
HOUSE BILL 1591

State of Washington 65th Legislature 2017 Regular Session

By Representatives Klippert and Hayes

Read first time 01/24/17. Referred to Committee on Public Safety.

1 AN ACT Relating to increasing the punishment for vehicular
2 assault; amending RCW 46.61.522 and 9.94A.533; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 46.61.522 and 2001 c 300 s 1 are each amended to
6 read as follows:

7 (1) A person is guilty of vehicular assault if he or she operates
8 or drives any vehicle:

9 (a) In a reckless manner and causes substantial bodily harm to
10 another; or

11 (b) While under the influence of intoxicating liquor or any drug,
12 as defined by RCW 46.61.502, and causes substantial bodily harm to
13 another; or

14 (c) With disregard for the safety of others and causes
15 substantial bodily harm to another.

16 (2) Vehicular assault is a class B felony punishable under
17 chapter 9A.20 RCW, except that, for a conviction under subsection
18 (1)(b) of this section, an additional five years shall be added to
19 the sentence for each prior vehicular assault conviction pursuant to
20 subsection (1)(b) of this section or an out-of-state conviction that

1 would have been a conviction of subsection (1)(b) of this section if
2 committed in this state.

3 (3) As used in this section, "substantial bodily harm" has the
4 same meaning as in RCW 9A.04.110.

5 **Sec. 2.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to
6 read as follows:

7 (1) The provisions of this section apply to the standard sentence
8 ranges determined by RCW 9.94A.510 or 9.94A.517.

9 (2) For persons convicted of the anticipatory offenses of
10 criminal attempt, solicitation, or conspiracy under chapter 9A.28
11 RCW, the standard sentence range is determined by locating the
12 sentencing grid sentence range defined by the appropriate offender
13 score and the seriousness level of the completed crime, and
14 multiplying the range by seventy-five percent.

15 (3) The following additional times shall be added to the standard
16 sentence range for felony crimes committed after July 23, 1995, if
17 the offender or an accomplice was armed with a firearm as defined in
18 RCW 9.41.010 and the offender is being sentenced for one of the
19 crimes listed in this subsection as eligible for any firearm
20 enhancements based on the classification of the completed felony
21 crime. If the offender is being sentenced for more than one offense,
22 the firearm enhancement or enhancements must be added to the total
23 period of confinement for all offenses, regardless of which
24 underlying offense is subject to a firearm enhancement. If the
25 offender or an accomplice was armed with a firearm as defined in RCW
26 9.41.010 and the offender is being sentenced for an anticipatory
27 offense under chapter 9A.28 RCW to commit one of the crimes listed in
28 this subsection as eligible for any firearm enhancements, the
29 following additional times shall be added to the standard sentence
30 range determined under subsection (2) of this section based on the
31 felony crime of conviction as classified under RCW 9A.28.020:

32 (a) Five years for any felony defined under any law as a class A
33 felony or with a statutory maximum sentence of at least twenty years,
34 or both, and not covered under (f) of this subsection;

35 (b) Three years for any felony defined under any law as a class B
36 felony or with a statutory maximum sentence of ten years, or both,
37 and not covered under (f) of this subsection;

1 (c) Eighteen months for any felony defined under any law as a
2 class C felony or with a statutory maximum sentence of five years, or
3 both, and not covered under (f) of this subsection;

4 (d) If the offender is being sentenced for any firearm
5 enhancements under (a), (b), and/or (c) of this subsection and the
6 offender has previously been sentenced for any deadly weapon
7 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
8 subsection or subsection (4)(a), (b), and/or (c) of this section, or
9 both, all firearm enhancements under this subsection shall be twice
10 the amount of the enhancement listed;

11 (e) Notwithstanding any other provision of law, all firearm
12 enhancements under this section are mandatory, shall be served in
13 total confinement, and shall run consecutively to all other
14 sentencing provisions, including other firearm or deadly weapon
15 enhancements, for all offenses sentenced under this chapter. However,
16 whether or not a mandatory minimum term has expired, an offender
17 serving a sentence under this subsection may be:

18 (i) Granted an extraordinary medical placement when authorized
19 under RCW 9.94A.728(1)(c); or

20 (ii) Released under the provisions of RCW 9.94A.730;

21 (f) The firearm enhancements in this section shall apply to all
22 felony crimes except the following: Possession of a machine gun,
23 possessing a stolen firearm, drive-by shooting, theft of a firearm,
24 unlawful possession of a firearm in the first and second degree, and
25 use of a machine gun in a felony;

26 (g) If the standard sentence range under this section exceeds the
27 statutory maximum sentence for the offense, the statutory maximum
28 sentence shall be the presumptive sentence unless the offender is a
29 persistent offender. If the addition of a firearm enhancement
30 increases the sentence so that it would exceed the statutory maximum
31 for the offense, the portion of the sentence representing the
32 enhancement may not be reduced.

33 (4) The following additional times shall be added to the standard
34 sentence range for felony crimes committed after July 23, 1995, if
35 the offender or an accomplice was armed with a deadly weapon other
36 than a firearm as defined in RCW 9.41.010 and the offender is being
37 sentenced for one of the crimes listed in this subsection as eligible
38 for any deadly weapon enhancements based on the classification of the
39 completed felony crime. If the offender is being sentenced for more
40 than one offense, the deadly weapon enhancement or enhancements must

1 be added to the total period of confinement for all offenses,
2 regardless of which underlying offense is subject to a deadly weapon
3 enhancement. If the offender or an accomplice was armed with a deadly
4 weapon other than a firearm as defined in RCW 9.41.010 and the
5 offender is being sentenced for an anticipatory offense under chapter
6 9A.28 RCW to commit one of the crimes listed in this subsection as
7 eligible for any deadly weapon enhancements, the following additional
8 times shall be added to the standard sentence range determined under
9 subsection (2) of this section based on the felony crime of
10 conviction as classified under RCW 9A.28.020:

11 (a) Two years for any felony defined under any law as a class A
12 felony or with a statutory maximum sentence of at least twenty years,
13 or both, and not covered under (f) of this subsection;

14 (b) One year for any felony defined under any law as a class B
15 felony or with a statutory maximum sentence of ten years, or both,
16 and not covered under (f) of this subsection;

17 (c) Six months for any felony defined under any law as a class C
18 felony or with a statutory maximum sentence of five years, or both,
19 and not covered under (f) of this subsection;

20 (d) If the offender is being sentenced under (a), (b), and/or (c)
21 of this subsection for any deadly weapon enhancements and the
22 offender has previously been sentenced for any deadly weapon
23 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
24 subsection or subsection (3)(a), (b), and/or (c) of this section, or
25 both, all deadly weapon enhancements under this subsection shall be
26 twice the amount of the enhancement listed;

27 (e) Notwithstanding any other provision of law, all deadly weapon
28 enhancements under this section are mandatory, shall be served in
29 total confinement, and shall run consecutively to all other
30 sentencing provisions, including other firearm or deadly weapon
31 enhancements, for all offenses sentenced under this chapter. However,
32 whether or not a mandatory minimum term has expired, an offender
33 serving a sentence under this subsection may be:

34 (i) Granted an extraordinary medical placement when authorized
35 under RCW 9.94A.728(1)(c); or

36 (ii) Released under the provisions of RCW 9.94A.730;

37 (f) The deadly weapon enhancements in this section shall apply to
38 all felony crimes except the following: Possession of a machine gun,
39 possessing a stolen firearm, drive-by shooting, theft of a firearm,

1 unlawful possession of a firearm in the first and second degree, and
2 use of a machine gun in a felony;

3 (g) If the standard sentence range under this section exceeds the
4 statutory maximum sentence for the offense, the statutory maximum
5 sentence shall be the presumptive sentence unless the offender is a
6 persistent offender. If the addition of a deadly weapon enhancement
7 increases the sentence so that it would exceed the statutory maximum
8 for the offense, the portion of the sentence representing the
9 enhancement may not be reduced.

10 (5) The following additional times shall be added to the standard
11 sentence range if the offender or an accomplice committed the offense
12 while in a county jail or state correctional facility and the
13 offender is being sentenced for one of the crimes listed in this
14 subsection. If the offender or an accomplice committed one of the
15 crimes listed in this subsection while in a county jail or state
16 correctional facility, and the offender is being sentenced for an
17 anticipatory offense under chapter 9A.28 RCW to commit one of the
18 crimes listed in this subsection, the following additional times
19 shall be added to the standard sentence range determined under
20 subsection (2) of this section:

21 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
22 (a) or (b) or 69.50.410;

23 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
24 (c), (d), or (e);

25 (c) Twelve months for offenses committed under RCW 69.50.4013.

26 For the purposes of this subsection, all of the real property of
27 a state correctional facility or county jail shall be deemed to be
28 part of that facility or county jail.

29 (6) An additional twenty-four months shall be added to the
30 standard sentence range for any ranked offense involving a violation
31 of chapter 69.50 RCW if the offense was also a violation of RCW
32 69.50.435 or 9.94A.827. All enhancements under this subsection shall
33 run consecutively to all other sentencing provisions, for all
34 offenses sentenced under this chapter.

35 (7) An additional:

36 (a) Two years shall be added to the standard sentence range for
37 vehicular homicide committed while under the influence of
38 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
39 prior offense as defined in RCW 46.61.5055; and

1 (b) Five years shall be added to the standard sentence range for
2 vehicular assault committed while under the influence of intoxicating
3 liquor or any drug as defined in RCW 46.61.502 for each prior
4 vehicular assault conviction pursuant to RCW 46.61.522(1)(b) or an
5 out-of-state conviction that would have been a conviction of RCW
6 46.61.522(1)(b) if committed in this state.

7 Notwithstanding any other provision of law, all impaired driving
8 enhancements under this subsection are mandatory, shall be served in
9 total confinement, and shall run consecutively to all other
10 sentencing provisions, including other impaired driving enhancements,
11 for all offenses sentenced under this chapter.

12 An offender serving a sentence under this subsection may be
13 granted an extraordinary medical placement when authorized under RCW
14 9.94A.728(1)(c).

15 (8)(a) The following additional times shall be added to the
16 standard sentence range for felony crimes committed on or after July
17 1, 2006, if the offense was committed with sexual motivation, as that
18 term is defined in RCW 9.94A.030. If the offender is being sentenced
19 for more than one offense, the sexual motivation enhancement must be
20 added to the total period of total confinement for all offenses,
21 regardless of which underlying offense is subject to a sexual
22 motivation enhancement. If the offender committed the offense with
23 sexual motivation and the offender is being sentenced for an
24 anticipatory offense under chapter 9A.28 RCW, the following
25 additional times shall be added to the standard sentence range
26 determined under subsection (2) of this section based on the felony
27 crime of conviction as classified under RCW 9A.28.020:

28 (i) Two years for any felony defined under the law as a class A
29 felony or with a statutory maximum sentence of at least twenty years,
30 or both;

31 (ii) Eighteen months for any felony defined under any law as a
32 class B felony or with a statutory maximum sentence of ten years, or
33 both;

34 (iii) One year for any felony defined under any law as a class C
35 felony or with a statutory maximum sentence of five years, or both;

36 (iv) If the offender is being sentenced for any sexual motivation
37 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
38 the offender has previously been sentenced for any sexual motivation
39 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or

1 (iii) of this subsection, all sexual motivation enhancements under
2 this subsection shall be twice the amount of the enhancement listed;

3 (b) Notwithstanding any other provision of law, all sexual
4 motivation enhancements under this subsection are mandatory, shall be
5 served in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other sexual motivation
7 enhancements, for all offenses sentenced under this chapter. However,
8 whether or not a mandatory minimum term has expired, an offender
9 serving a sentence under this subsection may be:

10 (i) Granted an extraordinary medical placement when authorized
11 under RCW 9.94A.728(1)(c); or

12 (ii) Released under the provisions of RCW 9.94A.730;

13 (c) The sexual motivation enhancements in this subsection apply
14 to all felony crimes;

15 (d) If the standard sentence range under this subsection exceeds
16 the statutory maximum sentence for the offense, the statutory maximum
17 sentence shall be the presumptive sentence unless the offender is a
18 persistent offender. If the addition of a sexual motivation
19 enhancement increases the sentence so that it would exceed the
20 statutory maximum for the offense, the portion of the sentence
21 representing the enhancement may not be reduced;

22 (e) The portion of the total confinement sentence which the
23 offender must serve under this subsection shall be calculated before
24 any earned early release time is credited to the offender;

25 (f) Nothing in this subsection prevents a sentencing court from
26 imposing a sentence outside the standard sentence range pursuant to
27 RCW 9.94A.535.

28 (9) An additional one-year enhancement shall be added to the
29 standard sentence range for the felony crimes of RCW 9A.44.073,
30 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
31 or after July 22, 2007, if the offender engaged, agreed, or offered
32 to engage the victim in the sexual conduct in return for a fee. If
33 the offender is being sentenced for more than one offense, the
34 one-year enhancement must be added to the total period of total
35 confinement for all offenses, regardless of which underlying offense
36 is subject to the enhancement. If the offender is being sentenced for
37 an anticipatory offense for the felony crimes of RCW 9A.44.073,
38 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
39 offender attempted, solicited another, or conspired to engage, agree,
40 or offer to engage the victim in the sexual conduct in return for a

1 fee, an additional one-year enhancement shall be added to the
2 standard sentence range determined under subsection (2) of this
3 section. For purposes of this subsection, "sexual conduct" means
4 sexual intercourse or sexual contact, both as defined in chapter
5 9A.44 RCW.

6 (10)(a) For a person age eighteen or older convicted of any
7 criminal street gang-related felony offense for which the person
8 compensated, threatened, or solicited a minor in order to involve the
9 minor in the commission of the felony offense, the standard sentence
10 range is determined by locating the sentencing grid sentence range
11 defined by the appropriate offender score and the seriousness level
12 of the completed crime, and multiplying the range by one hundred
13 twenty-five percent. If the standard sentence range under this
14 subsection exceeds the statutory maximum sentence for the offense,
15 the statutory maximum sentence is the presumptive sentence unless the
16 offender is a persistent offender.

17 (b) This subsection does not apply to any criminal street gang-
18 related felony offense for which involving a minor in the commission
19 of the felony offense is an element of the offense.

20 (c) The increased penalty specified in (a) of this subsection is
21 unavailable in the event that the prosecution gives notice that it
22 will seek an exceptional sentence based on an aggravating factor
23 under RCW 9.94A.535.

24 (11) An additional twelve months and one day shall be added to
25 the standard sentence range for a conviction of attempting to elude a
26 police vehicle as defined by RCW 46.61.024, if the conviction
27 included a finding by special allegation of endangering one or more
28 persons under RCW 9.94A.834.

29 (12) An additional twelve months shall be added to the standard
30 sentence range for an offense that is also a violation of RCW
31 9.94A.831.

32 (13) An additional twelve months shall be added to the standard
33 sentence range for vehicular homicide committed while under the
34 influence of intoxicating liquor or any drug as defined by RCW
35 46.61.520 or for vehicular assault committed while under the
36 influence of intoxicating liquor or any drug as defined by RCW
37 46.61.522, or for any felony driving under the influence (RCW
38 46.61.502(6)) or felony physical control under the influence (RCW
39 46.61.504(6)) for each child passenger under the age of sixteen who
40 is an occupant in the defendant's vehicle. These enhancements shall

1 be mandatory, shall be served in total confinement, and shall run
2 consecutively to all other sentencing provisions. If the addition of
3 a minor child enhancement increases the sentence so that it would
4 exceed the statutory maximum for the offense, the portion of the
5 sentence representing the enhancement may not be reduced.

6 (14) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.832.

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