
HOUSE BILL 2771

State of Washington 60th Legislature 2008 Regular Session

By Representatives Lantz and Goodman; by request of Governor Gregoire

Read first time 01/16/08. Referred to Committee on Judiciary.

1 AN ACT Relating to creating an administrative sobriety checkpoint
2 program; reenacting and amending RCW 46.63.020; adding a new chapter to
3 Title 46 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that driving while
6 under the influence of alcohol and drugs is a serious public health and
7 safety problem. Numerous published studies have found that sobriety
8 checkpoints are effective in reducing crashes, injuries, and deaths
9 caused by drunk driving. Studies have shown that crashes thought to
10 involve alcohol dropped a median of twenty percent following
11 implementation of sobriety checkpoints. Sobriety checkpoints are an
12 integral part of antidrunk driving enforcement in many states in the
13 United States and many European countries.

14 The purpose of this act is to authorize targeted checkpoint
15 programs to deter and detect persons driving under the influence with
16 a minimal intrusion on the privacy rights of all vehicle occupants.

17 NEW SECTION. **Sec. 2.** "Administrative sobriety checkpoint program"

1 means a program that is conducted by one or more law enforcement
2 agencies, in which:

3 (1) Uniformed law enforcement officers stop all, or a designated
4 sequence of, nonemergency vehicles that pass specified locations on
5 specified days and between specified times, and briefly question the
6 vehicle drivers to determine if they have been driving a vehicle in
7 violation of RCW 46.61.502 or 46.61.503; and

8 (2) The officers may direct the driver of a vehicle who exhibits
9 indications of being under the influence of any intoxicating liquor or
10 drug off the roadway for investigation or testing.

11 NEW SECTION. **Sec. 3.** (1) The chief law enforcement officer of any
12 jurisdiction may apply to its superior court for a warrant that
13 authorizes his or her law enforcement agency to conduct an
14 administrative sobriety checkpoint program in the county where the
15 superior court is located.

16 (2) The application must consist of at least one affidavit or
17 declaration that includes the following information:

18 (a) The geographic locations, dates, and times when the
19 administrative sobriety checkpoint program would operate;

20 (b) The duration of the program;

21 (c) The measures that a law enforcement agency will take, before
22 operating the program, to educate the general public and drivers
23 approaching checkpoints about the program including, but not limited
24 to, the configuration and size of the checkpoint, the language spoken
25 at the checkpoint, and the location of checkpoint signs and barriers;

26 (d) The measures that a law enforcement agency will take to promote
27 the safety of vehicle occupants, pedestrians, and law enforcement
28 officers operating the checkpoints including, but not limited to, the
29 instructions provided to the law enforcement officers at each
30 checkpoint;

31 (e) A statement that all, or a designated sequence of, vehicles
32 passing a checkpoint in one or both directions, except for authorized
33 emergency vehicles, will be stopped;

34 (f) A statement that a vehicle will not be stopped at a checkpoint
35 for longer than a period of time determined by the law enforcement
36 agency by policy, if there are no reasonable grounds to believe that
37 the vehicle driver or occupant has committed an offense;

1 (g) A statement that a driver will not be required to exit the
2 roadway unless a law enforcement officer has reasonable grounds to
3 believe that the driver or a vehicle occupant has committed an offense;
4 and

5 (h) Some statistical information based on data from the state
6 patrol, Washington traffic safety commission, or other source showing
7 that there have been some statistically significant alcohol-involved
8 and/or drug-involved motor vehicle collisions within a one mile radius
9 of the proposed checkpoint location.

10 (3) The court shall issue a warrant under this section if it finds
11 that there is sufficient information in the affidavit or declaration
12 required in subsection (2) of this section to conclude that the
13 proposed checkpoint program advances the jurisdiction's interest in
14 reducing impaired driving, taking into account potential arrests under
15 the program and the program's deterrent effect, and minimizes
16 intrusions into the privacy rights of drivers and vehicle occupants.

17 (4) If the court issues a warrant, the law enforcement agency shall
18 publish a copy of the warrant in the legal section of the newspaper of
19 record and post a copy of the warrant on the web site, if there is a
20 web site, of the county in which the checkpoint program will be
21 operated. The publication must be made at least once before the date
22 the checkpoint program will be operated and shall not be made more than
23 ten days nor less than one day before the day the checkpoint program
24 will be operated.

25 (5) Within twenty days after the administrative sobriety checkpoint
26 program is completed, the chief law enforcement officer shall file with
27 the court a warrant return containing information on what hours the
28 checkpoint was actually operable, the number of vehicles stopped, and,
29 to the extent such information is available at the time the warrant
30 return is required to be filed, the number of drivers investigated and
31 arrested for violations of RCW 46.61.502 or 46.61.503.

32 NEW SECTION. **Sec. 4.** A person, law enforcement agency,
33 jurisdiction, or other governmental entity is not liable for damages
34 that arise from stopping or not stopping a vehicle at an authorized
35 checkpoint unless the person, law enforcement agency, jurisdiction, or
36 other governmental entity acts with intentional misconduct.

1 NEW SECTION. **Sec. 5.** A person who is requested to stop at an
2 authorized sobriety checkpoint and fails to stop is guilty of a gross
3 misdemeanor.

4 **Sec. 6.** RCW 46.63.020 and 2005 c 431 s 2, 2005 c 323 s 3, and 2005
5 c 183 s 10 are each reenacted and amended to read as follows:

6 Failure to perform any act required or the performance of any act
7 prohibited by this title or an equivalent administrative regulation or
8 local law, ordinance, regulation, or resolution relating to traffic
9 including parking, standing, stopping, and pedestrian offenses, is
10 designated as a traffic infraction and may not be classified as a
11 criminal offense, except for an offense contained in the following
12 provisions of this title or a violation of an equivalent administrative
13 regulation or local law, ordinance, regulation, or resolution:

14 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
15 vehicle while under the influence of intoxicating liquor or a
16 controlled substance;

17 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

18 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
19 while under the influence of intoxicating liquor or narcotics or habit-
20 forming drugs or in a manner endangering the person of another;

21 (4) RCW 46.10.130 relating to the operation of snowmobiles;

22 (5) Chapter 46.12 RCW relating to certificates of ownership and
23 registration and markings indicating that a vehicle has been destroyed
24 or declared a total loss;

25 (6) RCW 46.16.010 relating to the nonpayment of taxes and fees by
26 failure to register a vehicle and falsifying residency when registering
27 a motor vehicle;

28 (7) RCW 46.16.011 relating to permitting unauthorized persons to
29 drive;

30 (8) RCW 46.16.160 relating to vehicle trip permits;

31 (9) RCW 46.16.381(2) relating to knowingly providing false
32 information in conjunction with an application for a special placard or
33 license plate for disabled persons' parking;

34 (10) RCW 46.20.005 relating to driving without a valid driver's
35 license;

36 (11) RCW 46.20.091 relating to false statements regarding a
37 driver's license or instruction permit;

1 (12) RCW 46.20.0921 relating to the unlawful possession and use of
2 a driver's license;

3 (13) RCW 46.20.342 relating to driving with a suspended or revoked
4 license or status;

5 (14) RCW 46.20.345 relating to the operation of a motor vehicle
6 with a suspended or revoked license;

7 (15) RCW 46.20.410 relating to the violation of restrictions of an
8 occupational or temporary restricted driver's license;

9 (16) RCW 46.20.740 relating to operation of a motor vehicle without
10 an ignition interlock device in violation of a license notation that
11 the device is required;

12 (17) RCW 46.20.750 relating to (~~assisting another person to start~~
13 ~~a vehicle equipped with an~~) circumventing an ignition interlock
14 device;

15 (18) RCW 46.25.170 relating to commercial driver's licenses;

16 (19) Chapter 46.29 RCW relating to financial responsibility;

17 (20) RCW 46.30.040 relating to providing false evidence of
18 financial responsibility;

19 (21) RCW 46.37.435 relating to wrongful installation of
20 sunscreening material;

21 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
22 installation of a previously deployed air bag;

23 (23) RCW 46.37.671 through 46.37.675 relating to signal preemption
24 devices;

25 (24) RCW 46.44.180 relating to operation of mobile home pilot
26 vehicles;

27 ~~((+24+))~~ (25) RCW 46.48.175 relating to the transportation of
28 dangerous articles;

29 ~~((+25+))~~ (26) RCW 46.52.010 relating to duty on striking an
30 unattended car or other property;

31 ~~((+26+))~~ (27) RCW 46.52.020 relating to duty in case of injury to
32 or death of a person or damage to an attended vehicle;

33 ~~((+27+))~~ (28) RCW 46.52.090 relating to reports by repairmen,
34 storagemen, and appraisers;

35 ~~((+28+))~~ (29) RCW 46.52.130 relating to confidentiality of the
36 driving record to be furnished to an insurance company, an employer,
37 and an alcohol/drug assessment or treatment agency;

1 ~~((+29))~~ (30) RCW 46.55.020 relating to engaging in the activities
2 of a registered tow truck operator without a registration certificate;
3 ~~((+30))~~ (31) RCW 46.55.035 relating to prohibited practices by tow
4 truck operators;
5 ~~((+31))~~ (32) RCW 46.55.300 relating to vehicle immobilization;
6 (33) RCW 46.61.015 relating to obedience to police officers,
7 flaggers, or firefighters;
8 ~~((+32))~~ (34) RCW 46.61.020 relating to refusal to give information
9 to or cooperate with an officer;
10 ~~((+33))~~ (35) RCW 46.61.022 relating to failure to stop and give
11 identification to an officer;
12 ~~((+34))~~ (36) RCW 46.61.024 relating to attempting to elude
13 pursuing police vehicles;
14 ~~((+35))~~ (37) RCW 46.61.500 relating to reckless driving;
15 ~~((+36))~~ (38) RCW 46.61.502 and 46.61.504 relating to persons under
16 the influence of intoxicating liquor or drugs;
17 ~~((+37))~~ (39) RCW 46.61.503 relating to a person under age twenty-
18 one driving a motor vehicle after consuming alcohol;
19 ~~((+38))~~ (40) RCW 46.61.520 relating to vehicular homicide by motor
20 vehicle;
21 ~~((+39))~~ (41) RCW 46.61.522 relating to vehicular assault;
22 ~~((+40))~~ (42) RCW 46.61.5249 relating to first degree negligent
23 driving;
24 ~~((+41))~~ (43) RCW 46.61.527(4) relating to reckless endangerment of
25 roadway workers;
26 ~~((+42))~~ (44) RCW 46.61.530 relating to racing of vehicles on
27 highways;
28 ~~((+43))~~ (45) RCW 46.61.655(7) (a) and (b) relating to failure to
29 secure a load;
30 ~~((+44))~~ (46) RCW 46.61.685 relating to leaving children in an
31 unattended vehicle with the motor running;
32 ~~((+45))~~ (47) RCW 46.61.740 relating to theft of motor vehicle
33 fuel;
34 ~~((+46))~~ ~~RCW 46.37.671 through 46.37.675 relating to signal~~
35 ~~preemption devices~~;
36 ~~((+47))~~ (48) RCW 46.64.010 relating to unlawful cancellation of or
37 attempt to cancel a traffic citation;

1 ~~((48))~~ (49) RCW 46.64.048 relating to attempting, aiding,
2 abetting, coercing, and committing crimes;
3 ~~((49))~~ (50) Chapter 46.65 RCW relating to habitual traffic
4 offenders;
5 ~~((50))~~ (51) RCW 46.68.010 relating to false statements made to
6 obtain a refund;
7 ~~((51))~~ (52) Chapter 46.70 RCW relating to unfair motor vehicle
8 business practices, except where that chapter provides for the
9 assessment of monetary penalties of a civil nature;
10 ~~((52))~~ (53) Chapter 46.72 RCW relating to the transportation of
11 passengers in for hire vehicles;
12 ~~((53))~~ (54) RCW 46.72A.060 relating to limousine carrier
13 insurance;
14 ~~((54))~~ (55) RCW 46.72A.070 relating to operation of a limousine
15 without a vehicle certificate;
16 ~~((55))~~ (56) RCW 46.72A.080 relating to false advertising by a
17 limousine carrier;
18 ~~((56))~~ (57) Chapter 46.80 RCW relating to motor vehicle wreckers;
19 ~~((57))~~ (58) Chapter 46.82 RCW relating to driver's training
20 schools;
21 ~~((58))~~ (59) RCW 46.87.260 relating to alteration or forgery of a
22 cab card, letter of authority, or other temporary authority issued
23 under chapter 46.87 RCW;
24 ~~((59))~~ (60) RCW 46.87.290 relating to operation of an
25 unregistered or unlicensed vehicle under chapter 46.87 RCW;
26 (61) Section 5 of this act relating to failure to stop at
27 authorized sobriety checkpoints.

28 NEW SECTION. Sec. 7. If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. Sec. 8. Sections 1 through 5 of this act constitute
33 a new chapter in Title 46 RCW.

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