

---

HOUSE BILL 1051

---

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Scott, Van Luven, Talcott, Riley, Foreman, Long, Orr, Brough, Forner, Miller, Lemmon, Johanson, Tate, Vance, Wood, Cooke and Roland

Read first time 01/13/93. Referred to Committee on Judiciary.

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 agency  
6 incurs expenses in an emergency response. It is the intent of the  
7 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.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW  
16 to read as follows:

17 A person whose intoxication causes an incident resulting in an  
18 appropriate emergency response, and who, in connection with the

1 incident, has been found guilty of or has had their prosecution  
2 deferred for (1) driving while under the influence of intoxicating  
3 liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the  
4 influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel  
5 while under the influence of alcohol or drugs, RCW 88.12.100; (4)  
6 vehicular homicide while under the influence of intoxicating liquor or  
7 any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the  
8 influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is  
9 liable for the expense of an emergency response by a public agency to  
10 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.

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

19 If more than one public agency makes a claim for payment from an  
20 individual for an emergency response to a single incident under the  
21 provisions of this section, and the sum of the claims exceeds one  
22 thousand dollars, and there is insufficient insurance to cover all of  
23 the claims, the division of the proceeds shall be determined by an  
24 interlocal agreement consistent with the requirements of chapter 39.34  
25 RCW.

26 A testimony, admission, or another statement made by the defendant  
27 in a proceeding brought pursuant to this section, or evidence derived  
28 from the testimony, admission, or other statement, is not admitted or  
29 otherwise used in a criminal proceeding arising out of the same  
30 incident.

31 **Sec. 3.** RCW 9.95.210 and 1992 c 86 s 1 are each amended to read as  
32 follows:

33 In granting probation, the court may suspend the imposition or the  
34 execution of the sentence and may direct that the suspension may  
35 continue upon such conditions and for such time as it shall designate,  
36 not exceeding the maximum term of sentence or two years, whichever is  
37 longer.

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

1 performed by probation officers employed for that purpose by the county  
2 legislative authority of the county wherein the court is located.

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

5 As used in this chapter:

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

17 (2) "Local organization for emergency services or management" means  
18 an organization created in accordance with the provisions of this  
19 chapter by state or local authority to perform local emergency  
20 management functions.

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

22 (4) "Emergency worker" means any person who is registered with a  
23 local emergency management organization or the department of community  
24 development and holds an identification card issued by the local  
25 emergency management director or the department of community  
26 development for the purpose of engaging in authorized emergency  
27 management activities or is an employee of the state of Washington or  
28 any political subdivision thereof who is called upon to perform  
29 emergency management activities.

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

33 (6)(a) "Emergency or disaster" as used in all sections of this  
34 chapter except section 2 of this act shall mean an event or set of  
35 circumstances which: ~~((a))~~ (i) Demands immediate action to preserve  
36 public health, protect life, protect public property, or to provide  
37 relief to any stricken community overtaken by such occurrences, or  
38 ~~((b))~~ (ii) reaches such a dimension or degree of destructiveness as

1 to warrant the governor declaring a state of emergency pursuant to RCW  
2 43.06.010.

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

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

14 (8) "Executive head" and "executive heads" means the county  
15 executive in those charter counties with an elective office of county  
16 executive, however designated, and, in the case of other counties, the  
17 county legislative authority. In the case of cities and towns, it  
18 means the mayor.

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

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

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

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

26 (13) "Expense of an emergency response" as used in section 2 of  
27 this act means reasonable costs incurred by a public agency in  
28 reasonably making an appropriate emergency response to the incident,  
29 but shall only include those costs directly arising from the response  
30 to the particular incident. Reasonable costs shall include the costs  
31 of providing police, coroner, fire fighting, rescue, emergency medical  
32 services, or utility response at the scene of the incident, as well as  
33 the salaries of the personnel responding to the incident.

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

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

--- END ---