

HOUSE BILL REPORT

SHB 1051

As Amended by the Senate

Title: An act relating to emergency management.

Brief Description: Providing for restitution for certain emergency responses.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Scott, Van Luven, Talcott, Riley, Foreman, Long, Orr, Brough, Forner, Miller, Lemmon, Johanson, Tate, Vance, Wood, Cooke and Roland.)

Brief History:

Reported by House Committee on:
Judiciary, January 29, 1993, DPS;
Passed House, February 12, 1993, 95-0;
Amended by Senate.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: When a person damages public property, he or she is generally subject to normal tort liability for the damage caused. That is, the person will be liable if he or she violated some duty of care and as a result caused the damage. Public entities may sue and be sued in the same manner as private entities.

In a certain number of cases, specific statutes also allow governmental entities to recover the costs of supplying governmental services. For instance, a statute (RCW 52.12.130) authorizes a fire protection district to collect reasonable fees for providing emergency medical services. Another statute (RCW 36.01.095) allows counties to recover reasonable fees for those same services if the county provides them.

At least one state, California, has granted statutory authority for government to recover the cost of emergency responses to incidents caused by drunk drivers. Several local jurisdictions in that state have adopted procedures for billing persons charged with DWI. Recoverable costs under this system include the salary paid to the arresting officer for the time spent on the response, the cost of any laboratory tests, and costs of operating any emergency vehicle. Failure to pay these costs can result in revocation of any probation granted the driver.

Summary of Bill: A state or local agency that makes an emergency response to an incident caused by a drunk driver, boater or pilot, may recover some of the costs of that response. The person causing the incident is liable for up to \$1,000 per incident. The person becomes liable to a responding agency upon his or her conviction or prosecution deferral for a crime arising out of the incident.

Recoverable expenses are defined as reasonable direct costs incurred in reasonably making an appropriate response. The definition specifically includes expenses and salaries of police, coroner, fire fighting, rescue, emergency medical services and utility personnel who respond to the incident.

In the event that more than one agency responds, and the actual costs exceed the amount recoverable, the agencies are to enter into an interlocal agreement for the apportionment of the recovered amount.

Payment of the costs of an emergency response may be made a condition of probation as part of a criminal sentence.

A defendant's testimony during an emergency response liability proceeding is not admissible in a criminal proceeding.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment makes two changes to the bill. First, the prohibition against the use of civil liability testimony in criminal prosecutions is removed. Second, the Sentencing Reform Act is amended to give explicit authorization for ordering emergency response restitution as part of the sentence in a felony case of vehicular assault or vehicular homicide.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will help society recoup some of the costs imposed on it by irresponsible drunk drivers.

Testimony Against: None.

Witnesses: Mike Redman, Washington Association of Prosecuting Attorneys (pro).

VOTE ON FINAL PASSAGE:

Yeas 95; Excused 3

Excused: Representatives Appelwick, Dorn, Fuhrman