

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 3089**

55th Legislature  
1998 Regular Session

Passed by the House March 9, 1998  
Yeas 96 Nays 0

\_\_\_\_\_  
**Speaker of the  
House of Representatives**

Passed by the Senate March 5, 1998  
Yeas 46 Nays 0

\_\_\_\_\_  
**President of the Senate**

Approved

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 3089** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

---

SECOND SUBSTITUTE HOUSE BILL 3089

---

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington                      55th Legislature                      1998 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt)

Read first time 02/07/98. Referred to Committee on .

1            AN ACT Relating to drunk driving; amending RCW 10.05.010,  
2 10.05.100, 10.05.120, and 10.05.160; creating new sections; and  
3 providing an effective date.

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

5            **Sec. 1.** RCW 10.05.010 and 1985 c 352 s 4 are each amended to read  
6 as follows:

7            In a court of limited jurisdiction a person charged with a  
8 misdemeanor or gross misdemeanor may petition the court to be  
9 considered for a deferred prosecution program. The petition shall be  
10 filed with the court at least seven days before the date set for trial  
11 but, upon a written motion and affidavit establishing good cause for  
12 the delay and failure to comply with this section, the court may waive  
13 this requirement subject to the defendant's reimbursement to the court  
14 of the witness fees and expenses due for subpoenaed witnesses who have  
15 appeared on the date set for trial.

16            A person charged with a traffic infraction, misdemeanor, or gross  
17 misdemeanor under Title 46 RCW shall not be eligible for a deferred  
18 prosecution program unless the court makes specific findings pursuant  
19 to RCW 10.05.020. Such person shall not be eligible for a deferred

1 prosecution program more than once (~~in any five year period~~).  
2 Separate offenses committed more than seven days apart may not be  
3 consolidated in a single program.

4 **Sec. 2.** RCW 10.05.100 and 1985 c 352 s 13 are each amended to read  
5 as follows:

6 If a petitioner is subsequently convicted of a similar offense  
7 (~~while~~) that was committed while the petitioner was in a deferred  
8 prosecution program, upon notice the court shall remove the  
9 petitioner's docket from the deferred prosecution file and the court  
10 shall enter judgment pursuant to RCW 10.05.020.

11 **Sec. 3.** RCW 10.05.120 and 1994 c 275 s 19 are each amended to read  
12 as follows:

13 (~~Upon~~) Three years after receiving proof of successful completion  
14 of the two-year treatment program, but not before five years following  
15 entry of the order of deferred prosecution, the court shall dismiss the  
16 charges pending against the petitioner.

17 **Sec. 4.** RCW 10.05.160 and 1985 c 352 s 18 are each amended to read  
18 as follows:

19 The prosecutor may appeal an order granting deferred prosecution on  
20 any or all of the following grounds:

21 (1) Prior deferred prosecution has been granted to the defendant  
22 (~~within five years~~);

23 (2) Failure of the court to obtain proof of insurance or a  
24 treatment plan conforming to the requirements of this chapter;

25 (3) Failure of the court to comply with the requirements of RCW  
26 10.05.100;

27 (4) Failure of the evaluation facility to provide the information  
28 required in RCW 10.05.040 and 10.05.050, if the defendant has been  
29 referred to the facility for treatment. If an appeal on such basis is  
30 successful, the trial court may consider the use of another treatment  
31 facility.

32 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this  
33 act, referencing this act by bill or chapter number, is not provided by  
34 June 30, 1998, in the omnibus appropriations act, this act is null and  
35 void.

1        NEW SECTION.    **Sec. 6.**    If this act mandates an increased level of  
2 service by local governments, the local government may, under RCW  
3 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the  
4 legislature. The claims shall be subject to verification by the office  
5 of financial management.

6        NEW SECTION.    **Sec. 7.**    This act takes effect January 1, 1999.

--- END ---