



Legislation Text

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File #: CB 118997, Version: 1

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to the City's traffic code; amending Sections 11.30.120, 11.50.250, 11.55.340, 11.56.025, 11.60.130, 11.60.180, and 11.60.200 of the Seattle Municipal Code; adding Sections 11.58.009 and 11.84.490 to the Seattle Municipal Code; and repealing Sections 11.84.460 and 11.84.480 of the Seattle Municipal Code to conform the Seattle Municipal Code with changes in state law and make technical corrections.

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 11.30.120 of the Seattle Municipal Code, last amended by Ordinance 124302, is amended as follows:

**11.30.120 Redemption of impounded vehicles ((-))**

Vehicles impounded by the City shall be redeemed only under the following circumstances:

A. The vehicle may be redeemed only by the following persons or entities: the legal owner; the registered owner; a person authorized in writing by the registered owner; the vehicle's insurer or a vendor working on behalf of the vehicle's insurer; a third-party insurer that has a duty to repair or replace the vehicle, has obtained consent from the registered owner or the owner's agent to move the vehicle, and has documented that consent in the insurer's claim file, or a vendor working on behalf of a third-party insurer that has received such consent; a person, who is known to the registered or legal owner of a motorcycle or moped, as each are defined in Chapter 11.14, that was towed from the scene of an accident, may redeem the motorcycle or moped as a bailment in accordance with chapter 46.55 RCW, as amended by Chapter 152, Section 4, Laws of 2017, while the registered or legal owner is admitted as a patient in a hospital due to the accident; provided, however, that at all times the registered owner must be granted access to and may reclaim possession of the vehicle. For

the purposes of this subsection 11.30.120.A, "owner's agent" means the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner's permission, or an adult member of the registered owner's family; a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle; or a person who has purchased the vehicle from the registered owner, who produces proof of ownership or authorization and signs a receipt therefore. A person redeeming a vehicle impounded pursuant to Section 11.30.105 must prior to redemption establish that he or she has a valid driver's license and is in compliance with Section 11.20.340. A vehicle impounded pursuant to Section 11.30.105 can be released only pursuant to a written release authorization from the Seattle Police Department pursuant to ~~((Section))~~ subsection 11.30.120.C or a written release authorization or order from Municipal Court pursuant to ~~((Section))~~ subsection 11.30.120.B or 11.30.120.C.

\* \* \*

Section 2. Section 11.50.250 of the Seattle Municipal Code, enacted by Ordinance 108200, is amended as follows:

**11.50.250 Obedience to signal indicating approach of train ~~((:))~~**

A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section 11.50.250, the driver of such vehicle shall stop ~~((the vehicle))~~ within 50 ~~((fifty))~~ feet ~~((50'))~~ but not less than 15 ~~((fifteen))~~ feet ~~((15'))~~ from the nearest rail of such railroad, and shall not proceed until ~~((he can do so safely))~~ the crossing can be made safely~~((, when))~~. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;
2. A crossing gate is lowered or when a flagger gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;
3. An approaching railroad train or other on-track equipment is plainly visible and is in

hazardous proximity to such crossing.

B. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. ~~((RCW 46.61.340))~~

Section 3. Section 11.55.340 of the Seattle Municipal Code, last amended by Ordinance 109476, is amended as follows:

**11.55.340 Vehicles carrying explosives, flammable liquids, poison gas, liquefied petroleum gas (LPG) and cryogenics must stop at all railroad crossings ~~((-))~~**

A. The driver of any motor vehicle carrying explosives, flammable liquids, poison gas, liquefied petroleum gas (LPG) or cryogenics, as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within ~~((fifty-))~~ 50 ~~((-))~~ feet but not less than ~~((fifteen-))~~ 15 ~~((-))~~ feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train or other on-track equipment, and for signals indicating the approach of a train or other on-track equipment, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required in this ~~((section))~~ Section 11.55.340 and upon proceeding when it is safe to do so, the driver of any such vehicle shall proceed across the tracks only in a gear such that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

B. This ~~((section))~~ Section shall not apply at:

1. Any railroad grade crossing at which traffic is controlled by a peace officer or a duly authorized flagger;
2. Any railroad grade crossing at which traffic is regulated by a traffic-control signal;
3. Any railroad grade crossing protected by crossing gates or an alternatively flashing light signal intended to give warning of the approach of a railroad train;
4. Any railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply. ~~((RCW 46.61.340))~~

Section 4. Section 11.56.025 of the Seattle Municipal Code, last amended by Ordinance 125253, 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 11.56.020.B who has one prior offense within seven 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 30 consecutive days nor more than 364 days, 60 days of electronic home monitoring, and a fine of not less than \$500 nor more than \$5,000. In lieu of the mandatory ~~((minimum))~~ term of ~~((60 days of))~~ imprisonment and electronic home monitoring under this subsection 11.56.025.B.1, the court may order a minimum of ~~((at least an additional))~~ four days in jail and either 180 days of electronic home monitoring or, if available in Seattle, a ~~((six-month))~~ 120-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390 ~~((, and the))~~ . The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of the posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment.

2. A person who is convicted of a violation of subsection 11.56.020.A or 11.56.020.B who has one prior offense within seven 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 45 consecutive days nor more than 364 days, 90 days of electronic home monitoring, and a fine of not less than \$750 nor more than \$5,000. In lieu of the mandatory minimum term of ~~((90 days of))~~ imprisonment and electronic home monitoring under this subsection 11.56.025.B.2, the court may order ~~((at least an additional))~~ a minimum of six days in jail and either six months of electronic home monitoring or, if available in Seattle, a ~~((six-month))~~

120-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390~~(, and the))~~ . The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment.

\* \* \*

J. In addition to the penalties set forth in this ~~((section))~~ Section 11.56.025, a fee of ~~((Two Hundred Dollars (\$200.00)))~~ \$250 shall be assessed to a person who is either convicted, sentenced to a lesser charge or given a deferred prosecution as a result of an arrest for violating ~~((Subsection))~~ subsection 11.56.020.A or 11.56.020.B, RCW 46.61.520<sub>2</sub>, or RCW 46.61.522. Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay. The fee shall be collected by the clerk of the court and distributed according to RCW 46.61.5054.

\* \* \*

Section 5. A new Section 11.58.009 is added to the Seattle Municipal Code as follows:

**11.58.009 Dangerously distracted driving**

A. It is a traffic infraction to drive dangerously distracted. Any driver who commits this infraction must be assessed a base penalty of \$30.

B. Enforcement of the infraction of driving dangerously distracted may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of a separate traffic infraction.

C. For the purposes of this Section 11.58.009, “dangerously distracted” means a person who engages in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway.

D. Receipts from the base penalty imposed under subsection 11.58.009.A must be deposited into the distracted driving prevention account created in chapter 46.61 RCW by Chapter 334, Section 3, Laws of 2017.

Section 6. Section 11.60.130 of the Seattle Municipal Code, enacted by Ordinance 112092, is amended as follows:

**11.60.130 Maximum lengths ((-))**

A. It is unlawful for any person to operate upon the streets and alleys of the City ((;-)) any vehicle (( other than a municipal transit vehicle)) having an overall length, with or without load, in excess of 40 ((forty)) feet ~~((40'))~~; ~~provided, that an~~). This subsection 11.60.130.A does not apply to (1) a municipal transit vehicle, (2) an auto stage, private carrier bus, ((or)) school bus ((shall not exceed)), or motor home with an overall length ((, inclusive of front and rear bumpers, of forty feet (40')); ~~provided further, that any such school bus constructed prior to April 1, 1977, shall be equipped with three (3) axles; provided further, that any school bus constructed on or after April 1, 1977, and in excess of thirty-six feet six inches (36' 6") shall be equipped with three (3) axles; provided further, that the route of any auto stage in excess of thirty-five feet (35') or school bus in excess of thirty-six feet six inches (36' 6") upon or across the public highways shall be limited as determined by the Department of Transportation for state highways, or by the City's legislative authority for City streets, alleys and roads))~~ not to exceed 46 feet, (3) an articulated auto stage with an overall length not to exceed 61 feet, excluding a bike rack up to four feet in length, or (4) an auto recycling carrier up to 42 feet in length manufactured prior to 2005.

B. ~~((It shall be a violation for any person to operate on the streets and alleys, any combination of vehicles that contains a vehicle of which the permanent structure is in excess of forty-eight feet (48').~~

~~;-))~~ It shall be a violation for any person to operate upon the streets and alleys any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of ~~((forty-eight))~~ 53 feet ~~((48'))~~ or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds ~~(( fifty-nine))~~ 61 feet ~~((59'))~~, with or without load.

C. ~~((;-))~~ It shall be a violation for any person to operate on the streets and alleys any combination consisting of a truck and trailer ~~((with an overall length, with or without load, in excess of sixty-five feet (65'))~~,

~~or a combination consisting of a tractor)), or a log truck and ((a) stinger steered ((semitrailer that has)) pole trailer, with an overall length, with or without load, in excess of ((sixty-five)) 75 feet (((65') without load or in excess of seventy feet (70') with load)).~~

~~((E-)) “Stinger steered” as used in this ((section)) subsection 11.60.130.C means ((a tractor and semitrailer combination that has)) the coupling ((connecting the semitrailer to the tractor)) device is located ((to the rear of the centerline of the rear axle of the tractor)) behind the tread of the tires of the last axle of the towing vehicle.~~

~~D. ((F-))~~ These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but, in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

~~E. ((G-))~~ The length limitations described in this ((section)) Section 11.60.130 are exclusive of safety, ~~((and)) energy conservation, and otherwise necessary devices ((, such as mud flaps and splash and spray suppressant devices, refrigeration units or air compressors, and other devices that the department determines to be necessary for safe and efficient operation of commercial vehicles))~~ identified by the Washington State Department of Transportation under RCW 46.44.101. No device excluded under this subsection 11.60.130.E from the limitations of this ((section)) Section 11.60.130 may have, by its design or use, the capability to carry cargo. ~~(((RCW 46.44.030)))~~

Section 7. Section 11.60.180 of the Seattle Municipal Code, enacted by Ordinance 108200, is amended as follows:

**11.60.180 Maximum length-Front protrusions ((-))**

The load, or any portion of any vehicle operated alone upon a street or alley, or the load, or any portion of the front vehicle of a combination of vehicles, shall not extend more than three feet ~~(((3'))~~ beyond the front wheels

of such vehicle, or the front bumper, if equipped with front bumper. This Section 11.60.180 does not apply to (a) a front-loading garbage truck or recycling truck while on route and actually engaged in the collection of solid waste or recyclables at speeds of 20 miles per hour or less or (b) a public transit vehicle equipped with a bike rack up to 4 feet in length. ((RCW 46.44.034))

Section 8. Section 11.60.200 of the Seattle Municipal Code, enacted by Ordinance 108200, is amended as follows:

**11.60.200 Maximum length-Rear protrusions ((-))**

No person shall operate a vehicle upon a street or alley with any part of the permanent structure or load extending in excess of 15 ((fifteen)) feet ((15')) beyond the center of the last axle of such vehicle. This Section 11.60.200 does not apply to “specialized equipment” designated under 49 U.S.C. § 31111 that is operated on the interstate highway system, those designated portions of the federal-aid primary system, and routes constituting reasonable access from such highways to terminals and facilities for food, fuel, repairs, and rest. ((RCW 46.44.034))

Section 9. A new Section 11.84.490 is added to the Seattle Municipal Code as follows:

**11.84.490 Personal electronic devices**

A. No person may use a personal electronic device while driving a motor vehicle on a street or alley.

B. Subsection 11.84.490.A does not apply to:

1. A driver who is using a personal electronic device to contact emergency services;
2. The use of a system by a transit system employee for time-sensitive relay communication

between the transit system employee and the transit system’s dispatch services;

3. An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual’s employment if such use is permitted under 49 U.S.C. § 31136; or

4. A person operating an authorized emergency vehicle.

C. A second or subsequent offense under this Section 11.84.490 is subject to twice the penalty amount



under Section 11.31.120.

D. For purposes of this Section 11.84.490:

1. “Driving” means to operate a motor vehicle on a street or alley, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. “Driving” does not include when the vehicle has pulled over to the side of, or off of, an active roadway and has stopped in a location where it can safely remain stationary.

2. “Personal electronic device” means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. “Personal electronic device” includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. “Personal electronic device” does not include two-way radio, citizens band radio, or amateur radio equipment.

3. “Use” or “uses” means:

- a. Holding a personal electronic device in either hand or both hands;
- b. Using one’s hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device; or
- c. Watching video on a personal electronic device.

Section 10. Section 11.84.460 of the Seattle Municipal Code, last amended by Ordinance 124302, is repealed:

~~((11.84.460 – Text message on wireless device.~~

~~A. Except as provided in subsection B of this section, no person operating a moving motor vehicle shall, by means of an electronic wireless communications device, send, read, or write a text message: Provided, however, that a person does not send, read, or write a text message when he or she reads, selects, or enters a phone number or name in a wireless communications device for the purpose of making a phone call.~~

~~B. Subsection A of this section does not apply to a person operating:~~

~~1. An authorized emergency vehicle; or~~

~~2. A voice-operated global positioning or navigation system that is affixed to the vehicle and that allows the user to send or receive messages without diverting visual attention from the road or engaging the use of either hand; or~~

~~3. A moving motor vehicle while using an electronic wireless communications device to:~~

~~a. Report illegal activity;~~

~~b. Summon medical or other emergency help;~~

~~c. Prevent injury to a person or property; or~~

~~d. Relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle. (RCW 46.61.668)~~

~~C. A person driving a commercial motor vehicle, as defined in RCW 46.25.010, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, who, by means of an electronic wireless communications device, sends, reads, or writes a text message, is guilty of a traffic infraction. For purposes of this subsection, "driving" does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and has stopped in a location where the vehicle can safely remain stationary. Provided, this subsection does not apply to a person operating a commercial motor vehicle when necessary to communicate with law enforcement officials or other emergency services. (RCW 46.61.668))~~

Section 11. Section 11.84.480 of the Seattle Municipal Code, last amended by Ordinance 124302, is repealed:

~~((11.84.480 – Cell phones.~~

~~A. Except as provided by subsection B and C of this section, no person shall operate a moving motor vehicle while holding a wireless communications device to his or her ear.~~

~~B. Subsection A of this section does not apply to a person operating:~~

- ~~1. An authorized emergency vehicle, or a tow truck responding to a disabled vehicle;~~
- ~~2. A moving motor vehicle using a wireless communications device in hands-free mode;~~
- ~~3. A moving motor vehicle using a hand-held wireless communications device to:~~
  - ~~a. Report illegal activity;~~
  - ~~b. Summon medical or other emergency help;~~
  - ~~c. Prevent injury to a person or property; or~~
  - ~~d. Relay information that is time sensitive between a transit or for-hire operator and that~~

~~operator's dispatcher, in which the device is permanently affixed to the vehicle;~~

- ~~4. A moving motor vehicle while using a hearing aid.~~

~~C. A person driving a commercial motor vehicle, as defined in RCW 46.25.010, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, while using a hand-held mobile telephone is guilty of a traffic infraction. For purposes of this subsection, "driving" does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and has stopped in a location where the vehicle can safely remain stationary. Provided, this subsection does not apply to a person operating a commercial motor vehicle when necessary to communicate with law enforcement officials or other emergency services or using a mobile telephone in hands-free mode.~~

~~D. Subsection A of this section does not restrict the operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission. Subsection C of this section does not restrict the operation of two-way or citizen band radio services.~~

~~E. For purposes of this section, "hands-free mode" means the use of a wireless communications device with a speaker phone, headset, or earpiece. (RCW 46.61.667))~~

Section 12. This ordinance shall take effect and be in force on whichever is the later of: July 23, 2017; or 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 \_\_\_\_\_, 2017, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Edward B. Murray, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)