

2 SHB 1636 - S COMM AMD

3 By Committee on Law & Justice

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that a public
8 agency incurs expenses in an emergency response. It is the intent of
9 the legislature to allow a public agency to recover the expenses of an
10 emergency response to an incident involving persons who operate a motor
11 vehicle, boat or vessel, or a civil aircraft while under the influence
12 of an alcoholic beverage or a drug, or the combined influence of an
13 alcoholic beverage and a drug. It is the intent of the legislature
14 that the recovery of expenses of an emergency response under this act
15 shall supplement and shall not supplant other provisions of law
16 relating to the recovery of those expenses."

17 "NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW
18 to read as follows:

19 A person whose intoxication causes an incident resulting in an
20 appropriate emergency response, and who, in connection with the
21 incident, has been found guilty of or has had their prosecution
22 deferred for (1) driving while under the influence of intoxicating
23 liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the
24 influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel
25 while under the influence of alcohol or drugs, RCW 88.02.095; (4)
26 vehicular homicide while under the influence of intoxicating liquor or
27 any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the

1 influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is
2 liable for the expense of an emergency response by a public agency to
3 the incident.

4 The expense of an emergency response is a charge against the person
5 liable for expenses under this section. The charge constitutes a debt
6 of that person and is collectible by the public agency incurring those
7 costs in the same manner as in the case of an obligation under a
8 contract, expressed or implied.

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

12 If more than one public agency makes a claim for payment from an
13 individual for an emergency response to a single incident under the
14 provisions of this section, and the sum of the claims exceeds one
15 thousand dollars, and there is insufficient insurance to cover all of
16 the claims, the division of the proceeds shall be determined by an
17 interlocal agreement consistent with the requirements of chapter 39.34
18 RCW.

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

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

26 In granting probation, the court may suspend the imposition or the
27 execution of the sentence and may direct that the suspension may
28 continue upon such conditions and for such time as it shall designate,

1 not exceeding the maximum term of sentence or two years, whichever is
2 longer.

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

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

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

11 As used in this chapter:

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

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

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

28 (4) "Emergency worker" means any person who is registered with a
29 local emergency management organization or the department of community

1 development and holds an identification card issued by the local
2 emergency management director or the department of community
3 development for the purpose of engaging in authorized emergency
4 management activities or is an employee of the state of Washington or
5 any political subdivision thereof who is called upon to perform
6 emergency management activities.

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

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

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

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

29 (8) "Executive head" and "executive heads" means the county
30 executive in those charter counties with an elective office of county

1 executive, however designated, and, in the case of other counties, the
2 county legislative authority. In the case of cities and towns, it means
3 the mayor.

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

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

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

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

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

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

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

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28 On page 1, line 1 of the title, after "management;" strike the
29 remainder of the title and insert "amending RCW 9.95.210 and 38.52.010;

1 adding a new section to chapter 38.52 RCW; and creating a new section."