

2010 New Traffic Safety Laws

HB 1966 (Effective 8/1/10) - Wheelchair and power wheelchair users are added to totally blind or partially blind pedestrians using a predominantly white cane, totally blind or partially blind or hearing impaired pedestrians using a guide dog, or persons with physical disabilities using a service animal as individuals for whom drivers must take all necessary precautions to avoid injury when approaching such individuals. Drivers who fail to take such precautions are specially stated to be liable in damages for any injury caused to such wheelchair users or power wheelchair users.

Wheelchair users and power wheelchair users are also added to totally blind or partially blind pedestrians using a predominantly white cane, totally blind or partially blind or hearing impaired pedestrian using a guide dog, or persons with physical disabilities using a service animal as persons for whom drivers may not enter a crosswalk while such an individual is in it.

HB 2464 (Effective 1/1/11) - Establishes an emergency zone which is defined as the adjacent lanes of the roadway 200 feet before and after a stationary emergency vehicle with a siren or flashing lights, a tow truck using red lights, an emergency assistance vehicle using warning lights, or a police vehicle using emergency lights.

A person may not drive a vehicle about the posted speed limit in an emergency zone. The penalty is double the standard amount (2x \$), which may not be waived, reduced, or suspended. A person is guilty of reckless endangerment of emergency zone workers, which is a gross misdemeanor, if a person drives a vehicle in an emergency zone in such a way as to endanger or be likely to endanger any emergency zone worker or property. A person convicted of reckless endangerment of emergency zone workers is also subject to a 60 day driver's license suspension by DOL. Gross Misdemeanor can result in up to year in jail and/or a \$5,000 fine.

HB 2465 (Effective 6/10/10) - Breath Testing Machines may use dry gas simulators as well as liquid simulator solutions. The current breath testing machines use a liquid simulator solution. However, they are no longer being made and a new breath testing machine is being phased in that uses a dry gas simulator. This is a very technical bill that facilitates the transition to the new dry gas simulator technology.

2SHB 2742 (Effective: 1/1/11) – This is a very technical bill to address a recent court ruling regarding the accountability for persons driving under the influence of intoxicating liquor or drugs. It deals with Ignition Interlock License (IIL) for those who are convicted of a DUI. A

recent Washington State Supreme Court ruling found that the term prior offense within the seven years is ambiguous

In the case, one of the defendants was arrested for DUI in 2001. He received a deferred prosecution. In 2005, he was again arrested for DUI. His deferred prosecution was revoked. The issue was whether the 2005 conviction counted as a "prior offense within seven years" of the 2001 deferred prosecution for the purposes of sentencing.

According to the Supreme Court, "prior offense within seven years," could mean either mean either: 1) that the offense to be counted as a "prior" must have occurred before the offense for which the defendant is being sentenced; or 2) that the offense to be counted as a prior could have been occurred either before or after – so long as it is within seven years of – the offense for which the defendant is being sentenced.

So the new law makes several changes regarding who may apply for an Ignition Interlock License. A person who has been convicted of vehicular homicide or vehicular assault due to driving under the influence of drugs may apply for an IIL. Persons who enter into deferred prosecutions for DUI are no longer required to apply for an IIL.

The employer vehicle exception is expanded to include vehicles leased or rented by the person's employer and vehicles whose care or maintenance is the temporary responsibility of the employer and driven at the direction of the employer.

The list of circumstances under which the court may waive the requirement that a person apply for an IIL is expanded. If a court finds that a person is not eligible to receive an IIL, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility. The court must order alcohol monitoring in cases where the IIL requirement is waived and the court has orders that the person not consume alcohol.

When a person has his or her regular driver's license reinstated and an ignition interlock device is required to be installed, the requirement remains in effect until the DOL receives a declaration from the person's ignition interlock vendor certifying that there have been no "incidents" in the four consecutive months prior to the date the requirement expires. An "incident" is: 1) an attempt to start the vehicle with a BAC of .04 or higher; 2) failure to take or pass any required re-test; or 3) failure of the person to appear at the vendor when required.

Because of the State Supreme Court ruling, the definitions of "prior offenses" and "within seven years" are amended. A prior offense within seven years means that the arrest for the prior offense occurred either before or after the arrest for the current offense. However, if a deferred prosecution is revoked based on a subsequent DUI-related conviction, the subsequent

conviction may not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing.

If a person is required to install an ignition interlock device on all motor vehicles operated by that person, then the jurisdiction of the city or county probation or supervision department must verify its installation. They can do so, if they receive a written verification by an ignition interlock stating that it has installed a device on a vehicle owned or operated by the person. The city or county has no further obligation to supervise the use of the device by the person and is not civilly liable for any injuries or damages caused by the person for failing to use a device or for driving under the influence of intoxicating liquor of any drug.

It is now a gross misdemeanor (up to 1 year and/or \$5,000 fine) rather than a misdemeanor (up to 90 days and/or \$1,000 fine) a person to drive a motor vehicle without an ignition interlock device when the person is required to have one.

A person commits Driving While License Suspended (DWLS) in the second degree if he or she is driving while his or her regular driver's license is suspended and the person is eligible to obtain an ILL, but did not obtain one.

Procedures for the DOL to cancel ILLs and occupational and temporary restricted licenses are amended to be consistent with current practices for cancellations of regular driver's licenses. The effective date of cancellation is 45 days rather than 15 days, from the date the DOL mails the notice of cancellation.

SHB 2939 (Effective 11/31/10) – This law concerns notations on driver abstracts that a person was not at fault in a motor vehicle crash. The Department of License is required to indicate in a driving abstract obtained for employment purposes that an individual was not at fault in a particular accident if the individual named in the abstract provides the DOL with court records showing the individual was not at fault.

The entirety of the statute is rewritten in plain language, and the Office of Superintendent of Public Instruction (OSPI) is allowed to receive driving record abstracts and discuss the abstract with the employing district.

SHB 3124 (Effective 6/10/10) - When a child under age 13 is present in the vehicle of a parent or legal custodian or guardian being arrested for a drug- or alcohol-related driving offense, the arresting law enforcement officer must promptly notify Child Protective Services (CPS). The officer is not required to take custody of the child, unless there is no one properly authorized to take custody of the child or the officer believes the child will be in imminent risk unless taken into emergency custody.

ESSB 5902 (Effective 6/10/10) - Currently any person blocking a parking space reserved for a person with physical disabilities or its access aisle can be fined a penalty of \$250. A \$250 fine can also be charged to any person using a special license plate or placard, who does not meet the qualifications. Local jurisdictions keep this amount to use for law enforcement.

Under this statute, a \$200 assessment is added to the penalty currently charged to parking in or blocking a space for persons with physical disabilities and the infraction is changed from a traffic infraction to a parking infraction. The courts retain the discretion to reduce the entire penalty, but must do so proportionally. Of this assessment, \$100 must be deposited into the Accessible Communities Account, also created in this bill.

Expenditures from the account are limited to certain things. The remaining \$100 of the assessment must be deposited into the Multimodal Transportation Account to be used for grants for special needs transportation. If less than the full penalty is imposed, proportionate (equal) amounts must be deposited into the two accounts. Only the Commissioner of the Employment Security Department may authorize expenditures. The account is budgeted, but does not require an appropriation and earns interest.

SSB 6207 (Effective 6/10/10) - Cities or counties may create golf cart zones by ordinance or resolution for the purpose of permitting incidental use of golf carts on public roads that have speed limits of 25 mph or less. Golf carts are defined as gas-powered or electric-powered four-wheeled vehicles, designed for use on a golf course that cannot attain a speed higher than 20 mph.

Golf cart drivers within golf cart zones are subject to the same rules of the road as vehicle drivers. Other than rules of the road, golf carts and golf cart drivers within golf cart zones are not subject to most motor vehicle provisions, including provisions on non-highway and off-road vehicles, vehicle licensing, driver licensing, and safety and equipment standards. However, golf cart occupants operating or riding in a golf cart within a golf cart zone are not exempt from the seatbelt requirements, and golf carts operating on public roads with a golf cart zone must be equipped with reflectors, seatbelts, and rearview mirrors.

A person operating a golf cart on public roads in a golf cart zones must be at least 16 years old and must have either completed a driver education course or have previous experience as a licensed driver. However, a person who has a revoked license is prohibited from operating golf carts on public roads in golf cart zones.

Local jurisdictions that create golf cart zones may restrict the operation of golf carts to daylight hours and may prohibit the operation of golf carts in designated bicycle lanes that are within a golf cart zone. In addition, local jurisdictions may require a decal to be displayed on golf carts and may charge a fee for the decal.

Golf cart zones must be identified by signage, and accidents that involve golf carts operating on public roads within golf cart zones must be tracked under state reporting requirements.

The Governor vetoed the section exempting golf carts operating on public roads within golf cart zones from the child restraint (car seat) law.

SSB 6213 (Effective 6/10/10) - Modifies the list of vehicles required to stop at railroad crossings. The list references federal guidelines and vehicle classifications to describe vehicles carrying explosive, flammable, and hazardous substances. In addition, commercial motor vehicles transporting passengers are added to the list of vehicles required to stop before crossing railroad tracks.

The list of railroad crossings that are exempt from the stopping requirement is modified. Vehicles must stop at crossings controlled by gates or traffic control signals unless a functioning control signal is transmitting a green light. In addition, the list of exempt crossings is modified to include tracks that are abandoned or marked with an out-of-service sign, and tracks that are used exclusively for a streetcar or for industrial switching purposes.

The State Patrol is given authority to identify, by rule, crossings where stopping is not required. The Superintendent of Public Instruction is given authority to identify, by rule, circumstances under which stopping is not required for drivers of school buses or private carriers carrying children or other passengers.

SSB 6345 (Effective 6/10/10) - For all drivers, a violation of the laws relating to the use of a cell phone or other wireless communication device while operating a moving motor vehicle may be enforced as a primary action.

The holder of an instruction permit or an intermediate license may not use a cell phone or other wireless communication device while driving a motor vehicle. An exception is made if the wireless communication device is being used to report illegal activity, summon medical or other emergency help, or to prevent injury to a person or property, or a person is using a hearing aid.

ESSB 6499 (Effective 6/10/10) – Tolls may be paid after using a toll facility via a photo toll that identifies a vehicle by its license plate. Photo tolls may be paid using a customer account, or in response to a toll bill. Tolls may also be paid using existing methods.

Failure to pay a toll detected through a photo toll system is a civil penalty (fine) to be issued by DOT with a fine of \$40, plus the original toll amount and associated fees. Photo toll customers have 80 days from the time they use the toll facility to pay the toll before the toll charge becomes a civil penalty. DOT must develop an administrative adjudication process to review

appeals of civil penalties. A hold on a person's vehicle registration may occur if the civil penalty is not paid.

SSB 6363 (Effective 7/1/10) - In addition to the current law that creates school or playground speed zones, this law makes it an infraction by failing to stop for a pedestrian or bicyclist within a crosswalk that is marked with school or playground speed zone signs. The amount of the ticket is twice the scheduled penalty for the infraction (2x \$). In addition, a vehicle driver in a school or playground speed zone receives twice the scheduled penalty (2x \$), if the driver commits an infraction by failing to exercise due care to avoid colliding with a pedestrian or failing to yield the right of way to a pedestrian or bicyclist on the sidewalk. The penalties for these infractions may not be waived, reduced, or suspended. Fifty percent of the money collected from the infractions is deposited into the School Zone Safety Account. School districts may erect signs informing motorists of the monetary penalties assessed for the school and playground speed zone infractions related to pedestrians and bicyclists.

Crossing guards who observe pedestrian or bicycle-related violations may prepare a written report to law enforcement, provided that they are age 18 or older. The report must include information about the violation and information to allow law enforcement to identify the violator. If the report is delivered to law enforcement, it must be delivered within 72 hours after the violation occurred. If a law enforcement officer is able to identify the driver and has reasonable cause to believe the infraction occurred, the officer may issue an infraction.

For additional information on these laws, visit www.leg.wa.gov and click on Bill Information. Simply type in the bill number and you will find complete information about the bill, including the actual bill language and the history of action was taken by which committees or chamber (House or Senate) of the Legislature. The site also contains results of hearings, who testified, any amendments, the vote count, etc.