

ORDINANCE NO. 3541

AN ORDINANCE OF THE CITY OF KIRKLAND REPEALING KIRKLAND MUNICIPAL CODE SECTION 12.28.010 AND CREATING A NEW ORDINANCE TO BE KNOWN AS KIRKLAND MUNICIPAL CODE SECTION 12.28.010.

WHEREAS, the crime of Negligent Driving has been amended under state statute creating separate crimes of Negligent Driving in the First Degree and Negligent Driving in the Second Degree with different penalties.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Section 12.28.010 of the Kirkland Municipal Code is hereby repealed.

Section 2. Section 12.28.010 of the Kirkland Municipal Code is hereby created to read as follows:

12.28.010 Negligent driving. The following statute is hereby adopted by reference as part of this code:

Washington Laws of 1996, Chapter 307, Section 1.

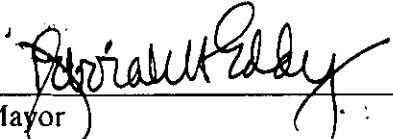
Section 2. The repeal of the prior KMC 12.28.010 by this ordinance does not affect any pending or existing litigation and does not operate as an abatement or bar to any action or proceeding pending under or by virtue of the repealed ordinance.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not effected.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular,
open meeting this 4th day of June, 1996.

Signed in authentication thereof this 4th day of
June, 1996.




Mayor

Attest:



Deputy City Clerk

Approved as to form:



City Attorney

CHAPTER 307

[Engrossed Substitute Senate Bill 6204]

NEGLIGENT DRIVING—REVISIONS

AN ACT Relating to penalties for driving without a driver's license and negligent driving; amending RCW 46.61.525, 46.61.5055, 46.52.130; reenacting and amending RCW 46.20.021 and 46.63.020; creating a new creating; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.61.525 and 1979 ex.s. c 136 s 86 are each amended to read as follows:

~~((It shall be unlawful for any person to operate a motor vehicle in a negligent manner. For the purpose of this section to "operate in a negligent manner" shall be construed to mean the operation of a vehicle in such a manner as to endanger or be likely to endanger any persons or property. PROVIDED HOWEVER, That any person operating a motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent shall not be guilty of negligent driving.~~

~~The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. Any person violating the provisions of this section will be guilty of a misdemeanor. PROVIDED, That the director may not revoke any license under this section, and such offense is not punishable by imprisonment or by a fine exceeding two hundred fifty dollars.)) (1)(a) 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 or an illegal drug.~~

~~(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal 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.~~

~~(c) Negligent driving in the first degree is a misdemeanor.~~

~~(2)(a) A person is guilty of negligent driving in the second degree if, under circumstances not constituting negligent driving in the first degree, 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.~~

~~(b) It is an affirmative defense to negligent driving in the second degree that must be proved by the defendant by a preponderance of the evidence, that the driver was operating the motor vehicle on private property with the consent of the owner in a manner consistent with the owner's consent.~~

(c) Negligent driving in the second degree is a traffic infraction and is subject to a penalty of two hundred fifty dollars.

(3) For the purposes of this section:

(a) "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.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor 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, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(4) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

~~NEW SECTION. Sec. 2. (1) The office of the administrator for the courts shall collect data on the following after the effective date of this act.~~

~~(a) The number of arrests, charges, and convictions for negligent driving in the first degree;~~

~~(b) The number of notices of infraction issued for negligent driving in the second degree; and~~

~~(c) The number of charges for negligent driving that were the result of an amended charge from some other offense, and the numbers for each such other offense.~~

~~(2) The office of the administrator for the courts shall compile the collected data and make a report to the legislature no later than October 1, 1998.~~

Sec. 3. RCW 46.61.5055 and 1995 1st sp.s. c 17 s 2 are each amended to read as follows: