
SUBSTITUTE HOUSE BILL 1183

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Ludwig, Wynne, Orr and Rasmussen).

Read first time February 22, 1991.

1 AN ACT Relating to driving violations; amending RCW 46.61.525 and
2 46.61.515; and prescribing penalties.

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

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

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

14 ~~((The offense of operating a vehicle in a negligent manner shall be~~
15 ~~considered to be))~~ (2)(a) A person who operates a motor vehicle in a

1 negligent manner and while having consumed intoxicating liquor or any
2 drug, but where the consumption is not sufficient to constitute a
3 violation of RCW 46.61.502, is guilty of negligent driving in the first
4 degree.

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

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

1 periodically review the costs of alcohol information schools and
2 treatment programs within their jurisdictions.

3 (d) The court may suspend any portion of a fine imposed and shall
4 suspend the thirty-day suspension of driving privileges on condition
5 that the convicted person successfully complete alcohol information
6 school and any more intensive treatment program required by the court.
7 If the convicted person fails to successfully complete the school or
8 program, the court shall immediately impose any suspended fine and
9 notify the department of the failure. Upon receipt of such notice, the
10 department shall suspend the person's privilege to drive for thirty
11 days.

12 (3) A person who operates a motor vehicle in a negligent manner not
13 amounting to negligent driving in the first degree is guilty of
14 negligent driving in the second degree. Negligent driving in the
15 second degree is a lesser offense than, but included in, the offense of
16 operating a vehicle in a reckless manner, and any person charged with
17 operating a vehicle in a reckless manner may be convicted of the lesser
18 offense of ((operating a vehicle in a)) negligent ((manner)) driving in
19 the second degree. Any person violating ((the provisions of)) this
20 ((section will be)) subsection is guilty of a misdemeanor: PROVIDED,
21 That the director may not revoke any license under this ((section))
22 subsection, and such offense is not punishable by imprisonment or by a
23 fine exceeding two hundred fifty dollars.

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

26 (1) Every person who is convicted of a violation of RCW 46.61.502
27 or 46.61.504 shall be punished by imprisonment for not less than
28 twenty-four consecutive hours nor more than one year, and by a fine of
29 not less than two hundred fifty dollars and not more than one thousand

1 dollars. Unless the judge finds the person to be indigent, two hundred
2 fifty dollars of the fine shall not be suspended or deferred. Twenty-
3 four consecutive hours of the jail sentence shall not be suspended or
4 deferred unless the judge finds that the imposition of the jail
5 sentence will pose a risk to the defendant's physical or mental well-
6 being. Whenever the mandatory jail sentence is suspended or deferred,
7 the judge must state, in writing, the reason for granting the
8 suspension or deferral and the facts upon which the suspension or
9 deferral is based. The court may impose conditions of probation that
10 may include nonrepetition, alcohol or drug treatment, supervised
11 probation, or other conditions that may be appropriate. The convicted
12 person shall, in addition, be required to complete a course in an
13 alcohol information school approved by the department of social and
14 health services or more intensive treatment in a program approved by
15 the department of social and health services, as determined by the
16 court. A diagnostic evaluation and treatment recommendation shall be
17 prepared under the direction of the court by an alcoholism agency
18 approved by the department of social and health services or a qualified
19 probation department approved by the department of social and health
20 services. A copy of the report shall be forwarded to the department of
21 licensing. Based on the diagnostic evaluation, the court shall
22 determine whether the convicted person shall be required to complete a
23 course in an alcohol information school approved by the department of
24 social and health services or more intensive treatment in a program
25 approved by the department of social and health services. Standards
26 for approval for alcohol treatment programs shall be prescribed by rule
27 under the administrative procedure act, chapter 34.05 RCW. The courts
28 shall periodically review the costs of alcohol information schools and
29 treatment programs within their jurisdictions.

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

28 In addition to any nonsuspendable and nondeferrable jail sentence
29 required by this subsection, the court shall sentence a person to a
30 term of imprisonment not exceeding one hundred eighty days and shall

1 suspend but shall not defer the sentence for a period not exceeding two
2 years. The suspension of the sentence may be conditioned upon
3 nonrepetition, alcohol or drug treatment, supervised probation, or
4 other conditions that may be appropriate. The sentence may be imposed
5 in whole or in part upon violation of a condition of suspension during
6 the suspension period.

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

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

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

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

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

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