
SENATE BILL 6293

State of Washington 55th Legislature 1998 Regular Session

By Senators Benton, Roach, T. Sheldon, Rossi, McDonald and Oke

Read first time 01/15/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to drunk driving; reenacting and amending RCW
2 46.61.5055; adding a new section to chapter 46.61 RCW; prescribing
3 penalties; making an appropriation; and declaring an emergency.

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

5 **Sec. 1.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are
6 each reenacted and amended to read as follows:

7 (1) A person who is convicted of a violation of RCW 46.61.502 or
8 46.61.504 and who has no prior offense within ~~((five))~~ seven years
9 shall be punished as follows:

10 (a) In the case of a person whose alcohol concentration was less
11 than 0.15, or for whom for reasons other than the person's refusal to
12 take a test offered pursuant to RCW 46.20.308 there is no test result
13 indicating the person's alcohol concentration:

14 (i) By imprisonment for not less than ~~((one))~~ two days nor more
15 than one year. ~~((Twenty-four))~~ Two consecutive ~~((hours))~~ days of the
16 imprisonment may not be suspended or deferred unless the court finds
17 that the imposition of this mandatory minimum sentence would impose a
18 substantial risk to the offender's physical or mental well-being.
19 Whenever the mandatory minimum sentence is suspended or deferred, the

1 court shall state in writing the reason for granting the suspension or
2 deferral and the facts upon which the suspension or deferral is based;
3 and

4 (ii) By a fine of not less than (~~three~~) five hundred (~~fifty~~)
5 dollars nor more than five thousand dollars. (~~Three~~) Five hundred
6 (~~fifty~~) dollars of the fine may not be suspended or deferred unless
7 the court finds the offender to be indigent; and

8 (iii) By suspension of the offender's license or permit to drive,
9 or suspension of any nonresident privilege to drive, for a period of
10 ninety days. The period of license, permit, or privilege suspension
11 may not be suspended. The court shall notify the department of
12 licensing of the conviction, and upon receiving notification of the
13 conviction the department shall suspend the offender's license, permit,
14 or privilege; or

15 (b) In the case of a person whose alcohol concentration was at
16 least 0.15, or for whom by reason of the person's refusal to take a
17 test offered pursuant to RCW 46.20.308 there is no test result
18 indicating the person's alcohol concentration:

19 (i) By imprisonment for not less than (~~two~~) three days nor more
20 than one year. (~~Two~~) Three consecutive days of the imprisonment may
21 not be suspended or deferred unless the court finds that the imposition
22 of this mandatory minimum sentence would impose a substantial risk to
23 the offender's physical or mental well-being. Whenever the mandatory
24 minimum sentence is suspended or deferred, the court shall state in
25 writing the reason for granting the suspension or deferral and the
26 facts upon which the suspension or deferral is based; and

27 (ii) By a fine of not less than (~~five~~) seven hundred fifty
28 dollars nor more than five thousand dollars. (~~Five~~) Seven hundred
29 fifty dollars of the fine may not be suspended or deferred unless the
30 court finds the offender to be indigent; and

31 (iii) By revocation of the offender's license or permit to drive,
32 or suspension of any nonresident privilege to drive, for a period of
33 one year. The period of license, permit, or privilege suspension may
34 not be suspended. The court shall notify the department of licensing
35 of the conviction, and upon receiving notification of the conviction
36 the department shall suspend the offender's license, permit, or
37 privilege.

1 (2) A person who is convicted of a violation of RCW 46.61.502 or
2 46.61.504 and who has one prior offense within ~~((five))~~ seven years
3 shall be punished as follows:

4 (a) In the case of a person whose alcohol concentration was less
5 than 0.15, or for whom for reasons other than the person's refusal to
6 take a test offered pursuant to RCW 46.20.308 there is no test result
7 indicating the person's alcohol concentration:

8 (i) By imprisonment for not less than thirty days nor more than one
9 year. Thirty days of the imprisonment may not be suspended or deferred
10 unless the court finds that the imposition of this mandatory minimum
11 sentence would impose a substantial risk to the offender's physical or
12 mental well-being. Whenever the mandatory minimum sentence is
13 suspended or deferred, the court shall state in writing the reason for
14 granting the suspension or deferral and the facts upon which the
15 suspension or deferral is based; and

16 (ii) By a fine of not less than ~~((five hundred))~~ one thousand
17 dollars nor more than five thousand dollars. ~~((Five hundred))~~ One
18 thousand dollars of the fine may not be suspended or deferred unless
19 the court finds the offender to be indigent; and

20 (iii) By permanent revocation of the offender's license or permit
21 to drive, or ~~((suspension))~~ permanent revocation of any nonresident
22 privilege to drive ~~((, for a period of two years))~~. The ~~((period))~~
23 permanent revocation of a license, permit, or privilege ~~((revocation))~~
24 may not be suspended. The court shall notify the department of
25 licensing of the conviction, and upon receiving notification of the
26 conviction the department shall permanently revoke the offender's
27 license, permit, or privilege; or

28 (b) In the case of a person whose alcohol concentration was at
29 least 0.15, or for whom by reason of the person's refusal to take a
30 test offered pursuant to RCW 46.20.308 there is no test result
31 indicating the person's alcohol concentration:

32 (i) By imprisonment for not less than forty-five days nor more than
33 one year. Forty-five days of the imprisonment may not be suspended or
34 deferred unless the court finds that the imposition of this mandatory
35 minimum sentence would impose a substantial risk to the offender's
36 physical or mental well-being. Whenever the mandatory minimum sentence
37 is suspended or deferred, the court shall state in writing the reason
38 for granting the suspension or deferral and the facts upon which the
39 suspension or deferral is based; and

1 (ii) By a fine of not less than (~~seven~~) one thousand five hundred
2 (~~fifty~~) dollars nor more than five thousand dollars. (~~Seven~~) One
3 thousand five hundred (~~fifty~~) dollars of the fine may not be
4 suspended or deferred unless the court finds the offender to be
5 indigent; and

6 (iii) By permanent revocation of the offender's license or permit
7 to drive, or (~~suspension~~) permanent revocation of any nonresident
8 privilege to drive(~~, for a period of nine hundred days~~). The
9 (~~period~~) permanent revocation of a license, permit, or privilege
10 (~~revocation~~) may not be suspended. The court shall notify the
11 department of licensing of the conviction, and upon receiving
12 notification of the conviction the department shall permanently revoke
13 the offender's license, permit, or privilege.

14 (3) A person who is convicted of a violation of RCW 46.61.502 or
15 46.61.504 and who has two or more prior offenses (~~within five years~~)
16 shall be punished as follows:

17 (a) (~~In the case of a person whose alcohol concentration was less~~
18 ~~than 0.15, or for whom for reasons other than the person's refusal to~~
19 ~~take a test offered pursuant to RCW 46.20.308 there is no test result~~
20 ~~indicating the person's alcohol concentration:~~

21 (~~i~~) By imprisonment for not less than (~~ninety days nor more~~
22 ~~than~~) one year. (~~Ninety days~~) One year of the imprisonment may not
23 be suspended or deferred unless the court finds that the imposition of
24 this mandatory minimum sentence would impose a substantial risk to the
25 offender's physical or mental well-being. Whenever the mandatory
26 minimum sentence is suspended or deferred, the court shall state in
27 writing the reason for granting the suspension or deferral and the
28 facts upon which the suspension or deferral is based; and

29 (~~ii~~) (b) By a fine of not less than (~~one~~) two thousand
30 dollars nor more than five thousand dollars. (~~One~~) Two thousand
31 dollars of the fine may not be suspended or deferred unless the court
32 finds the offender to be indigent; and

33 (~~iii~~) (c) By permanent revocation of the offender's license or
34 permit to drive, or (~~suspension~~) permanent revocation of any
35 nonresident privilege to drive(~~, for a period of three years~~). The
36 (~~period~~) permanent revocation of a license, permit, or privilege
37 (~~revocation~~) may not be suspended. The court shall notify the
38 department of licensing of the conviction, and upon receiving

1 notification of the conviction the department shall permanently revoke
2 the offender's license, permit, or privilege(~~/~~ or

3 ~~(b) In the case of a person whose alcohol concentration was at
4 least 0.15, or for whom by reason of the person's refusal to take a
5 test offered pursuant to RCW 46.20.308 there is no test result
6 indicating the person's alcohol concentration:~~

7 ~~(i) By imprisonment for not less than one hundred twenty days nor
8 more than one year. One hundred twenty days of the imprisonment may
9 not be suspended or deferred unless the court finds that the imposition
10 of this mandatory minimum sentence would impose a substantial risk to
11 the offender's physical or mental well being. Whenever the mandatory
12 minimum sentence is suspended or deferred, the court shall state in
13 writing the reason for granting the suspension or deferral and the
14 facts upon which the suspension or deferral is based; and~~

15 ~~(ii) By a fine of not less than one thousand five hundred dollars
16 nor more than five thousand dollars. One thousand five hundred dollars
17 of the fine may not be suspended or deferred unless the court finds the
18 offender to be indigent; and~~

19 ~~(iii) By revocation of the offender's license or permit to drive,
20 or suspension of any nonresident privilege to drive, for a period of
21 four years. The period of license, permit, or privilege revocation may
22 not be suspended. The court shall notify the department of licensing
23 of the conviction, and upon receiving notification of the conviction
24 the department shall revoke the offender's license, permit, or
25 privilege)).~~

26 (4) In exercising its discretion in setting penalties within the
27 limits allowed by this section, the court shall particularly consider
28 whether the person's driving at the time of the offense was responsible
29 for injury or damage to another or another's property.

30 (5) An offender punishable under this section is subject to the
31 alcohol assessment and treatment provisions of RCW 46.61.5056.

32 (6) After expiration of any period of suspension (~~(or revocation)~~)
33 of the offender's license, permit, or privilege to drive required by
34 this section, the department shall place the offender's driving
35 privilege in probationary status pursuant to RCW 46.20.355.

36 (7)(a) In addition to any nonsuspendable and nondeferrable jail
37 sentence required by this section, whenever the court imposes less than
38 one year in jail, the court shall also suspend but shall not defer a
39 period of confinement for a period not exceeding two years. The court

1 shall impose conditions of probation that include: (i) Not driving a
2 motor vehicle within this state without a valid license to drive and
3 proof of financial responsibility for the future; (ii) not driving a
4 motor vehicle within this state while having an alcohol concentration
5 of 0.08 or more within two hours after driving; and (iii) not refusing
6 to submit to a test of his or her breath or blood to determine alcohol
7 concentration upon request of a law enforcement officer who has
8 reasonable grounds to believe the person was driving or was in actual
9 physical control of a motor vehicle within this state while under the
10 influence of intoxicating liquor. The court may impose conditions of
11 probation that include nonrepetition, installation of an ignition
12 interlock or other biological or technical device on the probationer's
13 motor vehicle, alcohol or drug treatment, supervised probation, or
14 other conditions that may be appropriate. The sentence may be imposed
15 in whole or in part upon violation of a condition of probation during
16 the suspension period.

17 (b) For each violation of mandatory conditions of probation under
18 (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall
19 order the convicted person to be confined for thirty days, which shall
20 not be suspended or deferred.

21 (c) For each incident involving a violation of a mandatory
22 condition of probation imposed under this subsection, the license,
23 permit, or privilege to drive of the person shall be suspended by the
24 court for thirty days or, if such license, permit, or privilege to
25 drive already is suspended, revoked, or denied at the time the finding
26 of probation violation is made, the suspension, revocation, or denial
27 then in effect shall be extended by thirty days. The court shall
28 notify the department of any suspension, revocation, or denial or any
29 extension of a suspension, revocation, or denial imposed under this
30 subsection.

31 (8) For purposes of this section:

32 (a) "Permanent revocation" means revocation for the lifetime of the
33 offender.

34 (b) A "prior offense" means any of the following:

35 (i) A conviction for a violation of RCW 46.61.502 or an equivalent
36 local ordinance;

37 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent
38 local ordinance;

1 (iii) A conviction for a violation of RCW 46.61.520 committed while
2 under the influence of intoxicating liquor or any drug;
3 (iv) A conviction for a violation of RCW 46.61.522 committed while
4 under the influence of intoxicating liquor or any drug;
5 (v) A conviction for a violation of RCW 46.61.5249 or an equivalent
6 local ordinance, if the conviction is the result of a charge that was
7 originally filed as a violation of RCW 46.61.502 or 46.61.504, or an
8 equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;
9 (vi) An out-of-state conviction for a violation that would have
10 been a violation of ~~((a))~~ (b)(i), (ii), (iii), (iv), or (v) of this
11 subsection if committed in this state;
12 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
13 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
14 equivalent local ordinance; or
15 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
16 prosecution for a violation of RCW 46.61.5249, or an equivalent local
17 ordinance, if the charge under which the deferred prosecution was
18 granted was originally filed as a violation of RCW 46.61.502 or
19 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
20 46.61.522.
21 ~~((b))~~ (c) "Within ~~((five))~~ seven years" means that the arrest for
22 a prior offense occurred within ~~((five))~~ seven years of the arrest for
23 the current offense.

24 NEW SECTION. Sec. 2. A new section is added to chapter 46.61 RCW
25 to read as follows:

26 A person who drives a vehicle within this state after his or her
27 license has been permanently revoked pursuant to RCW 46.61.5055 is
28 guilty of a gross misdemeanor and shall be punished by a fine of not
29 more than five thousand dollars and by imprisonment for one year. A
30 second or subsequent violation of this section is a class C felony and
31 shall be punished by a fine of not more than ten thousand dollars and
32 by imprisonment for seven years. Periods of imprisonment to be imposed
33 under this section for either gross misdemeanor or felony violations
34 are mandatory and may not be suspended or deferred. Sentences imposed
35 for felony violations are not subject to the exceptional sentence
36 provisions or the earned early release provisions of the sentencing
37 reform act.

1 NEW SECTION. **Sec. 3.** The sum of two hundred fifty thousand
2 dollars, or as much thereof as may be necessary, is appropriated for
3 the fiscal year ending June 30, 1999, from the general fund to the
4 department of licensing for electronic media advertising of the
5 contents of this act.

6 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 immediately.

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