
SUBSTITUTE HOUSE BILL 1636

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Scott, Padden, Wineberry, Beck, Appelwick, Tate, Riley, Belcher, Winsley, Orr, Wynne and Broback).

Read first time March 6, 1991.

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 whose intoxication causes an incident resulting in an
4 appropriate emergency response, and who, in connection with the
5 incident, has been found guilty of (1) driving while under the
6 influence of intoxicating liquor or any drug, RCW 46.61.502; (2)
7 operating an aircraft under the influence of intoxicants or drugs, RCW
8 47.68.220; or (3) use of a vessel while under the influence of alcohol
9 or drugs, RCW 88.02.095, is liable for the expense of an emergency
10 response by a public agency to the incident.

11 The expense of an emergency response is a charge against the person
12 liable for expenses under this section. The charge constitutes a debt
13 of that person and is collectible by the public agency incurring those
14 costs in the same manner as in the case of an obligation under a
15 contract, expressed or implied, except that liability for the expenses
16 provided for in this section is not insurable and no insurance policy
17 shall provide or pay for the expenses.

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

21 A testimony, admission, or another statement made by the defendant
22 in a proceeding brought pursuant to this section, or evidence derived
23 from the testimony, admission, or other statement, is not admitted or
24 otherwise used in a criminal proceeding arising out of the same
25 incident.

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

28 In granting probation, the court may suspend the imposition or the
29 execution of the sentence and may direct that the suspension may

1 continue upon such conditions and for such time as it shall designate,
2 not exceeding the maximum term of sentence or two years, whichever is
3 longer.

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

1 whether restitution has been made. If restitution has not been made as
2 ordered, the officer shall inform the prosecutor of that violation of
3 the terms of probation not less than three months prior to the
4 termination of the probation period. The secretary of corrections will
5 promulgate rules and regulations for the conduct of the person during
6 the term of probation. For defendants found guilty in district court,
7 like functions as the secretary performs in regard to probation may be
8 performed by probation officers employed for that purpose by the county
9 legislative authority of the county wherein the court is located.

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

12 As used in this chapter:

13 (1) "Emergency management" or "comprehensive emergency management"
14 means the preparation for and the carrying out of all emergency
15 functions, other than functions for which the military forces are
16 primarily responsible, to mitigate, prepare for, respond to, and
17 recover from emergencies and disasters, and to aid victims suffering
18 from injury or damage, resulting from disasters caused by all hazards,
19 whether natural or man-made, and to provide support for search and
20 rescue operations for persons and property in distress. However,
21 "emergency management" or "comprehensive emergency management" does not
22 mean preparation for emergency evacuation or relocation of residents in
23 anticipation of nuclear attack.

24 (2) "Local organization for emergency services or management" means
25 an organization created in accordance with the provisions of this
26 chapter by state or local authority to perform local emergency
27 management functions.

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

1 (4) "Emergency worker" means any person who is registered with a
2 local emergency management organization or the department of community
3 development and holds an identification card issued by the local
4 emergency management director or the department of community
5 development for the purpose of engaging in authorized emergency
6 management activities or is an employee of the state of Washington or
7 any political subdivision thereof who is called upon to perform
8 emergency management activities.

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

12 (6)(a) "Emergency or disaster" as used in all sections of this
13 chapter except section 2 of this act shall mean an event or set of
14 circumstances which: ~~((+a))~~ (i) Demands immediate action to preserve
15 public health, protect life, protect public property, or to provide
16 relief to any stricken community overtaken by such occurrences, or
17 ~~((+b))~~ (ii) reaches such a dimension or degree of destructiveness as
18 to warrant the governor declaring a state of emergency pursuant to RCW
19 43.06.010.

20 (b) "Emergency" as used in section 2 of this act means an incident
21 that requires a normal police, fire, emergency medical services, or
22 utility response as a result of a violation of one of the statutes
23 enumerated in section 2 of this act.

24 (7) "Search and rescue" means the acts of searching for, rescuing,
25 or recovering by means of ground, marine, or air activity any person
26 who becomes lost, injured, or is killed while outdoors or as a result
27 of a natural or man-made disaster, including instances involving
28 searches for downed aircraft when ground personnel are used. Nothing in
29 this section shall affect appropriate activity by the department of
30 transportation under chapter 47.68 RCW.

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

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

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

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

10 (12) "Emergency response" as used in section 2 of this act means a
11 public agency's use of emergency services during an emergency or
12 disaster as defined in subsection (6)(b) of this section.

13 (13) "Expense of an emergency response" as used in section 2 of
14 this act means reasonable costs incurred by a public agency in
15 reasonably making an appropriate emergency response to the incident,
16 but shall only include those costs directly arising from the response
17 to the particular incident. Reasonable costs shall include the costs
18 of providing police, fire fighting, rescue, and emergency medical
19 services at the scene of the incident, as well as the salaries of the
20 personnel responding to the incident.

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

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