
HOUSE BILL 1141

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Riley, King, Romero, Campbell, Brough, Kessler, Long, Basich, R. Meyers, Karahalios, Silver and Locke

Read first time 01/18/93. Referred to Committee on Judiciary.

1 AN ACT Relating to driving under the influence of intoxicating
2 liquor or drugs; and amending RCW 46.61.515 and 46.61.5151.

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

4 **Sec. 1.** RCW 46.61.515 and 1985 c 352 s 1 are each amended to read
5 as follows:

6 (1) Every person who is convicted of a violation of RCW 46.61.502
7 or 46.61.504 shall be punished by imprisonment for not less than
8 (~~twenty-four~~) seventy-two consecutive hours nor more than one year,
9 and by a fine of not less than two hundred fifty dollars and not more
10 than one thousand dollars, except that it is within the discretion of
11 the judge to order not less than forty hours of community service as a
12 substitute for the minimum period of imprisonment. Unless the judge
13 finds the person to be indigent, two hundred fifty dollars of the fine
14 shall not be suspended or deferred. (~~Twenty-four~~) seventy-two
15 consecutive hours of the jail sentence or forty hours of community
16 service shall not be suspended or deferred unless the judge finds that
17 the imposition of the (~~jail~~) sentence will pose a risk to the
18 defendant's physical or mental well-being. Whenever the mandatory
19 (~~jail~~) sentence is suspended or deferred, the judge must state, in

1 writing, the reason for granting the suspension or deferral and the
2 facts upon which the suspension or deferral is based. The court may
3 impose conditions of probation that may include nonrepetition, alcohol
4 or drug treatment, supervised probation, or other conditions that may
5 be appropriate. The convicted person shall, in addition, be required
6 to complete a course in an alcohol information school approved by the
7 department of social and health services or more intensive treatment in
8 a program approved by the department of social and health services, as
9 determined by the court. A diagnostic evaluation and treatment
10 recommendation shall be prepared under the direction of the court by an
11 alcoholism agency approved by the department of social and health
12 services or a qualified probation department approved by the department
13 of social and health services. A copy of the report shall be forwarded
14 to the department of licensing. Based on the diagnostic evaluation,
15 the court shall determine whether the convicted person shall be
16 required to complete a course in an alcohol information school approved
17 by the department of social and health services or more intensive
18 treatment in a program approved by the department of social and health
19 services. Standards for approval for alcohol treatment programs shall
20 be prescribed by rule under the administrative procedure act, chapter
21 34.05 RCW. The courts shall periodically review the costs of alcohol
22 information schools and treatment programs within their jurisdictions.

23 (2) On a second or subsequent conviction for driving or being in
24 physical control of a motor vehicle while under the influence of
25 intoxicating liquor or drugs within a five-year period a person shall
26 be punished by imprisonment for not less than (~~seven~~) thirty days nor
27 more than one year and by a fine of not less than five hundred dollars
28 and not more than two thousand dollars. District courts and courts
29 organized under chapter 35.20 RCW are authorized to impose such fine.
30 Unless the judge finds the person to be indigent, five hundred dollars
31 of the fine shall not be suspended or deferred. The jail sentence
32 shall not be suspended or deferred unless the judge finds that the
33 imposition of the jail sentence will pose a risk to the defendant's
34 physical or mental well-being. Whenever the mandatory jail sentence is
35 suspended or deferred, the judge must state, in writing, the reason for
36 granting the suspension or deferral and the facts upon which the
37 suspension or deferral is based. If, at the time of a second or
38 subsequent conviction, the driver is without a license or permit
39 because of a previous suspension or revocation, the minimum mandatory

1 sentence shall be ninety days in jail and a two hundred dollar fine.
2 The penalty so imposed shall not be suspended or deferred. The person
3 shall, in addition, be required to complete a diagnostic evaluation by
4 an alcoholism agency approved by the department of social and health
5 services or a qualified probation department approved by the department
6 of social and health services. The report shall be forwarded to the
7 department of licensing. If the person is found to have an alcohol or
8 drug problem requiring treatment, the person shall complete treatment
9 at an approved alcoholism treatment ((~~facility~~) program) or approved
10 drug treatment center.

11 In addition to any nonsuspendable and nondeferrable jail sentence
12 required by this subsection, the court shall sentence a person to a
13 term of imprisonment not exceeding one hundred eighty days and shall
14 suspend but shall not defer the sentence for a period not exceeding two
15 years. The suspension of the sentence may be conditioned upon
16 nonrepetition, alcohol or drug treatment, supervised probation, or
17 other conditions that may be appropriate. The sentence may be imposed
18 in whole or in part upon violation of a condition of suspension during
19 the suspension period.

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

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

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

38 (c) On a third or subsequent conviction of driving or being in
39 physical control of a motor vehicle while under the influence of

1 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,
2 or any combination thereof within a five-year period, be revoked by the
3 department for two years.

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

11 **Sec. 2.** RCW 46.61.5151 and 1983 c 165 s 33 are each amended to
12 read as follows:

13 A sentencing court may allow persons convicted of violating RCW
14 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in
15 RCW 46.61.515 (1) or (2) in nonconsecutive or intermittent time
16 periods. However, the first (~~twenty-four~~) seventy-two hours of any
17 jail sentence under RCW 46.61.515(1) and the first (~~forty-eight~~)
18 seventy-two hours of any jail sentence under RCW 46.61.515(2) shall be
19 served consecutively unless suspended or deferred as otherwise provided
20 by law.

--- END ---