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HOUSE BILL 1289

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State of Washington

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1993 Regular Session

By Representatives Chappell, Campbell, Kessler, Lemmon, Johanson and Rayburn

Read first time 01/22/93. Referred to Committee on Judiciary.

1 AN ACT Relating to driving violations; amending RCW 46.61.525 and  
2 46.61.515; adding a new section to chapter 46.61 RCW; and prescribing  
3 penalties.

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

5 **Sec. 1.** RCW 46.61.525 and 1979 ex.s. c 136 s 86 are each amended  
6 to read as follows:

7 (1) It ~~((shall be))~~ is unlawful for any person to operate a motor  
8 vehicle in a negligent manner. For the purpose of this section to  
9 "operate in a negligent manner" ~~((shall be construed to mean))~~ means  
10 the operation of a vehicle in such a manner as to endanger or be likely  
11 to endanger any persons or property~~((: PROVIDED HOWEVER, That any))~~.  
12 A person operating a motor vehicle on private property with the consent  
13 of the owner in a manner consistent with the owner's consent ~~((shall~~  
14 ~~not be))~~ is not guilty of negligent driving.

15 ~~((The offense of operating a vehicle in a negligent manner shall be~~  
16 ~~considered to be))~~ (2)(a) A person who operates a motor vehicle in a  
17 negligent manner while having consumed intoxicating liquor or any drug,  
18 but the consumption is not sufficient to constitute a violation of RCW  
19 46.61.502, is guilty of negligent driving in the first degree.

1       (b) Negligent driving in the first degree is a misdemeanor. Upon  
2 conviction of negligent driving in the first degree, a person may be  
3 punished by suspension of driving privileges for thirty days and a fine  
4 of up to five hundred dollars, but no imprisonment may be imposed.  
5 Whenever a person is convicted of negligent driving in the first  
6 degree, the clerk of the court in which the conviction occurred shall  
7 immediately notify the department of licensing of the conviction.

8       (c) The court may impose conditions of probation that may include  
9 nonrepetition, alcohol or drug treatment, supervised probation, or  
10 other conditions that may be appropriate. The convicted person shall,  
11 in addition, be required to complete a course in an alcohol information  
12 school approved by the department of social and health services or more  
13 intensive treatment in a program approved by the department of social  
14 and health services, as determined by the court. A diagnostic  
15 evaluation and treatment recommendation shall be prepared under the  
16 direction of the court by an alcoholism agency approved by the  
17 department of social and health services or a qualified probation  
18 department approved by the department of social and health services.  
19 A copy of the report shall be forwarded to the department of licensing.  
20 Based on the diagnostic evaluation, the court shall determine whether  
21 the convicted person shall be required to complete a course in an  
22 alcohol information school approved by the department of social and  
23 health services or more intensive treatment in a program approved by  
24 the department of social and health services. Standards for approval  
25 for alcohol treatment programs shall be prescribed by rule under the  
26 administrative procedure act, chapter 34.05 RCW. The courts shall  
27 periodically review the costs of alcohol information schools and  
28 treatment programs within their jurisdictions.

29       (d) The court may suspend any portion of a fine imposed and shall  
30 suspend the thirty-day suspension of driving privileges on condition  
31 that the convicted person successfully complete alcohol information  
32 school and any more intensive treatment program required by the court.  
33 If the convicted person fails to successfully complete the school or  
34 program, the court shall immediately impose any suspended fine and  
35 notify the department of the failure. Upon receipt of the notice, the  
36 department shall suspend the person's privilege to drive for thirty  
37 days.

38       (3) A person who operates a motor vehicle in a negligent manner not  
39 amounting to negligent driving in the first degree is guilty of

1 negligent driving in the second degree. Negligent driving in the  
2 second degree is a lesser offense than, but included in, the offense of  
3 operating a vehicle in a reckless manner, and any person charged with  
4 operating a vehicle in a reckless manner may be convicted of the lesser  
5 offense of (~~operating a vehicle in a~~) negligent (~~manner~~) driving in  
6 the second degree. Any person violating (~~the provisions of~~) this  
7 (~~section will be~~) subsection is guilty of a misdemeanor: PROVIDED,  
8 That the director may not revoke any license under this (~~section~~)  
9 subsection, and such offense is not punishable by imprisonment or by a  
10 fine exceeding two hundred fifty dollars.

11 **Sec. 2.** RCW 46.61.515 and 1985 c 352 s 1 are each amended to read  
12 as follows:

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

1 course in an alcohol information school approved by the department of  
2 social and health services or more intensive treatment in a program  
3 approved by the department of social and health services. Standards  
4 for approval for alcohol treatment programs shall be prescribed by rule  
5 under the administrative procedure act, chapter 34.05 RCW. The courts  
6 shall periodically review the costs of alcohol information schools and  
7 treatment programs within their jurisdictions.

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

35 In addition to any nonsuspendable and nondeferrable jail sentence  
36 required by this subsection, the court shall sentence a person to a  
37 term of imprisonment not exceeding one hundred eighty days and shall  
38 suspend but shall not defer the sentence for a period not exceeding two  
39 years. The suspension of the sentence may be conditioned upon

1 nonrepetition, alcohol or drug treatment, supervised probation, or  
2 other conditions that may be appropriate. The sentence may be imposed  
3 in whole or in part upon violation of a condition of suspension during  
4 the suspension period.

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

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

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

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

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

35 (5) For purposes of determining punishment under subsection (2) or  
36 (3) of this section, a prior conviction for negligent driving in the  
37 first degree shall be treated the same as a prior conviction for  
38 driving or being in physical control of a motor vehicle while under the  
39 influence of intoxicating liquor or drugs.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 46.61 RCW  
2 to read as follows:

3        (1) If a person is charged with a violation of RCW 46.61.500  
4 through 46.61.540 and is convicted of any amended or reduced offense,  
5 the clerk of the court in which the conviction occurred shall  
6 immediately notify the department of licensing of the conviction, the  
7 initial charge, and the results of any analysis of the concentration of  
8 alcohol in the person's blood or breath at the time of the events  
9 resulting in the initial charge.

10       (2) The department of licensing shall enter the information  
11 received under subsection (1) of this section into the person's driving  
12 record.

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