
ENGROSSED HOUSE BILL 1471

State of Washington

60th Legislature

2007 Regular Session

By Representatives Kristiansen, O'Brien, Pettigrew, Haler, Pearson, Kretz, Lovick, Ericks, Sells, Rodne, Campbell, Moeller, Morrell, Goodman and Ross

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1 AN ACT Relating to prohibiting the use of voluntary intoxication as
2 a defense against a criminal charge; and amending RCW 9A.16.090 and
3 9A.08.010.

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

5 **Sec. 1.** RCW 9A.16.090 and 1975 1st ex.s. c 260 s 9A.16.090 are
6 each amended to read as follows:

7 (1) No act committed by a person while in a state of voluntary
8 intoxication shall be deemed less criminal by reason of ((his)) the
9 person's condition((, but whenever the actual existence of any
10 particular mental state is a necessary element to constitute a
11 particular species or degree of crime, the fact of his intoxication may
12 be taken into consideration in determining such mental state)).
13 Voluntary intoxication is not a defense to any criminal charge, nor may
14 the fact of voluntary intoxication be used by a defendant to
15 demonstrate the lack of any particular mental state that is an element
16 of a crime charged. Nothing in this section prohibits the prosecution
17 from introducing evidence of a defendant's intoxication.

18 (2) This section applies to voluntary intoxication produced by any
19 agent, including but not limited to alcohol or any drug.

1 (3)(a) For the purposes of this section, "voluntary intoxication"
2 does not include intoxication caused by a diagnosable disease if the
3 disease: (i) Results from the defendant's compulsive and chronic use
4 of alcohol or a drug; and (ii) caused the defendant to be incapable of
5 making a voluntary choice to ingest the alcohol or drug.

6 (b) The defendant must establish that his or her intoxication at
7 the time of the crime was caused by a diagnosable disease under (a) of
8 this subsection by objective, verifiable factors that include the
9 following:

10 (i) A persistent and uncontrollable desire for the alcohol or drug;
11 (ii) The inability to stop or limit the use of the alcohol or drug;
12 (iii) The need to increase the amount of the alcohol or drug used
13 in order to feel the effects of the alcohol or drug;

14 (iv) Continued and sustained use of the alcohol or drug despite
15 adverse or negative consequences, including causing serious harm or
16 injury to the property or person of the defendant or others while using
17 the alcohol or drug;

18 (v) Serious physiological, emotional, mental, or psychological
19 illness, disorder, or dysfunction; and

20 (vi) Ongoing treatment for alcohol or drug abuse by a physician or
21 in an approved treatment program under chapter 70.96A RCW.

22 (c) The court shall not admit evidence under this subsection (3)
23 unless the defendant notifies the prosecution prior to the omnibus or
24 pretrial hearing in the case that the defendant intends to offer such
25 evidence.

26 **Sec. 2.** RCW 9A.08.010 and 1975 1st ex.s. c 260 s 9A.08.010 are
27 each amended to read as follows:

28 (1) Kinds of Culpability Defined.

29 (a) INTENT. A person acts with intent or intentionally when
30 ((he)):

31 (i) The person acts with the objective or purpose to accomplish a
32 result which constitutes a crime; or

33 (ii) The person is voluntarily intoxicated and acts in a manner
34 that would be considered intentional if the person were not
35 intoxicated.

36 (b) KNOWLEDGE. A person knows or acts knowingly or with knowledge
37 when:

1 (i) ~~((he))~~ The person is aware of a fact, facts, or circumstances
2 or result described by a statute defining an offense; ~~((or))~~

3 (ii) ~~((he))~~ The person has information which would lead a
4 reasonable ~~((man))~~ person in the same situation to believe that facts
5 exist which facts are described by a statute defining an offense; or

6 (iii) The person is voluntarily intoxicated and acts in a manner
7 that would be considered knowing if the person were not intoxicated.

8 (c) RECKLESSNESS. A person is reckless or acts recklessly when
9 ~~((he))~~:

10 (i) The person knows of and disregards a substantial risk that a
11 wrongful act may occur and ~~((his))~~ the disregard of such substantial
12 risk is a gross deviation from conduct that a reasonable ~~((man))~~ person
13 would exercise in the same situation; or

14 (ii) The person is voluntarily intoxicated and acts in a manner
15 that would be considered reckless if the person were not intoxicated.

16 (d) CRIMINAL NEGLIGENCE. A person is criminally negligent or acts
17 with criminal negligence when ~~((he))~~ the person fails to be aware of a
18 substantial risk that a wrongful act may occur and ~~((his))~~ the failure
19 to be aware of such substantial risk constitutes a gross deviation from
20 the standard of care that a reasonable ~~((man))~~ person would exercise in
21 the same situation.

22 (2) Substitutes for Criminal Negligence, Recklessness, and
23 Knowledge. When a statute provides that criminal negligence suffices
24 to establish an element of an offense, such element also is established
25 if a person acts intentionally, knowingly, or recklessly. When
26 recklessness suffices to establish an element, such element also is
27 established if a person acts intentionally or knowingly. When acting
28 knowingly suffices to establish an element, such element also is
29 established if a person acts intentionally.

30 (3) Culpability as Determinant of Grade of Offense. When the grade
31 or degree of an offense depends on whether the offense is committed
32 intentionally, knowingly, recklessly, or with criminal negligence, its
33 grade or degree shall be the lowest for which the determinative kind of
34 culpability is established with respect to any material element of the
35 offense.

36 (4) Requirement of Willfulness Satisfied by Acting Knowingly. A
37 requirement that an offense be committed willfully is satisfied if a

1 person acts knowingly with respect to the material elements of the
2 offense, unless a purpose to impose further requirements plainly
3 appears.

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