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SENATE BILL 6144

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State of Washington                      53rd Legislature                      1994 Regular Session

By Senators Roach, Nelson, L. Smith, Snyder, Franklin and Oke

Read first time 01/14/94. Referred to Committee on Law & Justice.

1            AN ACT Relating to the department of licensing; amending RCW  
2 46.01.260 and 46.61.515; reenacting and amending RCW 46.61.515;  
3 providing an effective date; and providing an expiration date.

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

5            **Sec. 1.** RCW 46.01.260 and 1984 c 241 s 1 are each amended to read  
6 as follows:

7            (1) The director, in his or her discretion, may destroy  
8 applications for vehicle licenses, copies of vehicle licenses issued,  
9 applications for drivers' licenses, copies of issued drivers' licenses,  
10 certificates of title and registration or other documents, records or  
11 supporting papers on file in his or her office which have been  
12 microfilmed or photographed or are more than five years old. If the  
13 applications for vehicle licenses are renewal applications, the  
14 director may destroy ((such)) the applications when the computer record  
15 thereof has been updated.

16            (2) The director shall retain for ten years all records concerning  
17 drug and alcohol criminal driving offenses, including chemical  
18 dependency evaluations, in order to facilitate state and local criminal  
19 justice organizations.

1       **Sec. 2.** RCW 46.61.515 and 1993 c 501 s 7 and 1993 c 239 s 1 are  
2 each reenacted and amended to read as follows:

3       (1) Every person who is convicted of a violation of RCW 46.61.502  
4 or 46.61.504 shall be punished by imprisonment for not less than  
5 twenty-four consecutive hours nor more than one year, and by a fine of  
6 not less than two hundred fifty dollars and not more than one thousand  
7 dollars. Unless the judge finds the person to be indigent, two hundred  
8 fifty dollars of the fine shall not be suspended or deferred. Twenty-  
9 four consecutive hours of the jail sentence shall not be suspended or  
10 deferred unless the judge finds that the imposition of the jail  
11 sentence will pose a substantial risk to the defendant's physical or  
12 mental well-being. Whenever the mandatory jail sentence is suspended  
13 or deferred, the judge must state, in writing, the reason for granting  
14 the suspension or deferral and the facts upon which the suspension or  
15 deferral is based. The court may impose conditions of probation that  
16 may include nonrepetition, alcohol or drug treatment, supervised  
17 probation, or other conditions that may be appropriate. The convicted  
18 person shall, in addition, be required to complete a course in an  
19 alcohol information school approved by the department of social and  
20 health services or more intensive treatment in a program approved by  
21 the department of social and health services, as determined by the  
22 court. A diagnostic evaluation and treatment recommendation shall be  
23 prepared under the direction of the court by an alcoholism agency  
24 approved by the department of social and health services or a qualified  
25 probation department approved by the department of social and health  
26 services. A copy of the report shall be forwarded to the department of  
27 licensing. Based on the diagnostic evaluation, the court shall  
28 determine whether the convicted person shall be required to complete a  
29 course in an alcohol information school approved by the department of  
30 social and health services or more intensive treatment in a program  
31 approved by the department of social and health services. Standards  
32 for approval for alcohol treatment programs shall be prescribed by rule  
33 under the Administrative Procedure Act, chapter 34.05 RCW. The  
34 department of social and health services shall periodically review the  
35 costs of alcohol information schools and treatment programs as part of  
36 the approval process.

37       (2) On a second or subsequent conviction where the arrest was  
38 within a five-year period of the previous conviction for driving or  
39 being in physical control of a motor vehicle while under the influence

1 of intoxicating liquor or drugs (~~within a five year period~~), a person  
2 shall be punished by imprisonment for not less than seven days nor more  
3 than one year and by a fine of not less than five hundred dollars and  
4 not more than two thousand dollars. District courts and courts  
5 organized under chapter 35.20 RCW are authorized to impose such fine.  
6 Unless the judge finds the person to be indigent, five hundred dollars  
7 of the fine shall not be suspended or deferred. The minimum jail  
8 sentence shall not be suspended or deferred unless the judge finds that  
9 the imposition of the jail sentence will pose a substantial risk to the  
10 defendant's physical or mental well-being. Whenever the mandatory jail  
11 sentence is suspended or deferred, the judge must state, in writing,  
12 the reason for granting the suspension or deferral and the facts upon  
13 which the suspension or deferral is based. If, at the time of the  
14 arrest on a second or subsequent offense, the driver is without a  
15 license or permit because of a previous suspension or revocation for a  
16 reason listed in RCW 46.20.342(1) (a) or (b), or because of a previous  
17 suspension or revocation for a reason listed in RCW 46.20.342(1)(c) if  
18 the original suspension or revocation was the result of a conviction of  
19 RCW 46.61.502 or 46.61.504, the minimum mandatory sentence shall be  
20 ninety days in jail and a five hundred dollar fine. The penalty so  
21 imposed shall not be suspended or deferred. The person shall, in  
22 addition, be required to complete a diagnostic evaluation by an  
23 alcoholism agency approved by the department of social and health  
24 services or a qualified probation department approved by the department  
25 of social and health services. The report shall be forwarded to the  
26 department of licensing. If the person is found to have an alcohol or  
27 drug problem requiring treatment, the person shall complete treatment  
28 at an approved alcoholism treatment program or approved drug treatment  
29 center.

30 In addition to any nonsuspendable and nondeferrable jail sentence  
31 required by this subsection, whenever the court imposes less than one  
32 year in jail, the court shall also suspend but shall not defer a period  
33 of confinement for a period not exceeding two years. The suspension of  
34 the sentence may be conditioned upon nonrepetition, alcohol or drug  
35 treatment, supervised probation, or other conditions that may be  
36 appropriate. The sentence may be imposed in whole or in part upon  
37 violation of a condition of suspension during the suspension period.

38 (3) The license or permit to drive or any nonresident privilege of  
39 any person convicted of driving or being in physical control of a motor

1 vehicle while under the influence of intoxicating liquor or drugs  
2 shall:

3 (a) On the first conviction under either offense, be suspended by  
4 the department until the person reaches age nineteen or for ninety  
5 days, whichever is longer. The department of licensing shall determine  
6 the person's eligibility for licensing based upon the reports provided  
7 by the designated alcoholism agency or probation department and shall  
8 deny reinstatement until enrollment and participation in an approved  
9 program has been established and the person is otherwise qualified;

10 (b) On a second conviction under either offense within a five-year  
11 period, be revoked by the department for one year. The department of  
12 licensing shall determine the person's eligibility for licensing based  
13 upon the reports provided by the designated alcoholism agency or  
14 probation department and shall deny reinstatement until satisfactory  
15 progress in an approved program has been established and the person is  
16 otherwise qualified;

17 (c) On a third or subsequent conviction of driving or being in  
18 physical control of a motor vehicle while under the influence of  
19 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,  
20 or any combination thereof within a five-year period, be revoked by the  
21 department for two years.

22 (4) In any case provided for in this section, where a driver's  
23 license is to be revoked or suspended, the revocation or suspension  
24 shall be stayed and shall not take effect until after the determination  
25 of any appeal from the conviction which may lawfully be taken, but in  
26 case the conviction is sustained on appeal the revocation or suspension  
27 takes effect as of the date that the conviction becomes effective for  
28 other purposes.

29 (5)(a) In addition to penalties set forth in this section, a one  
30 hundred twenty-five dollar fee shall be assessed to a person who is  
31 either convicted, sentenced to a lesser charge, or given deferred  
32 prosecution, as a result of an arrest for violating RCW 46.61.502,  
33 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of  
34 funding the Washington state toxicology laboratory and the Washington  
35 state patrol breath test program.

36 (b) Upon a verified petition by the person assessed the fee, the  
37 court may suspend payment of all or part of the fee if it finds that  
38 the person does not have the ability to pay.

1 (c) When a minor has been adjudicated a juvenile offender for an  
2 offense which, if committed by an adult, would constitute a violation  
3 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall  
4 assess the one hundred twenty-five dollar fee under (a) of this  
5 subsection. Upon a verified petition by a minor assessed the fee, the  
6 court may suspend payment of all or part of the fee if it finds that  
7 the minor does not have the ability to pay the fee.

8 (6) The fee assessed under subsection (5) of this section shall be  
9 collected by the clerk of the court and distributed as follows:

10 (a) Forty percent shall be subject to distribution under RCW  
11 3.62.020, 3.62.040, or 10.82.040.

12 (b) If the case involves a blood test by the state toxicology  
13 laboratory, the remainder of the fee shall be forwarded to the state  
14 treasurer for deposit in the death investigations account to be used  
15 solely for funding the state toxicology laboratory blood testing  
16 program.

17 (c) Otherwise, the remainder of the fee shall be forwarded to the  
18 state treasurer for deposit in the state patrol highway account to be  
19 used solely for funding the Washington state patrol breath test  
20 program.

21 **Sec. 3.** RCW 46.61.515 and 1993 c 501 s 7 are each amended to read  
22 as follows:

23 (1) Every person who is convicted of a violation of RCW 46.61.502  
24 or 46.61.504 shall be punished by imprisonment for not less than  
25 twenty-four consecutive hours nor more than one year, and by a fine of  
26 not less than two hundred fifty dollars and not more than one thousand  
27 dollars. Unless the judge finds the person to be indigent, two hundred  
28 fifty dollars of the fine shall not be suspended or deferred. Twenty-  
29 four consecutive hours of the jail sentence shall not be suspended or  
30 deferred unless the judge finds that the imposition of the jail  
31 sentence will pose a substantial risk to the defendant's physical or  
32 mental well-being. Whenever the mandatory jail sentence is suspended  
33 or deferred, the judge must state, in writing, the reason for granting  
34 the suspension or deferral and the facts upon which the suspension or  
35 deferral is based. The court may impose conditions of probation that  
36 may include nonrepetition, alcohol or drug treatment, supervised  
37 probation, or other conditions that may be appropriate. The convicted  
38 person shall, in addition, be required to complete a course in an

1 alcohol information school approved by the department of social and  
2 health services or more intensive treatment in a program approved by  
3 the department of social and health services, as determined by the  
4 court. A diagnostic evaluation and treatment recommendation shall be  
5 prepared under the direction of the court by an alcoholism agency  
6 approved by the department of social and health services or a qualified  
7 probation department approved by the department of social and health  
8 services. A copy of the report shall be forwarded to the department of  
9 licensing. Based on the diagnostic evaluation, the court shall  
10 determine whether the convicted person shall be required to complete a  
11 course in an alcohol information school approved by the department of  
12 social and health services or more intensive treatment in a program  
13 approved by the department of social and health services. Standards  
14 for approval for alcohol treatment programs shall be prescribed by rule  
15 under the administrative procedure act, chapter 34.05 RCW. The  
16 department of social and health services shall periodically review the  
17 costs of alcohol information schools and treatment programs as part of  
18 the approval process.

19 (2) On a second or subsequent conviction where the arrest was  
20 within a five-year period of the previous conviction for driving or  
21 being in physical control of a motor vehicle while under the influence  
22 of intoxicating liquor or drugs (~~(within a five-year period)~~), a person  
23 shall be punished by imprisonment for not less than seven days nor more  
24 than one year and by a fine of not less than five hundred dollars and  
25 not more than two thousand dollars. District courts and courts  
26 organized under chapter 35.20 RCW are authorized to impose such fine.  
27 Unless the judge finds the person to be indigent, five hundred dollars  
28 of the fine shall not be suspended or deferred. The minimum jail  
29 sentence shall not be suspended or deferred unless the judge finds that  
30 the imposition of the jail sentence will pose a substantial risk to the  
31 defendant's physical or mental well-being. Whenever the mandatory jail  
32 sentence is suspended or deferred, the judge must state, in writing,  
33 the reason for granting the suspension or deferral and the facts upon  
34 which the suspension or deferral is based. If, at the time of the  
35 arrest on a second or subsequent offense, the driver is without a  
36 license or permit because of a previous suspension or revocation for a  
37 reason listed in RCW 46.20.342(1) (a) or (b), or because of a previous  
38 suspension or revocation for a reason listed in RCW 46.20.342(1)(c) if  
39 the original suspension or revocation was the result of a conviction of

1 RCW 46.61.502 or 46.61.504, the minimum mandatory sentence shall be  
2 ninety days in jail and a five hundred dollar fine. The penalty so  
3 imposed shall not be suspended or deferred. The person shall, in  
4 addition, be required to complete a diagnostic evaluation by an  
5 alcoholism agency approved by the department of social and health  
6 services or a qualified probation department approved by the department  
7 of social and health services. The report shall be forwarded to the  
8 department of licensing. If the person is found to have an alcohol or  
9 drug problem requiring treatment, the person shall complete treatment  
10 at an approved alcoholism treatment program or approved drug treatment  
11 center.

12 In addition to any nonsuspendable and nondeferrable jail sentence  
13 required by this subsection, whenever the court imposes less than one  
14 year in jail, the court shall also suspend but shall not defer a period  
15 of confinement for a period not exceeding two years. The suspension of  
16 the sentence may be conditioned upon nonrepetition, alcohol or drug  
17 treatment, supervised probation, or other conditions that may be  
18 appropriate. The sentence may be imposed in whole or in part upon  
19 violation of a condition of suspension during the suspension period.

20 (3) The license or permit to drive or any nonresident privilege of  
21 any person convicted of driving or being in physical control of a motor  
22 vehicle while under the influence of intoxicating liquor or drugs  
23 shall:

24 (a) On the first conviction under either offense, be suspended by  
25 the department until the person reaches age nineteen or for ninety  
26 days, whichever is longer. The department of licensing shall determine  
27 the person's eligibility for licensing based upon the reports provided  
28 by the designated alcoholism agency or probation department and shall  
29 deny reinstatement until enrollment and participation in an approved  
30 program has been established and the person is otherwise qualified;

31 (b) On a second conviction under either offense within a five-year  
32 period, be revoked by the department for one year. The department of  
33 licensing shall determine the person's eligibility for licensing based  
34 upon the reports provided by the designated alcoholism agency or  
35 probation department and shall deny reinstatement until satisfactory  
36 progress in an approved program has been established and the person is  
37 otherwise qualified;

38 (c) On a third or subsequent conviction of driving or being in  
39 physical control of a motor vehicle while under the influence of

1 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,  
2 or any combination thereof within a five-year period, be revoked by the  
3 department for two years.

4 (4) In any case provided for in this section, where a driver's  
5 license is to be revoked or suspended, the revocation or suspension  
6 shall be stayed and shall not take effect until after the determination  
7 of any appeal from the conviction which may lawfully be taken, but in  
8 case the conviction is sustained on appeal the revocation or suspension  
9 takes effect as of the date that the conviction becomes effective for  
10 other purposes.

11 NEW SECTION. **Sec. 4.** Section 2 of this act shall expire June 30,  
12 1995.

13 NEW SECTION. **Sec. 5.** Section 3 of this act shall take effect June  
14 30, 1995.

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