

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 3089

Chapter 208, Laws of 1998
(partial veto)

55th Legislature
1998 Regular Session

DRUNK DRIVING--LIMITING DEFERRED PROSECUTION PROGRAM ELIGIBILITY

EFFECTIVE DATE: 1/1/99

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

CLYDE BALLARD
**Speaker of the
House of Representatives**

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

BRAD OWEN
President of the Senate

Approved March 30, 1998, with the
exception of section 6, which is
vetoed.

GARY LOCKE
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.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 30, 1998 - 2:45 p.m.

**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 **Sec. 6 was vetoed. See message at end of chapter.*

7 **NEW SECTION.** **Sec. 7.** This act takes effect January 1, 1999.
 Passed the House March 9, 1998.
 Passed the Senate March 5, 1998.
 Approved by the Governor March 30, 1998, with the exception of
 certain items that were vetoed.
 Filed in Office of Secretary of State March 30, 1998.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 6,
3 Second Substitute House Bill No. 3089 entitled:

4 "AN ACT Relating to drunk driving;"

5 2SHB 3089 allows a person to dispose of a DUI case by deferred
6 prosecution only once in a lifetime, and reinstates the deferred charge
7 if the person has a second DUI within five years. I strongly agree
8 with this legislation; however, one section is problematic.

9 Section 6 of 2SHB 3089 would require that the Office of Financial
10 Management verify claims from local governments for increased levels of
11 services mandated by the act. This section would add an unnecessary
12 additional bureaucratic layer to the existing statutory and procedural
13 process for handling these claims. I will direct the Office of
14 Financial Management and the Department of General Administration to
15 work collaboratively with the appropriate legislative committees to
16 ensure that timely and accurate information is provided to the
17 Legislature.

18 For this reason, I have vetoed section 6 of Second Substitute House
19 Bill No. 3089.

20 With the exception of section 6, Second Substitute House Bill No.
21 3089 is approved."