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HOUSE BILL 1489

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives Sheahan, Sheldon, Stevens, Basich, Tate, Edmondson, Forner, Rayburn, Ballasiotes, Sehlin, Schoesler, Morton, Van Luven, Foreman, Dyer, Brumsickle, Schmidt, Reams, Cooke, Silver, Mielke, Casada, Vance, Chappell, Kessler, Brough, Kremen, Roland, Chandler, Wood and Carlson

Read first time 01/29/93. Referred to Committee on Judiciary.

1 AN ACT Relating to driving while intoxicated; amending RCW  
2 46.61.515; and prescribing penalties.

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

4 **Sec. 1.** RCW 46.61.515 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) On a third or subsequent conviction for driving or being in  
18 physical control of a motor vehicle while under the influence of  
19 intoxicating liquor or drugs a person shall be punished for a felony as  
20 prescribed under RCW 9.92.010.

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

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

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

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

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

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