
HOUSE BILL 2506

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Klippert, Fey, Haler, Hayes, and Morrell

Read first time 01/20/14. Referred to Committee on Public Safety.

1 AN ACT Relating to making felony driving under the influence of
2 intoxicating liquor, marijuana, or any drug a class B felony; amending
3 RCW 46.61.502; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.61.502 and 2013 c 3 s 33 (Initiative Measure No.
6 502) are each amended to read as follows:

7 (1) A person is guilty of driving while under the influence of
8 intoxicating liquor, marijuana, or any drug if the person drives a
9 vehicle within this state:

10 (a) And the person has, within two hours after driving, an alcohol
11 concentration of 0.08 or higher as shown by analysis of the person's
12 breath or blood made under RCW 46.61.506; or

13 (b) The person has, within two hours after driving, a THC
14 concentration of 5.00 or higher as shown by analysis of the person's
15 blood made under RCW 46.61.506; or

16 (c) While the person is under the influence of or affected by
17 intoxicating liquor, marijuana, or any drug; or

18 (d) While the person is under the combined influence of or affected
19 by intoxicating liquor, marijuana, and any drug.

1 (2) The fact that a person charged with a violation of this section
2 is or has been entitled to use a drug under the laws of this state
3 shall not constitute a defense against a charge of violating this
4 section.

5 (3)(a) It is an affirmative defense to a violation of subsection
6 (1)(a) of this section, which the defendant must prove by a
7 preponderance of the evidence, that the defendant consumed a sufficient
8 quantity of alcohol after the time of driving and before the
9 administration of an analysis of the person's breath or blood to cause
10 the defendant's alcohol concentration to be 0.08 or more within two
11 hours after driving. The court shall not admit evidence of this
12 defense unless the defendant notifies the prosecution prior to the
13 omnibus or pretrial hearing in the case of the defendant's intent to
14 assert the affirmative defense.

15 (b) It is an affirmative defense to a violation of subsection
16 (1)(b) of this section, which the defendant must prove by a
17 preponderance of the evidence, that the defendant consumed a sufficient
18 quantity of marijuana after the time of driving and before the
19 administration of an analysis of the person's blood to cause the
20 defendant's THC concentration to be 5.00 or more within two hours after
21 driving. The court shall not admit evidence of this defense unless the
22 defendant notifies the prosecution prior to the omnibus or pretrial
23 hearing in the case of the defendant's intent to assert the affirmative
24 defense.

25 (4)(a) Analyses of blood or breath samples obtained more than two
26 hours after the alleged driving may be used as evidence that within two
27 hours of the alleged driving, a person had an alcohol concentration of
28 0.08 or more in violation of subsection (1)(a) of this section, and in
29 any case in which the analysis shows an alcohol concentration above
30 0.00 may be used as evidence that a person was under the influence of
31 or affected by intoxicating liquor or any drug in violation of
32 subsection (1)(c) or (d) of this section.

33 (b) Analyses of blood samples obtained more than two hours after
34 the alleged driving may be used as evidence that within two hours of
35 the alleged driving, a person had a THC concentration of 5.00 or more
36 in violation of subsection (1)(b) of this section, and in any case in
37 which the analysis shows a THC concentration above 0.00 may be used as

1 evidence that a person was under the influence of or affected by
2 marijuana in violation of subsection (1)(c) or (d) of this section.

3 (5) Except as provided in subsection (6) of this section, a
4 violation of this section is a gross misdemeanor.

5 (6) It is a class ((E)) B felony punishable under chapter 9.94A
6 RCW, or chapter 13.40 RCW if the person is a juvenile, if:

7 (a) The person has four or more prior offenses within ten years as
8 defined in RCW 46.61.5055; or

9 (b) The person has ever previously been convicted of:

10 (i) Vehicular homicide while under the influence of intoxicating
11 liquor or any drug, RCW 46.61.520(1)(a);

12 (ii) Vehicular assault while under the influence of intoxicating
13 liquor or any drug, RCW 46.61.522(1)(b);

14 (iii) An out-of-state offense comparable to the offense specified
15 in (b)(i) or (ii) of this subsection; or

16 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

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