
HOUSE BILL 1636

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Scott, Padden, Wineberry, Beck, Appelwick, Tate, Riley, Belcher, Winsley, Orr, Wynne and Broback.

Read first time February 5, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to emergency management; amending RCW 9.95.210 and
2 38.52.010; adding a new section to chapter 38.52 RCW; and creating a
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that a public
6 agency incurs expenses in an emergency response. It is the intent of
7 the legislature to allow a public agency to recover the expenses of an
8 emergency response to an incident involving persons who operate a motor
9 vehicle, boat or vessel, or a civil aircraft while under the influence
10 of an alcoholic beverage or a drug, or the combined influence of an
11 alcoholic beverage and a drug. It is the intent of the legislature
12 that the recovery of expenses of an emergency response under this act
13 shall supplement and shall not supplant other provisions of law
14 relating to the recovery of those expenses.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW
2 to read as follows:

3 A person who is under the influence of an alcoholic beverage or a
4 drug, or the combined influence of an alcoholic beverage and a drug,
5 whose negligent operation of a motor vehicle, boat or vessel, or a
6 civil aircraft, caused by that influence proximately causes an incident
7 resulting in an appropriate emergency response, and a person whose
8 intentionally wrongful conduct proximately causes an incident resulting
9 in an appropriate emergency response, is liable for the expense of an
10 emergency response by a public agency to the incident.

11 For purposes of this section, a person is under the influence of an
12 alcoholic beverage or a drug, or the combined influence of an alcoholic
13 beverage and a drug, when as a result of drinking an alcoholic beverage
14 or using a drug, or both, his or her physical or mental abilities are
15 impaired to a degree that he or she no longer has the ability to
16 operate a motor vehicle, boat or vessel, or aircraft with the caution
17 of a sober person of ordinary prudence under the same or similar
18 circumstances.

19 The expense of an emergency response is a charge against the person
20 liable for expenses under this section. The charge constitutes a debt
21 of that person and is collectible by the public agency incurring those
22 costs in the same manner as in the case of an obligation under a
23 contract, expressed or implied, except that liability for the expenses
24 provided for in this section is not insurable and no insurance policy
25 shall provide or pay for the expenses.

26 In no event shall a person's liability under this section for the
27 expense of an emergency response exceed one thousand dollars for a
28 particular incident.

29 A testimony, admission, or another statement made by the defendant
30 in a proceeding brought pursuant to this section, or evidence derived

1 from the testimony, admission, or other statement, is not admitted or
2 otherwise used in a criminal proceeding arising out of the same
3 incident.

4 **Sec. 3.** RCW 9.95.210 and 1987 c 202 s 146 are each amended to read
5 as follows:

6 In granting probation, the court may suspend the imposition or the
7 execution of the sentence and may direct that the suspension may
8 continue upon such conditions and for such time as it shall designate,
9 not exceeding the maximum term of sentence or two years, whichever is
10 longer.

11 In the order granting probation and as a condition thereof, the
12 court may in its discretion imprison the defendant in the county jail
13 for a period not exceeding one year and may fine the defendant any sum
14 not exceeding the statutory limit for the offense committed, and court
15 costs. As a condition of probation, the court shall require the
16 payment of the penalty assessment required by RCW 7.68.035. The court
17 may also require the defendant to make such monetary payments, on such
18 terms as it deems appropriate under the circumstances, as are necessary
19 (1) to comply with any order of the court for the payment of family
20 support, (2) to make restitution to any person or persons who may have
21 suffered loss or damage by reason of the commission of the crime in
22 question or when the offender pleads guilty to a lesser offense or
23 fewer offenses and agrees with the prosecutor's recommendation that the
24 offender be required to pay restitution to a victim of an offense or
25 offenses which are not prosecuted pursuant to a plea agreement, (3) to
26 pay such fine as may be imposed and court costs, including
27 reimbursement of the state for costs of extradition if return to this
28 state by extradition was required, ~~((and))~~ (4) to contribute to a
29 county or interlocal drug fund, and (5) to make restitution to a public

1 agency for the costs of an emergency response pursuant to section 2 of
2 this act, and may require bonds for the faithful observance of any and
3 all conditions imposed in the probation. The court shall order the
4 probationer to report to the secretary of corrections or such officer
5 as the secretary may designate and as a condition of the probation to
6 follow implicitly the instructions of the secretary. If the
7 probationer has been ordered to make restitution, the officer
8 supervising the probationer shall make a reasonable effort to ascertain
9 whether restitution has been made. If restitution has not been made as
10 ordered, the officer shall inform the prosecutor of that violation of
11 the terms of probation not less than three months prior to the
12 termination of the probation period. The secretary of corrections will
13 promulgate rules and regulations for the conduct of the person during
14 the term of probation. For defendants found guilty in district court,
15 like functions as the secretary performs in regard to probation may be
16 performed by probation officers employed for that purpose by the county
17 legislative authority of the county wherein the court is located.

18 **Sec. 4.** RCW 38.52.010 and 1986 c 266 s 23 are each amended to read
19 as follows:

20 As used in this chapter:

21 (1) "Emergency management" or "comprehensive emergency management"
22 means the preparation for and the carrying out of all emergency
23 functions, other than functions for which the military forces are
24 primarily responsible, to mitigate, prepare for, respond to, and
25 recover from emergencies and disasters, and to aid victims suffering
26 from injury or damage, resulting from disasters caused by all hazards,
27 whether natural or man-made, and to provide support for search and
28 rescue operations for persons and property in distress. However,
29 "emergency management" or "comprehensive emergency management" does not

1 mean preparation for emergency evacuation or relocation of residents in
2 anticipation of nuclear attack.

3 (2) "Local organization for emergency services or management" means
4 an organization created in accordance with the provisions of this
5 chapter by state or local authority to perform local emergency
6 management functions.

7 (3) "Political subdivision" means any county, city or town.

8 (4) "Emergency worker" means any person who is registered with a
9 local emergency management organization or the department of community
10 development and holds an identification card issued by the local
11 emergency management director or the department of community
12 development for the purpose of engaging in authorized emergency
13 management activities or is an employee of the state of Washington or
14 any political subdivision thereof who is called upon to perform
15 emergency management activities.

16 (5) "Injury" as used in this chapter shall mean and include
17 accidental injuries and/or occupational diseases arising out of
18 emergency management activities.

19 (6) "Emergency or disaster" as used in this chapter shall mean an
20 event or set of circumstances which: (a) Demands immediate action to
21 preserve public health, protect life, protect public property, or to
22 provide relief to any stricken community overtaken by such occurrences,
23 or (b) reaches such a dimension or degree of destructiveness as to
24 warrant the governor declaring a state of emergency pursuant to RCW
25 43.06.010.

26 (7) "Search and rescue" means the acts of searching for, rescuing,
27 or recovering by means of ground, marine, or air activity any person
28 who becomes lost, injured, or is killed while outdoors or as a result
29 of a natural or man-made disaster, including instances involving
30 searches for downed aircraft when ground personnel are used. Nothing in

1 this section shall affect appropriate activity by the department of
2 transportation under chapter 47.68 RCW.

3 (8) "Executive head" and "executive heads" means the county
4 executive in those charter counties with an elective office of county
5 executive, however designated, and, in the case of other counties, the
6 county legislative authority. In the case of cities and towns, it means
7 the mayor.

8 (9) "Director" means the director of community development.

9 (10) "Local director" means the director of a local organization of
10 emergency management or emergency services.

11 (11) "Department" means the department of community development.

12 (12) "Emergency response" means a public agency's use of emergency
13 services during an emergency or disaster as defined in this section.

14 (13) "Expense of an emergency response" means reasonable costs
15 incurred by a public agency in reasonably making an appropriate
16 emergency response to the incident, but shall only include those costs
17 directly arising from the response to the particular incident.
18 Reasonable costs shall include the costs of providing police, fire
19 fighting, rescue, and emergency medical services at the scene of the
20 incident, as well as the salaries of the personnel responding to the
21 incident.

22 (14) "Public agency" means the state, and a city, county, municipal
23 corporation, district, or public authority located, in whole or in
24 part, within this state which provides or may provide fire fighting,
25 police, ambulance, medical, or other emergency services.

26 (15) "Intentionally wrongful conduct" means conduct intended to
27 injure another person or property.