

9/24/74

JUDICIARY COMMITTEE AMENDMENTS

August 30, 1974

Serious Traffic Offenses

Section 1. (Application of serious traffic offenses upon premises open to the public.) (1) The provisions of this Act relating to driving while under the influence of intoxicating liquor or drugs, dangerous driving, fleeing or attempting to elude a police officer, driving while suspended or revoked and failure to perform the duties of a driver involved in an accident or collision apply upon any premises open to the public.

(2) As used in subsection (1) of this section, "premises open to the public" includes any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

Section 2. (Driving while under the influence of alcohol or drugs.) (1) A person commits the offense of driving while under the influence of liquor or drugs if he drives a vehicle while:

(a) He has .08 percent or more by weight of alcohol in his blood as shown by chemical analysis of his breath, blood, urine or saliva made under ORS 483.634 to 483.646; or

(b) He is under the influence of intoxicating liquor, a dangerous drug or narcotic drug.

(2) Driving while under the influence of liquor or drugs is a Class A traffic infraction.

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Section 4. (Class A traffic infraction classified as misdemeanor because of prior conviction.) (1) Any offense that would otherwise be punishable as a Class A traffic infraction shall be prosecuted and be punishable as a Class A misdemeanor if the defendant has been convicted of any Class A traffic infraction or traffic crime within a five-year period immediately preceding the commission of the offense, and the previous conviction was not part of the same transaction as the present offense.

(2) In applying subsection (1) of this section, any conviction of a Class A infraction or a traffic crime as described in subsections (3) and (4) of this section, or a conviction before the effective date of this Act of any of the statutory counterparts of these offenses which occurred within the immediate five-year period before the commission of the present offense, shall be included whether the previous conviction occurred before or after the effective date of this Act.

(3) As used in this section, "Class A traffic infraction" includes:

(a) Driving while under the influence of intoxicating liquor, dangerous drugs or narcotic drugs.

(b) Failure to perform the duties of a driver involved in an accident or collision which results only in damage to the property of another.

(4) As used in this section, "traffic crime" includes:

- (a) Dangerous driving in the first or second degree.
- (b) Driving a motor vehicle while suspended or revoked.
- (c) Failure to perform the duties of a driver involved in an accident or collision which results in injury or death to any person.
- (d) Fleeing or attempting to elude a police officer.

Section 10. (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) Except as provided in subsection (5) of this section, driving while suspended or revoked is a Class A misdemeanor.

(5) Driving while suspended or revoked is a Class C felony if the suspension or revocation was the result of conviction for any of the following offenses:

(a) Manslaughter or criminally negligent homicide resulting from the operation of a motor vehicle.

(b) Any crime punishable as a felony in the commission of which a motor vehicle was used.

(c) Failure to perform the duties of a driver involved in an accident or collision which results in physical injury to any person.

(d) Dangerous driving in the first or second degree.

(e) Fleeing or attempting to elude a police officer.

(f) Driving while under the influence of intoxicating liquor, dangerous drugs or narcotic drugs.

(g) Reckless driving.

Section 12. (Use of chemical analysis to show intoxication.)

(1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicating liquor, if the amount of alcohol in the person's blood at the time alleged is less than .08 percent by weight of alcohol as shown by chemical analysis of the person's breath, blood, urine or saliva, it is indirect evidence that may be used to determine whether or not he was then under the influence of intoxicating liquor.

(2) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred cubic centimeters of blood.

(3) Nothing in this section is intended to limit the introduction of any competent evidence bearing upon the question of whether or not a person was under the influence of intoxicating liquor.

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Section 13. (Definitions.) ORS 484.010 is amended to read:

484.010. As used in ORS 1.510 to 1.530 and 484.010 to 484.320, unless the context otherwise requires:

(1) "Bail" means money or its equivalent deposited by a defendant to secure his appearance for a traffic offense.

(2) "City court" means a municipal court, whether or not it is exercising authority under the charter or ordinances of a city or as a justice court under the laws of this state.

(3) "City policeman" includes a city marshall or a member of the police of a city, municipal or quasi-municipal corporation.

(4) "City traffic offense" means any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation, except ordinances governing parking of vehicles.

(5) "Major traffic offense" means a violation of any of the following provisions of law or a city ordinance conforming thereto:

(a) [Reckless driving, as defined in subsection (1) of ORS 483.992.] Dangerous driving as defined in sections -- and -- of this 1975 Act.

(b) Driving while under the influence of intoxicating liquor, dangerous drugs or narcotic drugs, as defined in [subsection (2) of ORS 483.992 or ORS 483.999] section -- of this 1975 Act.

(c) Failure to perform the duties of a driver involved in an accident or collision, as defined in subsections (1) and (2) of ORS 483.602 and ORS 483.604 [, which would be punishable under subsection (1) of ORS 483.990].



(d) Operating a motor vehicle while the operator's or chauffeur's license is suspended or revoked, as defined in [ORS 482.650] section -- of this 1975 Act.

(e) Fleeing or attempting to elude a [traffic or] police officer, as defined in [subsection (1) of ORS 483.049] section -- of this 1975 Act.

(6) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of 10 or more successive days.

(7) "Police officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff and a city policeman.

(8) "State court" means a circuit, district or justice court or magistrate.

(9) "State traffic offense" means a violation of any provision of law for which a [misdemeanor] criminal or traffic infraction penalty is provided in ORS chapter 481, 482, 483, ORS 485.010 to 485.420, 485.990 and ORS chapter 486 or 767.

(10) "Traffic offense" includes an offense mentioned in subsections (4), (5) and (9) of this section.

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Section 14. (Traffic citation requirements; exceptions; uniform citation.) ORS 484.150 is amended to read:

484.150. (1) Except for violation of laws governing parking of vehicles, or unless otherwise provided in subsection (9) of this section, a traffic citation conforming to the requirements of this section shall be used for all traffic offenses in this state.

(2) The citation shall consist of at least four parts. Additional parts may be inserted by law enforcement agencies for administrative use. The required parts are:

- (a) The complaint.
- (b) The abstract of record.
- (c) The police record.
- (d) The summons.

(3) Each of the parts shall contain the following information or blanks in which such information shall be entered:

- (a) The name of the court and the court's docket or file number.
- (b) The name of the person cited.
- (c) The offense of which the person is charged, the date, time and place at which the offense occurred, the date on which the citation was issued and the name of the complainant.

(d) The time and place at which the person cited is to appear in court.

- (e) The bail fixed for the offense.

(4) Each of the parts shall also contain such identifying and additional information as may be necessary or appropriate for law enforcement agencies in the state.

(5) The complaint shall contain a form of certificate by the complainant to the effect that he certifies, under the penalties provided in ORS 484.990, that he has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. The certification if made by a police officer need not be made before a magistrate or any other person. A private person shall certify before a magistrate, clerk or deputy clerk of the court and this action will be entered in the court record. The reverse side of the complaint shall contain the substance of the matters appearing on the reverse side of the Uniform Traffic Ticket and Complaint promulgated by the American Bar Association, and set forth in the Model Rules Governing Procedure in Traffic Cases, approved by the National Conference of Commissioners on Uniform Laws, July 8-13, 1957. A certificate conforming to this section shall be deemed equivalent of a sworn complaint.

(6) The reverse side of the abstract of court record shall contain such matters and shall be in such form as may be prescribed by the Motor Vehicles Division for the purpose of carrying out the requirements of subsection (1) of ORS 484.240.

(7) The summons shall also contain a notice to the person cited that the complaint will be filed. The reverse side of the summons shall contain the following:

(a) A form substantially as follows:

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READ CAREFULLY

You must appear in court at the time mentioned in this citation if you are charged with any of the following offenses:

1. [Reckless] Dangerous driving.
2. Driving while under the influence of intoxicating liquor [, barbituates] or narcotic or dangerous drug.
3. Leaving the scene of an accident.
4. Operating a motor vehicle while your driver's license was suspended or revoked.
5. Attempting to flee or elude a [traffic or] police officer.
- [6. Driving with a .15 percent (or higher) level of alcohol in blood.]

If you are charged with any OTHER offense, you MUST do ONE of the following:

1. Appear in court at the time mentioned in this summons and request a hearing. The court will then set a time for a hearing.
2. Mail to the court this summons, together with a check or money order in the amount of the bail indicated on the other side of this summons and tell the court you request a hearing. This summons and the bail must reach the court before the time when this summons requires you to appear in court. If you don't want a hearing, but wish to explain your side, send your explanation with the summons and bail. The court will then consider your explanation and may forfeit your bail, or part of it, on the basis of your explanation and what the officer tells the court.
3. Sign the plea of guilty below and send this summons to the court, together with check or money order in the amount of bail indicated on the other side of this summons. If you wish to explain your side, you may send your explanation with the guilty plea, summons and bail.

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This summons and the bail must reach the court before the time when this summons requires you to appear in court.

NOTE: If you have already given bail or other security for your appearance, proceed as mentioned above but do not send in any additional sum as bail.

IF YOU FAIL TO COMPLY WITH THESE INSTRUCTIONS, THE COURT IS AUTHORIZED TO ISSUE A WARRANT FOR YOUR ARREST OR BY NOTICE TO THE MOTOR VEHICLES DIVISION TO CAUSE YOUR OPERATOR'S LICENSE TO BE SUSPENDED, OR BOTH.

THE COURT MAY IN ANY CASE, AFTER NOTICE, REQUIRE YOU TO APPEAR FOR A HEARING.

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(b) A "Notice" and "Appearance, Plea of Guilty and Waiver" substantially in the form appearing on the reverse side of the summons in the form of Uniform Traffic Ticket and Complaint mentioned in subsection (5) of this section.

(8) The complaint shall be set aside by the court upon the motion of the defendant before plea when it does not conform to the requirements of this section. However, this section does not prohibit the use of a uniform citation for other offenses in addition to traffic offenses and containing other language in addition to that specified in this section.

(9) If the offense is a Class A traffic infraction, a citation in lieu of custody as provided by ORS 133.045 to 133.080 may be used.

Section 17. (Application to traffic, boating, littering, hunting and fishing violations.) ORS 133.080 is amended to read:

133.080. Except for Class A traffic infractions as provided by subsection (9) of ORS 484.150, nothing in ORS 133.045 to 133.080, 133.110 and 156.050 applies to violations of law enforceable under ORS 484.010 to 484.320, to violations enforceable under ORS 488.210 to 488.300, to violations enforceable under ORS 496.905 to 496.950 or to violations enforceable under ORS 133.100 and subsection (5) of ORS 164.775.

*Article 14  
Miscellaneous  
Sections*