

CERTIFICATION OF ENROLLMENT

SENATE BILL 6077

54th Legislature
1995 First Special Session

Passed by the Senate May 23, 1995
YEAS 46 NAYS 0

President of the Senate

Passed by the House May 19, 1995
YEAS 92 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6077** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6077

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 First Special Session

State of Washington 54th Legislature 1995 1st Special Session

By Senator Smith

Read first time 05/09/95.

1 AN ACT Relating to probationary licenses and reissue charges for
2 alcohol-related offenses; amending RCW 46.20.355 and 46.61.--- (section
3 5, chapter . . . (SSB 5141), Laws of 1995); and providing an effective
4 date.

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

6 **Sec. 1.** RCW 46.20.355 and 1995 c . . . (SSB 5141) s 4 are each
7 amended to read as follows:

8 (1) Upon placing a license, permit, or privilege to drive in
9 probationary status under RCW 46.20.---(2)(a) (section 3(2)(a), chapter
10 . . . (SSB 5141), Laws of 1995), or upon receipt of an abstract
11 indicating a deferred prosecution has been granted under RCW 10.05.060,
12 or upon receipt of a notice of conviction of RCW 46.61.502 or
13 46.61.504, the department of licensing shall order the person to
14 surrender any Washington state driver's license that may be in his or
15 her possession. The department shall revoke the license, permit, or
16 privilege to drive of any person who fails to surrender it as required
17 by this section for one year, unless the license has been previously
18 surrendered to the department, a law enforcement officer, or a court,
19 or the person has completed an affidavit of lost, stolen, destroyed, or

1 previously surrendered license, such revocation to take effect thirty
2 days after notice is given of the requirement for license surrender.

3 (2) The department shall place a person's driving privilege in
4 probationary status as required by RCW 10.05.060 (~~(or)~~), 46.20.308, or
5 46.61.--- (section 5, chapter . . . (SSB 5141), Laws of 1995) for a
6 period of five years from the date the probationary status is required
7 to go into effect.

8 (3) Following receipt of an abstract indicating a deferred
9 prosecution has been granted under RCW 10.05.060, or following receipt
10 of a sworn report under RCW 46.20.308 that requires immediate placement
11 in probationary status under RCW 46.20.---(2)(a) (section 3(2)(a),
12 chapter . . . (SSB 5141), Laws of 1995), or upon reinstatement or
13 reissuance of a driver's license suspended or revoked as the result of
14 a conviction of RCW 46.61.502 or 46.61.504, the department shall
15 require the person to obtain a probationary license in order to operate
16 a motor vehicle in the state of Washington, except as otherwise exempt
17 under RCW 46.20.025. The department shall not issue the probationary
18 license unless the person is otherwise qualified for licensing, and the
19 person must renew the probationary license on the same cycle as the
20 person's regular license would have been renewed until the expiration
21 of the five-year probationary status period imposed under subsection
22 (2) of this section.

23 (4) For each original issue or renewal of a probationary license
24 under this section, the department shall charge a fee of fifty dollars
25 in addition to any other licensing fees required. Except for when
26 renewing a probationary license, the department shall waive the fifty-
27 dollar fee if the person has a probationary license in his or her
28 possession at the time a new probationary license is required.

29 (5) A probationary license shall enable the department and law
30 enforcement personnel to determine that the person is on probationary
31 status. The fact that a person's driving privilege is in probationary
32 status or that the person has been issued a probationary license shall
33 not be a part of the person's record that is available to insurance
34 companies.

35 **Sec. 2.** RCW 46.61.--- and 1995 c . . . (SSB 5141) s 5 are each
36 amended to read as follows:

1 (1) A person who is convicted of a violation of RCW 46.61.502 or
2 46.61.504 and who has no prior offense within five years shall be
3 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 one day nor more than one
9 year. Twenty-four consecutive hours of the imprisonment may not be
10 suspended or deferred unless the court finds that the imposition of
11 this mandatory minimum sentence would impose a substantial risk to the
12 offender's physical or mental well-being. Whenever the mandatory
13 minimum sentence is suspended or deferred, the court shall state in
14 writing the reason for granting the suspension or deferral and the
15 facts upon which the suspension or deferral is based; and

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

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

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

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

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

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

12 (2) A person who is convicted of a violation of RCW 46.61.502 or
13 46.61.504 and who has one prior offense within five years shall be
14 punished as follows:

15 (a) In the case of a person whose alcohol concentration was less
16 than 0.15, or for whom for reasons other than the person's refusal to
17 take a 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 thirty days nor more than one
20 year. Thirty days of the imprisonment may not be suspended or deferred
21 unless the court finds that the imposition of this mandatory minimum
22 sentence would impose a substantial risk to the offender's physical or
23 mental well-being. Whenever the mandatory minimum sentence is
24 suspended or deferred, the court shall state in writing the reason for
25 granting the suspension or deferral and the facts upon which the
26 suspension or deferral is based; and

27 (ii) By a fine of not less than five hundred dollars nor more than
28 five thousand dollars. Five hundred dollars of the fine may not be
29 suspended or deferred unless the court finds the offender to be
30 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 revocation 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 revoke the offender's license, permit, or
37 privilege; or

38 (b) In the case of a person whose alcohol concentration was at
39 least 0.15, or for whom by reason of the person's refusal to take a

1 test offered pursuant to RCW 46.20.308 there is no test result
2 indicating the person's alcohol concentration:

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

11 (ii) By a fine of not less than seven hundred fifty dollars nor
12 more than five thousand dollars. Seven hundred fifty dollars of the
13 fine may not be suspended or deferred unless the court finds the
14 offender to be indigent; and

15 (iii) By revocation of the offender's license or permit to drive,
16 or suspension of any nonresident privilege to drive, for a period of
17 four hundred fifty days. The period of license, permit, or privilege
18 revocation may not be suspended. The court shall notify the department
19 of licensing of the conviction, and upon receiving notification of the
20 conviction the department shall revoke the offender's license, permit,
21 or privilege.

22 (3) A person who is convicted of a violation of RCW 46.61.502 or
23 46.61.504 and who has two or more prior offenses within five years
24 shall be punished as follows:

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

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

37 (ii) By a fine of not less than one thousand dollars nor more than
38 five thousand dollars. One thousand dollars of the fine may not be

1 suspended or deferred unless the court finds the offender to be
2 indigent; and

3 (iii) By revocation of the offender's license or permit to drive,
4 or suspension of any nonresident privilege to drive, for a period of
5 two years. The period of license, permit, or privilege revocation may
6 not be suspended. The court shall notify the department of licensing
7 of the conviction, and upon receiving notification of the conviction
8 the department shall revoke the offender's license, permit, or
9 privilege; or

10 (b) In the case of a person whose alcohol concentration was at
11 least 0.15, or for whom by reason of the person's refusal to take a
12 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 hundred twenty days nor
15 more than one year. One hundred twenty days of the imprisonment may
16 not be suspended or deferred unless the court finds that the imposition
17 of this mandatory minimum sentence would impose a substantial risk to
18 the offender's physical or mental well-being. Whenever the mandatory
19 minimum sentence is suspended or deferred, the court shall state in
20 writing the reason for granting the suspension or deferral and the
21 facts upon which the suspension or deferral is based; and

22 (ii) By a fine of not less than one thousand five hundred dollars
23 nor more than five thousand dollars. One thousand five hundred dollars
24 of the fine may not be suspended or deferred unless the court finds the
25 offender to be indigent; and

26 (iii) By revocation of the offender's license or permit to drive,
27 or suspension of any nonresident privilege to drive, for a period of
28 three years. The period of license, permit, or privilege revocation
29 may not be suspended. The court shall notify the department of
30 licensing of the conviction, and upon receiving notification of the
31 conviction the department shall revoke the offender's license, permit,
32 or privilege.

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

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

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

5 (7)(a) In addition to any nonsuspendable and nondeferrable jail
6 sentence required by this section, whenever the court imposes less than
7 one year in jail, the court shall also suspend but shall not defer a
8 period of confinement for a period not exceeding two years. The court
9 shall impose conditions of probation that include: (i) Not driving a
10 motor vehicle within this state without a valid license to drive and
11 proof of financial responsibility for the future; (ii) not driving a
12 motor vehicle within this state while having an alcohol concentration
13 of 0.08 or more within two hours after driving; and (iii) not refusing
14 to submit to a test of his or her breath or blood to determine alcohol
15 concentration upon request of a law enforcement officer who has
16 reasonable grounds to believe the person was driving or was in actual
17 physical control of a motor vehicle within this state while under the
18 influence of intoxicating liquor. The court may impose conditions of
19 probation that include nonrepetition, alcohol or drug treatment,
20 supervised probation, or other conditions that may be appropriate. The
21 sentence may be imposed in whole or in part upon violation of a
22 condition of probation during the suspension period.

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

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

37 (~~(7)~~)(8)(a) A "prior offense" means any of the following:

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

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

3 (iii) A conviction for a violation of RCW 46.61.520 committed while
4 under the influence of intoxicating liquor or any drug;

5 (iv) A conviction for a violation of RCW 46.61.522 committed while
6 under the influence of intoxicating liquor or any drug;

7 (v) An out-of-state conviction for a violation that would have been
8 a violation of (a)(i), (ii), (iii), or (iv) of this subsection if
9 committed in this state; or

10 (vi) A deferred prosecution under chapter 10.05 RCW granted in a
11 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
12 equivalent local ordinance.

13 (b) "Within five years" means that the arrest for a prior offense
14 occurred within five years of the arrest for the current offense.

15 NEW SECTION. **Sec. 3.** This act shall take effect September 1,
16 1995.

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