicating or hallucinatory effects. (RCW 46.61.540)

Section 2. Section 11.14.200 of the Seattle Municipal Code is amended as follows:

11.14.200 Farm vehicle.

"Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another or, for purposes of determining the requirement for a commercial driver's license under RCW 46.25.050, is used to transport agricultural products, farm machinery, farm supplies or any combination of these materials to or from a farm. (RCW 46.04.181)

Section 3. Section 11.22.080 of the Seattle Municipal Code is amended as follows:

11.22.080 Vehicle license plates displayed.

1 A. Display requirements. No person shall operate any vehicle on any street or alley unless a
2 valid license plate or plates are attached thereon as required by RCW 46.16A.200. The vehicle license
3 plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued
4 but if only one (1) license plate is legally issued for any vehicle such plate shall be conspicuously
5 attached to the rear of such vehicle. Each vehicle license plate shall be placed or hung in a horizontal
6 position at a distance of not more than four (4) feet from the ground and shall be kept clean so as to be
7 plainly seen and read at all times; this requirement shall not apply in cases where the Washington state
8 patrol has granted permission to deviate therefrom, as provided in RCW 46.16A.200.

9 B. Unlawful acts. No person shall:

- 10 1. display a license plate or plates on the front or rear of any vehicle that were not issued by
11 Washington Department of Licensing for the vehicle;
- 12 2. display a license plate or plates on any vehicle that have been changed, altered, or disfigured,
13 or have become illegible;
- 14 3. use holders, frames, or other materials that change, alter, or make a license plate or plates
15 illegible. License plate frames may be used on license plates only if the frames do not obscure license
16 tabs or identifying letters or numbers on the plates and the license plates can be plainly seen and read at
17 all times;
- 18 4. operate a vehicle unless a valid license plate or plates are attached as required under this
19 section;
- 20 5. transfer a license plate or plates issued under RCW Chapter 46.16A between two (2) or more
21 vehicles without first making application to transfer the license plates. A violation of this subsection
22 (B)(5) is a traffic infraction subject to a fine not to exceed five hundred dollars (\$500); or
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6. fail, neglect, or refuse to endorse the registration certificate and deliver the license plate or plates to the purchaser or transferee of the vehicle, except as authorized under this section. (RCW 46.16A.200)

Section 4. Section 11.31.050 of the Seattle Municipal Code is amended as follows:

11.31.050 Response to notice of traffic infraction --Contesting determination -- Hearing -- Failure to appear.

* * *

C. If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the Municipal Court of Seattle. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven (7) (~~fifteen (15)~~) days from the date of the notice, except by agreement.

* * *

E. In any hearing conducted pursuant to subsections C or D of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one (1) year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction. A person may not receive more than one (1) deferral within a seven (7) year period for traffic infractions for moving violations and more than one (1) deferral within a seven (7) year period for traffic infractions for nonmoving violations. A person who commits negligent driving in the second degree with a vulnerable user victim may not receive a deferral for this infraction under this section.

* * *

Section 5. Subsection C of Section 11.31.120 of the Seattle Municipal Code is amended as

1 follows:

2 **11.31.120 Monetary penalties.**

3 * * *

4 C. A traffic infraction for violation of Section 11.50.140, Section 11.50.150, Section 11.52.040,
5 or Section 11.52.100 detected through the use of an automated traffic safety camera shall be processed
6 in the same manner as a parking infraction, with a monetary penalty equal to the total penalty, including
7 the base penalty plus any statutory assessments authorized under state law, for violations of such
8 Sections otherwise detected by a police officer. However, the monetary penalty for a violation of
9 Section 11.50.140 or Section 11.50.150 detected through the use of an automated traffic safety camera
10 shall not exceed the monetary penalty for a violation of Section 11.50.380 as provided under subsection
11 A of this Section, including all applicable statutory assessments.

12 Section 6. Section 11.32.020 of the Seattle Municipal Code is amended as follows:

13 **11.32.020 Service of citation.**

14 Whenever any person is charged with any violation of this subtitle, other than a traffic infraction,
15 the officer may serve upon him or her a ~~((complaint and))~~ traffic citation and notice to appear in court.

16 Such ~~((complaint and))~~ citation and notice shall be handled and disposed of as set forth in RCW

17 46.64.010 and also shall conform with the requirements of RCW 46.64.010 and be in the form

18 prescribed in RCW 46.64.015. ~~((The person, in order to secure release, and when permitted by the~~

19 ~~officer, must give his written promise to appear as required by the citation by signing in the appropriate~~

20 ~~place the written complaint and citation. If the person fails or refuses to sign such written promise, he~~

21 ~~may be taken into custody of the officer and so remain or be placed in confinement.))~~ (RCW 46.64.010,

22 46.64.015)

Section 7. Section 11.54.150 of the Seattle Municipal Code is amended as follows:

Limited access facilities -- Penalties.

Any person convicted of a violation of any of the provisions of Sections 11.54.020 through 11.54.120 (~~(11.54.140)~~) of this subtitle shall be punished by a fine of not less than Five Dollars (\$5) nor more than One Hundred Dollars (\$100), or by imprisonment for not less than five (5) days nor more than ninety (90) days, or by both such fine and imprisonment. (RCW 47.52.120)

Section 8. Section 11.56.025 of the Seattle Municipal Code is amended as follows:

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

* * *

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 three hundred sixty-four (364) days, 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). In lieu of the mandatory minimum term of sixty (60) days of electronic home monitoring, the court may order at least an additional four (4) days in jail.

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 three hundred sixty-four (364) days, ninety (90) days of electronic home monitoring, and a fine of not less than Seven Hundred Fifty Dollars (\$750) nor more

1 than Five Thousand Dollars (\$5,000). In lieu of the mandatory minimum term of ninety (90) days of
2 electronic home monitoring, the court may order at least an additional six (6) days in jail.

3 C. 1. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two (2)
4 or more prior offenses within seven (7) years and whose alcohol concentration was less than 0.15, or for
5 any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no
6 test result indicating the person's alcohol concentration, shall be punished by imprisonment for not less
7 than ninety (90) consecutive days nor more than three hundred sixty-four (364) days, one hundred
8 twenty (120) days of electronic home monitoring, and a fine of not less than One Thousand Dollars
9 (\$1,000) nor more than Five Thousand Dollars (\$5,000). In lieu of the mandatory minimum term of one
10 hundred twenty (120) days of electronic home monitoring, the court may order at least an additional
11 eight (8) days in jail.

12 2. A person who is convicted of a violation of Subsection 11.56.020 A or B who has two (2) or
13 more prior offenses within seven (7) years and whose alcohol concentration was 0.15 or more, or who
14 refused to take a test offered pursuant to RCW 46.20.308, shall be punished by imprisonment for not
15 less than one hundred twenty (120) consecutive days nor more than three hundred sixty-four (364) days,
16 one hundred fifty (150) days of electronic home monitoring, and a fine of not less than One Thousand
17 Five Hundred Dollars (\$1,500) nor more than Five Thousand Dollars (\$5,000). In lieu of the mandatory
18 minimum term of one hundred fifty (150) days of electronic home monitoring, the court may order at
19 least an additional ten (10) days in jail.

20 * * *

21 E. If a person convicted of a violation of Subsection 11.56.020 A or B committed the offense
22 while a passenger under the age of sixteen (16) years was in the vehicle, the court shall:
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1 a person's employer and on those vehicles whose care and/or maintenance is the temporary
2 responsibility of the employer and driven at the direction of a person's employer as a requirement of
3 employment during working hours. An ignition interlock device imposed under this section shall be
4 calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol
5 concentration of 0.025 or more. The court may waive the requirement that a person apply for an ignition
6 interlock driver's license if the court makes a specific finding in writing that the person lives out of state
7 and the devices are not reasonably available in the person's local area, that the person does not operate a
8 vehicle, or that the person is not eligible to receive an ignition interlock driver's license under RCW
9 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already
10 applied for or is already in possession of an ignition interlock driver's license, has never had a driver's
11 license, has been certified under RCW Chapter 74.20A as noncompliant with a child support order or is
12 subject to any other condition or circumstance that makes the person ineligible to obtain an ignition
13 interlock driver's license. If a court finds that a person is not eligible to receive an ignition interlock
14 driver's license under this section, the court is not required to make any further subsequent inquiry or
15 determination as to the person's eligibility.)) If the court orders that a person refrain from consuming
16 any alcohol ((and requires the person to apply for an ignition interlock driver's license and the person
17 states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition
18 interlock driver's license)), the court may ((shall)) order the person to submit to alcohol monitoring
19 through an alcohol detection breathalyzer device, transdermal sensor device, or other technology
20 designed to detect alcohol in a person's system. ((Alcohol monitoring ordered under this subsection
21 must be for the period of the mandatory license suspension or revocation.)) The person shall pay for the
22 cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that
23 are available from an alternative source identified by the court. ((The period of time for which ignition
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~~interlock use or alcohol monitoring is required will be as follows: (i) For a person who has not
previously been restricted under this subsection, a period of one (1) year; (ii) For a person who has
previously been restricted under subsection L(i), a period of five (5) years; (iii) For a person who has
previously been restricted under subsection L(ii), a period of ten (10) years.)~~

Section 9. Section 11.58.005 of the Seattle Municipal Code is amended as follows:

11.58.005 Operating motor vehicle in a negligent manner -- Penalty,

A. 1. A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.

* * *

C. For the purposes of this section:

* * *

4. “Exhibiting the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects” means that a person by speech, manner, appearance, behavior or lack of coordination or otherwise exhibits that he or she has inhaled or ingested a chemical and either:

a. Is in possession of the canister or container from which the chemical came; or

b. Is shown by other evidence to have recently inhaled or ingested a chemical for its intoxicating or hallucinatory effects.

5. “Illegal drug” means a controlled substance under RCW 69.50 for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions

and warnings, or a legend drug under RCW Chapter 69.41 for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

* * *

Section 10. Subsection C of Section 11.59.090 of the Seattle Municipal Code is amended as follows:

11.59.090 Duty to obey peace officer – Traffic infraction -- Authority to detain and check for warrants.

* * *

C. Any person requested to identify himself or herself to a peace officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself and ((~~;~~)) give his or her current address ((~~and sign an acknowledgement of receipt of the notice of infraction~~)). (RCW 46.61.021)

Section 11. Subsection A of Section 11.84.200 of the Seattle Municipal Code is amended as follows:

11.84.200 Tire cleats and chains.

A. No tire on a vehicle moved on a street or alley shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery equipped with pneumatic tires or solid rubber tracks having protuberances which will not injure the street and except also that it shall be permissible to use tire chains, alternate traction devices or metal studs imbedded within the tire of reasonable proportions and of a type conforming to rules adopted by the State Patrol upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid: Provided, that it shall be unlawful to use metal studs imbedded within the tire between April 1st and November 1st, except that a vehicle may be equipped year-round with tires

that have retractable studs if the studs retract pneumatically or mechanically to below the wear bar of the
1 tire when not in use and are engaged only between November 1st and April 1st: Provided further, that the
2 use of tires with metal studs imbedded therein shall be lawful during additional periods when the State
3 Department of Transportation so determines.

* * *

5 Section 12. This ordinance shall take effect and be in force thirty (30) days from and after its
6 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
7 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

8 Passed by the City Council the ____ day of _____, 2012, and signed by
9 me in open session in authentication of its passage this ____ day of _____, 2012.

11 _____
12 President _____ of the City Council

13 Approved by me this ____ day of _____, 2012.

14 _____
15 Michael McGinn, Mayor

16 Filed by me this ____ day of _____, 2012.

17 _____
18 Monica Martinez Simmons, City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Law – Criminal Division	Richard Greene 684-8538	

Legislation Title: AN ORDINANCE relating to the City’s traffic code; amending various sections and subsections in Chapters 11.14, 11.22, 11.31, 11.32, 11.54, 11.56, 11.58, 11.59 and 11.84 of the Seattle Municipal Code to conform with changes in state law.

Summary of the Legislation: Amends the City’s traffic code to conform with changes in the corresponding state traffic statutes made by the 2012 Legislature, specifically clarifying the definitions of “drug” and “farm vehicle,” prohibiting the display of a license plate not issued for the vehicle, prohibiting the display of an altered or illegible license plate, prohibiting the operation of a vehicle without a license plate, prohibiting the transfer of a license plate, prohibiting the failure to endorse the registration certificate and deliver the license plate to a purchaser of the vehicle, reducing the period between notification of a contested traffic infraction hearing and the hearing itself, prohibiting a deferred finding on a traffic infraction of Negligent Driving 2nd degree involving a vulnerable user victim, limiting the monetary penalty for a traffic infraction detected through the use of an automated traffic safety camera to that of disobeying a traffic control device, eliminating the signature requirement for a person issued a notice of traffic infraction, changing the classification of improper backing on a limited access road from a crime to an infraction, authorizing conversion of the mandatory minimum period of electronic home monitoring in a Driving Under the Influence/Physical Control case to jail, increasing from 60 days to six months the required period of ignition interlock for a defendant convicted of Driving Under the Influence/Physical Control involving a passenger under 16 years of age, imposing an additional monetary penalty on a defendant convicted of Driving Under the Influence/Physical Control involving a passenger under 16 years of age, transfers from the sentencing court to the Washington Department of Licensing the responsibility of enforcing the ignition interlock requirements for a a defendant convicted of Driving Under the Influence/Physical Control, creates the crime of operating a motor vehicle while exhibiting the effects of having inhaled or ingested a chemical, authorizes the use of tires with alternate traction devices where the use of tires with metal studs is authorized.

Background: Many provisions of Seattle’s traffic code must be and are identical to provisions of the state traffic statutes. When the Legislature amends those statutes, our traffic code likewise must be amended to ensure uniformity. This ordinance changes provisions of our traffic code to conform with changes made to the corresponding state traffic statutes by the 2011 Legislature.

This ordinance creates the traffic infractions of displaying on a vehicle a license plate not issued to that vehicle, displaying an altered or illegible license plate, operating a vehicle without a license plate, transferring a license plate to another vehicle and failing to endorse the registration certificate and delivering the license plate to the purchaser of the vehicle. It reduces the minimum time period between a court notifying a person of a requested contested traffic infraction hearing and the actual hearing from 15 to seven days. It precludes a deferred finding

for the traffic infraction of Negligent Driving 2nd degree involving a vulnerable road user victim. It limits the monetary penalty for a traffic infraction detected through the use of an automated traffic safety camera to the monetary penalty for the traffic infraction of disobeying a traffic control device, currently \$124. It eliminates the requirement for a signature on a notice of traffic infraction. It changes the classification of improper backing on a limited access road from a crime to an infraction. It authorizes conversion of the mandatory minimum period of electronic home monitoring for a defendant convicted of Driving Under the Influence/Physical Control to jail. It increases from 60 days to six months the period of required ignition interlock for a defendant convicted of Driving Under the Influence/Physical Control involving a passenger under 16 years of age and imposes an additional monetary penalty in such cases, but authorizes the court to waive, reduce or suspend this monetary penalty. It transfers from the sentencing court to the Washington Department of Licensing the responsibility for enforcing the ignition interlock requirements for a defendant convicted of Driving Under the Influence/Physical Control. It creates a new form of the misdemeanor crime of Negligent Driving 1st degree by operating a motor vehicle negligently, in a manner that endangers any person or property and while exhibiting the effects of having inhaled or ingested a chemical. It authorizes the use of tires with alternate traction devices where the use of tires with metal studs is authorized.

 X **This legislation does not have any financial implications.**

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
No.
- b) **What is the financial cost of not implementing the legislation?** None
- c) **Does this legislation affect any departments besides the originating department?**
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None seem apparent.
- e) **Is a public hearing required for this legislation?** No.
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** No.
- g) **Does this legislation affect a piece of property?** No.
- h) **Other Issues:**

List attachments to the fiscal note below: