
SENATE BILL 6165

State of Washington

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1998 Regular Session

By Senators Rossi, Roach, Rasmussen, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Kline, Wood, Schow, Swecker, Stevens, Haugen, Johnson, Benton and Winsley

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1 AN ACT Relating to vehicles equipped with ignition interlock
2 devices; amending RCW 46.20.740 and 46.55.113; reenacting and amending
3 RCW 46.61.5055; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.20.740 and 1997 c 229 s 10 are each amended to read
6 as follows:

7 (1) The department shall attach or imprint a notation on the
8 driver's license of any person restricted under RCW 46.20.720 or
9 46.61.5055 stating that the person may operate only a motor vehicle
10 equipped with an ignition interlock or other biological or technical
11 device.

12 (2) It is a misdemeanor for a person with such a notation on his or
13 her driver's license to operate a motor vehicle that is not so
14 equipped. For the first such conviction, the minimum sentence is
15 thirty days in jail. For a second offense, the minimum sentence is
16 sixty days in jail. For a third or subsequent offense, the minimum
17 sentence is ninety days in jail.

1 **Sec. 2.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are
2 each reenacted and amended to read as follows:

3 (1) A person who is convicted of a violation of RCW 46.61.502 or
4 46.61.504 and who has no prior offense within five years shall be
5 punished as follows:

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

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

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

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

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

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

1 for granting the suspension or deferral and the facts upon which the
2 suspension or deferral is based; and

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

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

14 (iv) By a court-ordered restriction under RCW 46.20.720 to driving
15 only a motor vehicle equipped with a functioning ignition interlock or
16 other biological or technical device for a period of not less than one
17 year.

18 (2) A person who is convicted of a violation of RCW 46.61.502 or
19 46.61.504 and who has one prior offense within five years shall be
20 punished as follows:

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

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

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

37 (iii) By revocation of the offender's license or permit to drive,
38 or suspension of any nonresident privilege to drive, for a period of
39 two years. The period of license, permit, or privilege revocation may

1 not be suspended. The court shall notify the department of licensing
2 of the conviction, and upon receiving notification of the conviction
3 the department shall revoke the offender's license, permit, or
4 privilege; and

5 (iv) By a court-ordered restriction under RCW 46.20.720 to driving
6 only a motor vehicle equipped with a functioning ignition interlock or
7 other biological or technical device for a period of not less than five
8 years; or

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

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

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

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

32 (iv) By a court-ordered restriction under RCW 46.20.720 to driving
33 only a motor vehicle equipped with a functioning ignition interlock or
34 other biological or technical device for a period of not less than five
35 years.

36 (3) A person who is convicted of a violation of RCW 46.61.502 or
37 46.61.504 and who has two or more prior offenses within five years
38 shall be punished as follows:

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

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

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

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

24 (iv) By a court-ordered permanent, lifetime restriction under RCW
25 46.20.720 to driving only a motor vehicle equipped with a functioning
26 ignition interlock or other biological or technical device; 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 one hundred twenty days nor
32 more than one year. One hundred twenty days of the imprisonment may
33 not be suspended or deferred unless the court finds that the imposition
34 of this mandatory minimum sentence would impose a substantial risk to
35 the offender's physical or mental well-being. Whenever the mandatory
36 minimum sentence is suspended or deferred, the court shall state in
37 writing the reason for granting the suspension or deferral and the
38 facts upon which the suspension or deferral is based; and

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

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

12 (iv) By a court-ordered permanent, lifetime restriction under RCW
13 46.20.720 to driving only a motor vehicle equipped with a functioning
14 ignition interlock or other biological or technical device.

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

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

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

25 (7)(a) In addition to any nonsuspendable and nondeferrable jail
26 sentence required by this section, whenever the court imposes less than
27 one year in jail, the court shall also suspend but shall not defer a
28 period of confinement for a period not exceeding two years. The court
29 shall impose conditions of probation that include: (i) Not driving a
30 motor vehicle within this state without a valid license to drive and
31 proof of financial responsibility for the future; (ii) not driving a
32 motor vehicle within this state while having an alcohol concentration
33 of 0.08 or more within two hours after driving; and (iii) not refusing
34 to submit to a test of his or her breath or blood to determine alcohol
35 concentration upon request of a law enforcement officer who has
36 reasonable grounds to believe the person was driving or was in actual
37 physical control of a motor vehicle within this state while under the
38 influence of intoxicating liquor. The court may impose conditions of
39 probation that include nonrepetition, installation of an ignition

1 interlock or other biological or technical device on the probationer's
2 motor vehicle, alcohol or drug treatment, supervised probation, or
3 other conditions that may be appropriate. The sentence may be imposed
4 in whole or in part upon violation of a condition of probation during
5 the suspension period.

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

10 (c) For each incident involving a violation of a mandatory
11 condition of probation imposed under this subsection, the license,
12 permit, or privilege to drive of the person shall be suspended by the
13 court for thirty days or, if such license, permit, or privilege to
14 drive already is suspended, revoked, or denied at the time the finding
15 of probation violation is made, the suspension, revocation, or denial
16 then in effect shall be extended by thirty days. The court shall
17 notify the department of any suspension, revocation, or denial or any
18 extension of a suspension, revocation, or denial imposed under this
19 subsection.

20 (8)(a) A "prior offense" means any of the following:

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

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

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

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

29 (v) A conviction for a violation of RCW 46.61.5249 or an equivalent
30 local ordinance, if the conviction is the result of a charge that was
31 originally filed as a violation of RCW 46.61.502 or 46.61.504, or an
32 equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

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

36 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
37 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
38 equivalent local ordinance; or

1 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
2 prosecution for a violation of RCW 46.61.5249, or an equivalent local
3 ordinance, if the charge under which the deferred prosecution was
4 granted was originally filed as a violation of RCW 46.61.502 or
5 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
6 46.61.522.

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

9 **Sec. 3.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read
10 as follows:

11 Whenever the driver of a vehicle is arrested for a violation of RCW
12 46.61.502 or 46.61.504 or any similar municipal ordinance, the
13 arresting officer may take custody of the vehicle and provide for its
14 prompt removal to a place of safety. If the driver is in violation of
15 a restriction under RCW 46.20.720 or 46.61.5055 to operate only a motor
16 vehicle equipped with an ignition interlock or other biological or
17 technical device, the arresting officer shall take custody of the
18 vehicle and provide for its prompt removal to a place of safety. The
19 vehicle will remain impounded for use as evidence at a trial regarding
20 the violation of the restriction.

21 In addition, a police officer may take custody of a vehicle and
22 provide for its prompt removal to a place of safety under any of the
23 following circumstances:

24 (1) Whenever a police officer finds a vehicle standing upon the
25 roadway in violation of any of the provisions of RCW 46.61.560, the
26 officer may provide for the removal of the vehicle or require the
27 driver or other person in charge of the vehicle to move the vehicle to
28 a position off the roadway;

29 (2) Whenever a police officer finds a vehicle unattended upon a
30 highway where the vehicle constitutes an obstruction to traffic or
31 jeopardizes public safety;

32 (3) Whenever a police officer finds an unattended vehicle at the
33 scene of an accident or when the driver of a vehicle involved in an
34 accident is physically or mentally incapable of deciding upon steps to
35 be taken to protect his or her property;

36 (4) Whenever the driver of a vehicle is arrested and taken into
37 custody by a police officer;

1 (5) Whenever a police officer discovers a vehicle that the officer
2 determines to be a stolen vehicle;

3 (6) Whenever a vehicle without a special license plate, card, or
4 decal indicating that the vehicle is being used to transport a disabled
5 person under RCW 46.16.381 is parked in a stall or space clearly and
6 conspicuously marked under RCW 46.61.581 which space is provided on
7 private property without charge or on public property;

8 (7) Upon determining that a person is operating a motor vehicle
9 without a valid driver's license in violation of RCW 46.20.005 or with
10 a license that has been expired for ninety days or more, or with a
11 suspended or revoked license in violation of RCW 46.20.342 or
12 46.20.420.

13 Nothing in this section may derogate from the powers of police
14 officers under the common law. For the purposes of this section, a
15 place of safety may include the business location of a registered tow
16 truck operator.

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