
HOUSE BILL 1128

State of Washington

53rd Legislature

1993 Regular Session

By Representatives G. Fisher, Holm, Silver, Vance, Edmondson, Heavey, Foreman, Ballard, Brough, Long, Miller and Brumsickle; by request of Washington State Patrol

Read first time 01/15/93. Referred to Committee on Revenue.

1 AN ACT Relating to fees to fund blood and breath alcohol content
2 testing; amending RCW 46.61.515; and prescribing penalties.

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

4 **Sec. 1.** RCW 46.61.515 and 1985 c 352 s 1 are each amended to read
5 as follows:

6 (1) Every person who is convicted of a violation of RCW 46.61.502
7 or 46.61.504 shall be punished by imprisonment for not less than
8 twenty-four consecutive hours nor more than one year, and by a fine of
9 not less than two hundred fifty dollars and not more than one thousand
10 dollars. Unless the judge finds the person to be indigent, two hundred
11 fifty dollars of the fine shall not be suspended or deferred. Twenty-
12 four consecutive hours of the jail sentence shall not be suspended or
13 deferred unless the judge finds that the imposition of the jail
14 sentence will pose a risk to the defendant's physical or mental well-
15 being. Whenever the mandatory jail sentence is suspended or deferred,
16 the judge must state, in writing, the reason for granting the
17 suspension or deferral and the facts upon which the suspension or
18 deferral is based. The court may impose conditions of probation that
19 may include nonrepetition, alcohol or drug treatment, supervised

1 probation, or other conditions that may be appropriate. The convicted
2 person shall, in addition, be required to complete a course in an
3 alcohol information school approved by the department of social and
4 health services or more intensive treatment in a program approved by
5 the department of social and health services, as determined by the
6 court. A diagnostic evaluation and treatment recommendation shall be
7 prepared under the direction of the court by an alcoholism agency
8 approved by the department of social and health services or a qualified
9 probation department approved by the department of social and health
10 services. A copy of the report shall be forwarded to the department of
11 licensing. Based on the diagnostic evaluation, the court shall
12 determine whether the convicted person shall be required to complete a
13 course in an alcohol information school approved by the department of
14 social and health services or more intensive treatment in a program
15 approved by the department of social and health services. Standards
16 for approval for alcohol treatment programs shall be prescribed by rule
17 under the administrative procedure act, chapter 34.05 RCW. The courts
18 shall periodically review the costs of alcohol information schools and
19 treatment programs within their jurisdictions.

20 (2) On a second or subsequent conviction for driving or being in
21 physical control of a motor vehicle while under the influence of
22 intoxicating liquor or drugs within a five-year period a person shall
23 be punished by imprisonment for not less than seven days nor more than
24 one year and by a fine of not less than five hundred dollars and not
25 more than two thousand dollars. District courts and courts organized
26 under chapter 35.20 RCW are authorized to impose such fine. Unless the
27 judge finds the person to be indigent, five hundred dollars of the fine
28 shall not be suspended or deferred. The jail sentence shall not be
29 suspended or deferred unless the judge finds that the imposition of the
30 jail sentence will pose a risk to the defendant's physical or mental
31 well-being. Whenever the mandatory jail sentence is suspended or
32 deferred, the judge must state, in writing, the reason for granting the
33 suspension or deferral and the facts upon which the suspension or
34 deferral is based. If, at the time of a second or subsequent
35 conviction, the driver is without a license or permit because of a
36 previous suspension or revocation, the minimum mandatory sentence shall
37 be ninety days in jail and a two hundred dollar fine. The penalty so
38 imposed shall not be suspended or deferred. The person shall, in
39 addition, be required to complete a diagnostic evaluation by an

1 alcoholism agency approved by the department of social and health
2 services or a qualified probation department approved by the department
3 of social and health services. The report shall be forwarded to the
4 department of licensing. If the person is found to have an alcohol or
5 drug problem requiring treatment, the person shall complete treatment
6 at an approved alcoholism treatment ((~~facility~~)) program or approved
7 drug treatment center.

8 In addition to any nonsuspendable and nondeferrable jail sentence
9 required by this subsection, the court shall sentence a person to a
10 term of imprisonment not exceeding one hundred eighty days and shall
11 suspend but shall not defer the sentence for a period not exceeding two
12 years. The suspension of the sentence may be conditioned upon
13 nonrepetition, alcohol or drug treatment, supervised probation, or
14 other conditions that may be appropriate. The sentence may be imposed
15 in whole or in part upon violation of a condition of suspension during
16 the suspension period.

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

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

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

35 (c) On a third or subsequent conviction of driving or being in
36 physical control of a motor vehicle while under the influence of
37 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,
38 or any combination thereof within a five-year period, be revoked by the
39 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)(a) In addition to penalties set forth in this section, a one
9 hundred twenty-five dollar fee shall be assessed to a person who is
10 either convicted, sentenced to a lesser charge, or given deferred
11 prosecution, as a result of an arrest for violating RCW 46.61.502,
12 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of
13 funding the Washington state toxicology laboratory, the Washington
14 state patrol breath test program, and the department of licensing's
15 administrative costs.

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

19 (c) When a minor has been adjudicated a juvenile offender for an
20 offense which, if committed by an adult, would constitute a violation
21 of any criminal statute of this state the court shall assess the one
22 hundred twenty-five dollar fee under (a) of this subsection. Upon a
23 verified petition by a minor assessed the fee, the court may suspend
24 payment of all or part of the fee if it finds that the minor does not
25 have the ability to pay the fee.

26 (6) The one hundred twenty-five dollar fee assessed under
27 subsection (5) of this section shall be collected by the clerk of the
28 court and distributed as follows:

29 (a) Twenty-five dollars shall be deposited into the highway safety
30 account to be used by the department of licensing to fund
31 administrative costs.

32 (b) The court may retain five dollars to defray the costs of
33 collecting the fees.

34 (c) If the case involves a blood test by the state toxicology
35 laboratory, the remainder of the fee shall be forwarded to the state
36 treasurer for deposit in the death investigations account to be used
37 solely for funding the state toxicology laboratory blood testing
38 program.

1 (d) If the case involves a breath test, the remainder of the fee
2 shall be forwarded to the state treasurer for deposit in the state
3 patrol highway account to be used solely for funding the Washington
4 state patrol breath test program.

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