



Legislation Details (With Text)

File #: CB 120423 **Version:** 1 **Name:** CB 120423
Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk
On agenda: 9/27/2022
Final Action: 10/5/2022 **Ord. No.** Ord 126681
Title: AN ORDINANCE relating to the City's traffic code; conforming the Seattle Municipal Code with changes in state law and making technical corrections; amending Sections 11.31.050, 11.31.120, 11.40.220, 11.40.240, 11.56.020, 11.56.320, 11.58.005, 11.58.272, and 11.58.435 of the Seattle Municipal Code; and adding a new Section 11.14.081 to the Seattle Municipal Code.
Sponsors: Lisa Herbold
Indexes:
Attachments: 1. Summary and Fiscal Note, 2. Signed Ordinance 126681, 3. Affidavit of Publication

Date	Ver.	Action By	Action	Result
10/5/2022	1	City Clerk	attested by City Clerk	
10/4/2022	1	Mayor	returned	
10/4/2022	1	Mayor	Signed	
9/30/2022	1	City Clerk	submitted for Mayor's signature	
9/27/2022	1	City Council	passed	Pass
9/20/2022	1	City Council	referred	
8/1/2022	1	Council President's Office	sent for review	
7/27/2022	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City's traffic code; conforming the Seattle Municipal Code with changes in state law and making technical corrections; amending Sections 11.31.050, 11.31.120, 11.40.220, 11.40.240, 11.56.020, 11.56.320, 11.58.005, 11.58.272, and 11.58.435 of the Seattle Municipal Code; and adding a new Section 11.14.081 to the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 11.14.081 is added to the Seattle Municipal Code as follows:

11.14.081 Cannabis

"Cannabis," except as otherwise provided in Title 11, has the meaning provided in RCW 69.50.101.

Section 2. Section 11.31.050 of the Seattle Municipal Code, last amended by Ordinance 125944, is amended as follows:

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

* * *

B. If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the Seattle Municipal Court ~~((of Seattle))~~. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response, unless the person selects the option attesting that the person does not have the current ability to pay the infraction in full. When a response ~~((which~~)) that does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the Department of Licensing in accordance with RCW 46.20.270.

* * *

Section 3. Section 11.31.120 of the Seattle Municipal Code, last amended by Ordinance 126517, is amended as follows:

11.31.120 Monetary penalties

A.

1. A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed \$250~~((-.00))~~ for each offense unless a higher penalty is specifically provided for in this ~~((title))~~ Title 11 or by statute.

2. The court may waive or remit any monetary penalty, fee, cost, assessment, or other monetary obligation associated with a traffic infraction unless the specific monetary obligation in question is prohibited from being waived or remitted by this Title 11 or by statute.

* * *

D. In addition to any other penalties imposed under this Section 11.31.120 and not subject to the limitation of subsection 11.31.120.A, a person found to have committed a traffic infraction shall be assessed:

1. A fee of \$5 per infraction. Under no circumstances shall this fee be reduced or waived.

Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

2. A fee of \$10 per infraction. Under no circumstances shall this fee be reduced or waived.

Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

3. A fee of \$5 per infraction. Under no circumstances shall this fee be reduced or waived.

Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

4. An additional penalty of ~~(((\$20))~~ \$24 per infraction, except this additional penalty shall not be assessed for a violation of Section 11.52.110 or 11.58.272. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available, the court shall allow offenders to offset all or a part of the penalty due under this subsection 11.31.120.D.4 by participation in the court authorized community restitution program. Revenue from this additional penalty shall be remitted and distributed according to RCW 46.63.110(8).

Section 4. Section 11.40.220 of the Seattle Municipal Code, last amended by Ordinance 125944, is amended as follows:

11.40.220 Walking on sidewalk

A. Where sidewalks are provided and are accessible, no pedestrian shall move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not available, disabled persons may move along and upon an adjacent roadway until they reach an access point in the sidewalk.

B. Subsection 11.40.220.A does not apply when the roadway is duly closed to vehicular traffic by

placement of official traffic control devices for the sole purposes of pedestrian and bicyclist use of the roadway.

Section 5. Section 11.40.240 of the Seattle Municipal Code, last amended by Ordinance 126517, is amended as follows:

11.40.240 Walking in roadway

A. Where sidewalks are not provided or are inaccessible, a pedestrian walking or otherwise moving along and upon a street shall:

~~((A-))~~ 1. When shoulders are provided and are accessible, walk on the shoulder of the roadway as far as is practicable from the edge of the roadway, facing traffic when a shoulder is available in this direction; or

~~((B-))~~ 2. When shoulders are not provided or are inaccessible, walk as near as is practicable to the outside edge of the roadway facing traffic, and when practicable, move clear of the roadway upon meeting an oncoming vehicle.

B. A pedestrian traveling to the nearest emergency reporting device on a one-way roadway of a controlled access highway is not required to travel facing traffic as otherwise required by subsection 11.40.240.A.

C. When walking or otherwise moving along and upon an adjacent roadway, a pedestrian shall exercise due care to avoid colliding with any vehicle upon the roadway.

D. Subsection 11.40.240.A does not apply when the roadway is duly closed to vehicular traffic by placement of official traffic control devices for the sole purposes of pedestrian and bicyclist use of the roadway.

Section 6. Section 11.56.020 of the Seattle Municipal Code, last amended by Ordinance 124950, is amended as follows:

**11.56.020 Persons under the influence of intoxicating liquor, ~~((marijuana))~~ cannabis, or any other drug~~((-~~
~~))~~**

A. Driving ~~((While Intoxicated-))~~ while intoxicated

1. A person is guilty of driving while under the influence of intoxicating ~~((Liquor, marijuana))~~
liquor, cannabis, 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; or
 - b. The person has, within two ~~((2))~~ hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or
 - c. While the person is under the influence of or affected by intoxicating liquor, ~~((marijuana))~~ cannabis, or any drug; or
 - d. While the person is under the combined influence of or affected by intoxicating liquor, ~~((marijuana))~~ cannabis, and any drug.
2. The fact that any person charged with a violation of this subsection 11.56.020.A is or has been entitled to use a drug under the laws of this state shall not constitute a defense against any charge of violating this subsection 11.56.020.A.
3.
 - a. It is an affirmative defense to a violation of subsection ~~((A1a of this section))~~ 11.56.020.A.1.a which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or higher within two ~~((2))~~ hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.
 - b. It is an affirmative defense to a violation of subsection ~~((A1b of this section))~~ 11.56.020.A.1.b, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of ~~((marijuana))~~ cannabis after the time of driving and before the administration

of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or higher within two ~~((2))~~ hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

4.

a. Analysis of blood or breath samples obtained more than two ~~((2))~~ hours after the alleged driving may be used as evidence that within two ~~((2))~~ hours after the alleged driving a person had an alcohol concentration of 0.08 or higher in violation of subsection ~~((A1a of this section))~~ 11.56.020.A.1.a, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsections ~~((A1c or A1d of this section))~~ 11.56.020.A.1.c or 11.56.020.A.1.d.

b. Analyses of blood samples obtained more than two ~~((2))~~ hours after the alleged driving may be used as evidence that within two ~~((2))~~ hours of the alleged driving a person had a THC concentration of 5.00 or higher in violation of subsection ~~((A1b of this section))~~ 11.56.020.A.1.b, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by ~~((marijuana))~~ cannabis in violation of subsection ~~((A1c or A1d of this section))~~ 11.56.020.A.1.c or 11.56.020.A.1.d.

5. Driving while under the influence of intoxicating liquor or any drug is a gross misdemeanor.

B. Physical ~~((Control))~~ control

1. A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor~~((, marijuana))~~ 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; or

b. The person has, within two ~~((2))~~ hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

c. While the person is under the influence of or affected by intoxicating liquor~~((~~
~~marijuana~~~~))~~ or any drug; or

d. While the person is under the combined influence of or affected by intoxicating liquor ~~((~~
~~marijuana~~~~))~~ and any drug.

2. The fact that any person charged with a violation of this subsection 11.56.020.B is or has been entitled to use a drug under the laws of this state shall not constitute a defense against any charge of violating this subsection 11.56.020.B. No person may be convicted under this subsection 11.56.020.B if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

3.

a. It is an affirmative defense to a violation of subsection ~~((B1a of this section))~~ 11.56.020.B.1.a, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or higher within two ~~((2))~~ hours after being in actual physical control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

b. It is an affirmative defense to a violation of subsection ~~((B1b of this section))~~ 11.56.020.B.1.b, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of ~~((marijuana))~~ cannabis after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC

concentration to be 5.00 or higher within two ~~((2))~~ hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

4.

a. Analysis of blood or breath samples obtained more than two ~~((2))~~ hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two ~~((2))~~ hours after the alleged being in actual physical control of a vehicle a person had an alcohol concentration of 0.08 or higher in violation of subsection ~~((B1a of this section))~~ 11.56.020.B.1.a, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsections ~~((B1e or B1d of this section))~~ 11.56.020.B.1.c or 11.56.020.B.1.d.

b. Analyses of blood samples obtained more than two ~~((2))~~ hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two ~~((2))~~ hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or higher in violation of subsection ~~((B1b of this section))~~ 11.56.020.B.1.b, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by ~~((marijuana))~~ cannabis in violation of subsection ~~((B1e or B1d of this section))~~ 11.56.020.B.1.c or 11.56.020.B.1.d.

5. Being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug is a gross misdemeanor.

C. Minor ~~((Driving Or Being In Actual Physical Control Of A Motor Vehicle After Consuming Alcohol.))~~ driving or being in actual physical control of a motor vehicle after consuming alcohol or cannabis

1. Notwithstanding any other provision of this Title 11, a person is guilty of minor driving or being in actual physical control of a motor vehicle after consuming alcohol or ~~((marijuana))~~ cannabis if the person:

- a. Operates or is in actual physical control of a motor vehicle in the City;
- b. Is under the age of 21; and
- c. Has, within two hours after operating or being in actual physical control of the motor vehicle, either 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; or a THC concentration above 0.00 but less than the concentration specified in subsection 11.56.020.A.1.b, as shown by analysis of the person's blood made under RCW 46.61.506.

* * *

Section 7. Section 11.56.320 of the Seattle Municipal Code, last amended by Ordinance 124950, is amended as follows:

11.56.320 Driving while license is suspended or revoked

* * *

D. A person who violates this Section 11.56.320 when that person's driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (1) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (2) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (3) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (4) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (5) the person has been suspended or revoked by reason of one or more of the items listed in subsection 11.56.320.C, but was eligible to reinstate the person's driver's license or driving privilege at the time of the violation, (6) the person has failed to respond to a notice of traffic infraction for a moving violation, failed to appear at a ~~((requested))~~ hearing for a moving violation, ~~((violated a written promise to appear in court))~~ or has failed to comply with the terms of a ~~((notice of traffic infraction))~~ criminal complaint or criminal citation for a moving violation, as provided in RCW 46.20.289, (7) the person has received traffic

citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or (8) the person has been certified by the Washington Department of Social and Health Services as a person who is not in compliance with a child support order as provided in RCW 74.20A.320, or any combination of (1) through (8) of this subsection 11.56.320.D, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection 11.56.320.D, a person is not considered to be eligible to reinstate the person's driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

Section 8. Section 11.58.005 of the Seattle Municipal Code, last amended by Ordinance 126517, 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, ~~((marijuana))~~ cannabis, or any drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.

2. It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed any drug, that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed and has been consuming it according to the prescription directions and warnings.

3. Negligent driving in the first degree is a misdemeanor.

4. A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055 within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

* * *

D. For the purposes of this Section 11.58.005:

1. "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

2. "Exhibiting the effects of having consumed liquor, ((~~marijuana~~)) cannabis, or any drug" means that the person has the odor of liquor, ((~~marijuana~~)) cannabis, or any drug on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, ((~~marijuana~~)) cannabis, or any drug, and either:

a. Is in possession of or in close proximity to a container that has or recently had liquor, ((~~marijuana~~)) cannabis, or any drug in it; or

b. Is shown by other evidence to have recently consumed liquor, ((~~marijuana~~)) cannabis, or any drug.

3. "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.

4. "Great bodily harm" and "substantial bodily harm" have the same meaning as provided in RCW 9A.04.110.

* * *

Section 9. Section 11.58.272 of the Seattle Municipal Code, last amended by Ordinance 125944, is amended as follows:

11.58.272 Operation of vehicle approaching an emergency or work zone

A. The driver of any motor vehicle, upon approaching an emergency or work zone, shall:

1. On a street having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if the opportunity exists, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by a vehicle identified in Section 11.14.184; or

2. On a street having fewer than four lanes, proceed with caution, reduce the speed of the vehicle, and, if the opportunity exists, with due regard for safety and traffic conditions, and under the rules of this ~~((chapter))~~ Chapter 11.58, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the street; or

3. If changing lanes or moving away would be unsafe, proceed with due caution and reduce the speed of the vehicle to at least 10 miles per hour below the posted speed limit, except for when the posted speed limit is 60 miles per hour or more, then reduce the speed of the vehicle to no more than 50 miles per hour.

Section 10. Section 11.58.435 of the Seattle Municipal Code, enacted by Ordinance 124950, is amended as follows:

11.58.435 ~~((Marijuana))~~ Cannabis in a vehicle

A. It is a traffic infraction:

1. For the registered owner of a motor vehicle, or the driver if the registered owner is not then present, or passengers in the vehicle, to keep ~~((marijuana))~~ cannabis in a motor vehicle when the vehicle is upon a highway, unless it is (a) in the trunk of the vehicle, (b) in some other area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk, or (c) in a package, container, or receptacle that has not been opened or the seal broken or contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers;

2. To consume ((~~marijuana~~)) cannabis in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway; or

3. To place ((~~marijuana~~)) cannabis in a container specifically labeled by the manufacturer of the container as containing a ((~~nonmarijuana~~)) noncannabis substance and to then violate subsection 11.58.435.A.1.

B. There is a rebuttable presumption that it is a traffic infraction if the original container of ((~~marijuana~~)) cannabis is incorrectly labeled and there is a subsequent violation of subsection 11.58.435.A.1.

C. As used in this Section 11.58.435, ((~~"marijuana"~~)) "cannabis" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination.

Section 11. Sections 2, 3, and 7 of this ordinance shall take effect and be in force on January 1, 2023.

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

Passed by the City Council the _____ day of _____, 2022, and signed by me in open session in authentication of its passage this _____ day of _____, 2022.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2022.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2022.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments: