
SUBSTITUTE HOUSE BILL 1051

State of Washington

53rd Legislature

1993 Regular Session

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)

Read first time 02/1/93.

1 AN ACT Relating to emergency management; amending RCW 9.95.210 and
2 38.52.010; adding a new section to chapter 38.52 RCW; and creating a
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a public agency
6 incurs expenses in an emergency response. It is the intent of the
7 legislature to allow a public agency to recover the expenses of an
8 emergency response to an incident involving persons who operate a motor
9 vehicle, boat or vessel, or a civil aircraft while under the influence
10 of an alcoholic beverage or a drug, or the combined influence of an
11 alcoholic beverage and a drug. It is the intent of the legislature
12 that the recovery of expenses of an emergency response under this act
13 shall supplement and shall not supplant other provisions of law
14 relating to the recovery of those expenses.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW
16 to read as follows:

17 A person whose intoxication causes an incident resulting in an
18 appropriate emergency response, and who, in connection with the

1 incident, has been found guilty of or has had their prosecution
2 deferred for (1) driving while under the influence of intoxicating
3 liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the
4 influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel
5 while under the influence of alcohol or drugs, RCW 88.12.100; (4)
6 vehicular homicide while under the influence of intoxicating liquor or
7 any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the
8 influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is
9 liable for the expense of an emergency response by a public agency to
10 the incident.

11 The expense of an emergency response is a charge against the person
12 liable for expenses under this section. The charge constitutes a debt
13 of that person and is collectible by the public agency incurring those
14 costs in the same manner as in the case of an obligation under a
15 contract, expressed or implied.

16 In no event shall a person's liability under this section for the
17 expense of an emergency response exceed one thousand dollars for a
18 particular incident.

19 If more than one public agency makes a claim for payment from an
20 individual for an emergency response to a single incident under the
21 provisions of this section, and the sum of the claims exceeds the
22 amount recovered, the division of the amount recovered shall be
23 determined by an interlocal agreement consistent with the requirements
24 of chapter 39.34 RCW.

25 A testimony, admission, or another statement made by the defendant
26 in a proceeding brought pursuant to this section, or evidence derived
27 from the testimony, admission, or other statement, may not be admitted
28 or otherwise used in a criminal proceeding arising out of the same
29 incident.

30 **Sec. 3.** RCW 9.95.210 and 1992 c 86 s 1 are each amended to read as
31 follows:

32 In granting probation, the court may suspend the imposition or the
33 execution of the sentence and may direct that the suspension may
34 continue upon such conditions and for such time as it shall designate,
35 not exceeding the maximum term of sentence or two years, whichever is
36 longer.

37 In the order granting probation and as a condition thereof, the
38 court may in its discretion imprison the defendant in the county jail

1 for a period not exceeding one year and may fine the defendant any sum
2 not exceeding the statutory limit for the offense committed, and court
3 costs. As a condition of probation, the court shall require the
4 payment of the penalty assessment required by RCW 7.68.035. The court
5 may also require the defendant to make such monetary payments, on such
6 terms as it deems appropriate under the circumstances, as are necessary
7 (1) to comply with any order of the court for the payment of family
8 support, (2) to make restitution to any person or persons who may have
9 suffered loss or damage by reason of the commission of the crime in
10 question or when the offender pleads guilty to a lesser offense or
11 fewer offenses and agrees with the prosecutor's recommendation that the
12 offender be required to pay restitution to a victim of an offense or
13 offenses which are not prosecuted pursuant to a plea agreement, (3) to
14 pay such fine as may be imposed and court costs, including
15 reimbursement of the state for costs of extradition if return to this
16 state by extradition was required, (4) following consideration of the
17 financial condition of the person subject to possible electronic
18 monitoring, to pay for the costs of electronic monitoring if that
19 monitoring was required by the court as a condition of release from
20 custody or as a condition of probation, ~~((and))~~ (5) to contribute to a
21 county or interlocal drug fund, and (6) to make restitution to a public
22 agency for the costs of an emergency response under section 2 of this
23 act, and may require bonds for the faithful observance of any and all
24 conditions imposed in the probation. The court shall order the
25 probationer to report to the secretary of corrections or such officer
26 as the secretary may designate and as a condition of the probation to
27 follow implicitly the instructions of the secretary. If the
28 probationer has been ordered to make restitution, the officer
29 supervising the probationer shall make a reasonable effort to ascertain
30 whether restitution has been made. If restitution has not been made as
31 ordered, the officer shall inform the prosecutor of that violation of
32 the terms of probation not less than three months prior to the
33 termination of the probation period. The secretary of corrections will
34 promulgate rules and regulations for the conduct of the person during
35 the term of probation. For defendants found guilty in district court,
36 like functions as the secretary performs in regard to probation may be
37 performed by probation officers employed for that purpose by the county
38 legislative authority of the county wherein the court is located.

1 **Sec. 4.** RCW 38.52.010 and 1986 c 266 s 23 are each amended to read
2 as follows:

3 As used in this chapter:

4 (1) "Emergency management" or "comprehensive emergency management"
5 means the preparation for and the carrying out of all emergency
6 functions, other than functions for which the military forces are
7 primarily responsible, to mitigate, prepare for, respond to, and
8 recover from emergencies and disasters, and to aid victims suffering
9 from injury or damage, resulting from disasters caused by all hazards,
10 whether natural or man-made, and to provide support for search and
11 rescue operations for persons and property in distress. However,
12 "emergency management" or "comprehensive emergency management" does not
13 mean preparation for emergency evacuation or relocation of residents in
14 anticipation of nuclear attack.

15 (2) "Local organization for emergency services or management" means
16 an organization created in accordance with the provisions of this
17 chapter by state or local authority to perform local emergency
18 management functions.

19 (3) "Political subdivision" means any county, city or town.

20 (4) "Emergency worker" means any person who is registered with a
21 local emergency management organization or the department of community
22 development and holds an identification card issued by the local
23 emergency management director or the department of community
24 development for the purpose of engaging in authorized emergency
25 management activities or is an employee of the state of Washington or
26 any political subdivision thereof who is called upon to perform
27 emergency management activities.

28 (5) "Injury" as used in this chapter shall mean and include
29 accidental injuries and/or occupational diseases arising out of
30 emergency management activities.

31 (6)(a) "Emergency or disaster" as used in all sections of this
32 chapter except section 2 of this act shall mean an event or set of
33 circumstances which: ~~((+a))~~ (i) Demands immediate action to preserve
34 public health, protect life, protect public property, or to provide
35 relief to any stricken community overtaken by such occurrences, or
36 ~~((+b))~~ (ii) reaches such a dimension or degree of destructiveness as
37 to warrant the governor declaring a state of emergency pursuant to RCW
38 43.06.010.

1 (b) "Emergency" as used in section 2 of this act means an incident
2 that requires a normal police, coroner, fire, rescue, emergency medical
3 services, or utility response as a result of a violation of one of the
4 statutes enumerated in section 2 of this act.

5 (7) "Search and rescue" means the acts of searching for, rescuing,
6 or recovering by means of ground, marine, or air activity any person
7 who becomes lost, injured, or is killed while outdoors or as a result
8 of a natural or man-made disaster, including instances involving
9 searches for downed aircraft when ground personnel are used. Nothing
10 in this section shall affect appropriate activity by the department of
11 transportation under chapter 47.68 RCW.

12 (8) "Executive head" and "executive heads" means the county
13 executive in those charter counties with an elective office of county
14 executive, however designated, and, in the case of other counties, the
15 county legislative authority. In the case of cities and towns, it
16 means the mayor.

17 (9) "Director" means the director of community development.

18 (10) "Local director" means the director of a local organization of
19 emergency management or emergency services.

20 (11) "Department" means the department of community development.

21 (12) "Emergency response" as used in section 2 of this act means a
22 public agency's use of emergency services during an emergency or
23 disaster as defined in subsection (6)(b) of this section.

24 (13) "Expense of an emergency response" as used in section 2 of
25 this act means reasonable costs incurred by a public agency in
26 reasonably making an appropriate emergency response to the incident,
27 but shall only include those costs directly arising from the response
28 to the particular incident. Reasonable costs shall include the costs
29 of providing police, coroner, fire fighting, rescue, emergency medical
30 services, or utility response at the scene of the incident, as well as
31 the salaries of the personnel responding to the incident.

32 (14) "Public agency" means the state, and a city, county, municipal
33 corporation, district, or public authority located, in whole or in
34 part, within this state which provides or may provide fire fighting,
35 police, ambulance, medical, or other emergency services.

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