

2 SHB 1128 - S COMM AMD

3 By Committee on Law & Justice

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 46.61.515 and 1985 c 352 s 1 are each amended to read
8 as follows:

9 (1) Every person who is convicted of a violation of RCW 46.61.502
10 or 46.61.504 shall be punished by imprisonment for not less than
11 twenty-four consecutive hours nor more than one year, and by a fine of
12 not less than two hundred fifty dollars and not more than one thousand
13 dollars. Unless the judge finds the person to be indigent, two hundred
14 fifty dollars of the fine shall not be suspended or deferred. Twenty-
15 four consecutive hours of the jail sentence shall not be suspended or
16 deferred unless the judge finds that the imposition of the jail
17 sentence will pose a risk to the defendant's physical or mental well-
18 being. Whenever the mandatory jail sentence is suspended or deferred,
19 the judge must state, in writing, the reason for granting the
20 suspension or deferral and the facts upon which the suspension or
21 deferral is based. The court may impose conditions of probation that
22 may include nonrepetition, alcohol or drug treatment, supervised
23 probation, or other conditions that may be appropriate. The convicted
24 person shall, in addition, be required to complete a course in an
25 alcohol information school approved by the department of social and
26 health services or more intensive treatment in a program approved by
27 the department of social and health services, as determined by the
28 court. A diagnostic evaluation and treatment recommendation shall be
29 prepared under the direction of the court by an alcoholism agency
30 approved by the department of social and health services or a qualified
31 probation department approved by the department of social and health
32 services. A copy of the report shall be forwarded to the department of
33 licensing. Based on the diagnostic evaluation, the court shall
34 determine whether the convicted person shall be required to complete a
35 course in an alcohol information school approved by the department of
36 social and health services or more intensive treatment in a program

1 approved by the department of social and health services. Standards
2 for approval for alcohol treatment programs shall be prescribed by rule
3 under the administrative procedure act, chapter 34.05 RCW. The courts
4 shall periodically review the costs of alcohol information schools and
5 treatment programs within their jurisdictions.

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

33 In addition to any nonsuspendable and nondeferrable jail sentence
34 required by this subsection, the court shall sentence a person to a
35 term of imprisonment not exceeding one hundred eighty days and shall
36 suspend but shall not defer the sentence for a period not exceeding two
37 years. The suspension of the sentence may be conditioned upon
38 nonrepetition, alcohol or drug treatment, supervised probation, or
39 other conditions that may be appropriate. The sentence may be imposed

1 in whole or in part upon violation of a condition of suspension during
2 the suspension period.

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

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

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

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

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

33 (5)(a) In addition to penalties set forth in this section, a one
34 hundred twenty-five dollar fee shall be assessed to a person who is
35 either convicted, sentenced to a lesser charge, or given deferred
36 prosecution, as a result of an arrest for violating RCW 46.61.502,
37 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of
38 funding the Washington state toxicology laboratory and the Washington
39 state patrol breath test program.

1 (b) Upon a verified petition by the person assessed the fee, the
2 court may suspend payment of all or part of the fee if it finds that
3 the person does not have the ability to pay.

4 (c) When a minor has been adjudicated a juvenile offender for an
5 offense which, if committed by an adult, would constitute a violation
6 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall
7 assess the one hundred twenty-five dollar fee under (a) of this
8 subsection. Upon a verified petition by a minor assessed the fee, the
9 court may suspend payment of all or part of the fee if it finds that
10 the minor does not have the ability to pay the fee.

11 (6) The fee assessed under subsection (5) of this section shall be
12 collected by the clerk of the court and distributed as follows:

13 (a) Forty percent shall be subject to distribution under RCW
14 43.08.250.

15 (b) If the case involves a blood test by the state toxicology
16 laboratory, the remainder of the fee shall be forwarded to the state
17 treasurer for deposit in the death investigations account to be used
18 solely for funding the state toxicology laboratory blood testing
19 program.

20 (c) Otherwise, the remainder of the fee shall be forwarded to the
21 state treasurer for deposit in the state patrol highway account to be
22 used solely for funding the Washington state patrol breath test
23 program.

24 NEW SECTION. Sec. 2. The Washington state patrol in conjunction
25 with the traffic safety commission shall use a small percentage of the
26 revenues generated under the 1993 amendments to RCW 46.61.515 contained
27 in section 1, chapter ..., Laws of 1993 (section 1 of this act), to
28 perform a study to determine a mechanism for evaluating the best
29 practice for increasing the conviction rate for persons driving under
30 the influence of alcohol or drugs. The study must be completed and a
31 report made to the appropriate committees of the legislature by June
32 30, 1995.

33 NEW SECTION. Sec. 3. The 1993 amendments to section 1 of this act
34 expire June 30, 1995.

35 NEW SECTION. Sec. 4. This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1993."

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6 On page 1, line 2 of the title, after "testing;" strike the
7 remainder of the title and insert "amending RCW 46.61.515; creating a
8 new section; prescribing penalties; providing an effective date;
9 providing an expiration date; and declaring an emergency."

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