

COMMITTEE ON JUDICIARY

Subcommittee on Adjudication

ARTICLE \_\_\_\_ . SERIOUS TRAFFIC OFFENSES; P. D. No. 1

Subcommittee Amendments of June 25, 1974

Section 2. (Driving with .10 percent or more blood alcohol content.) (1) A person commits the offense of driving with .10 percent or more blood alcohol content if he drives a vehicle upon a highway when he has .10 percent or more by weight of alcohol in his blood as shown by chemical analysis of the person's breath, blood, urine or saliva made under ORS 483.634 to 483.646.

(2) Driving with .10 percent or more blood alcohol content is a Class A traffic infraction.

Section 6. (Notice of suspension, revocation or cancellation.)

ORS 482.570 is amended to read:

482.570. When the division, as authorized or required, suspends, revokes or cancels a license or the right to apply for a license to operate motor vehicles, it shall give notice of such action to the person whose license or right is affected. The notice shall state the nature and reason for the action and, in the case of a suspension, whether it was ordered by a court. Service of the notice is accomplished either by mailing the notice by certified mail, return receipt requested, to the person's address as shown by division records, or at the option of the division, by personal service in the same manner as a summons is served in an action at law. [When notice sent by certified mail is returned, the receipt unsigned, service of notice shall be accomplished by personal service in the same manner as a summons is served in an action at law. Refusal of the service by the person whose license or right is suspended is prima facie evidence of receipt of the notice.]

Section 7. (Driving while suspended or revoked.) (1) A person commits the crime of driving while suspended or revoked if he drives a motor vehicle upon a highway during a period when his license or permit to drive a motor vehicle or his right to apply for a license to drive a motor vehicle in this state has been suspended by a court or by the division or revoked by the division.

(2) In a prosecution under subsection (1) of this section, it is an affirmative defense that:

(a) An injury or immediate threat of injury to human or animal life and the urgency of the circumstances made it necessary for the defendant to drive a motor vehicle at the time and place in question; or

(b) The defendant had not received notice of his suspension or revocation as required by ORS 482.570.

(3) The affirmative defense under paragraph (b) of subsection (2) of this section shall not be available to the defendant if:

(a) The defendant refused to sign a receipt for the certified mail containing the notice;

(b) The notice could not be delivered to the defendant because he had not notified the division of a change in his residence as required by subsection (2) of ORS 482.290; or

(c) At a previous court appearance, the defendant had been informed by a trial judge that the judge was ordering a suspension of the defendant's license, permit or right to apply.

(4) Driving while suspended or revoked is a Class A misdemeanor.