
HOUSE BILL 2415

State of Washington

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By Representatives Brown, R. Fisher, Appelwick, Sehlin, Brough, Talcott, Van Luven, Sheahan, Campbell, Brumsickle, Cooke, Wood, Forner, Silver, Cothorn, J. Kohl, Jones, Sheldon and Roland; by request of Washington Traffic Safety Commission

Read first time 01/14/94. Referred to Committee on Judiciary.

1 AN ACT Relating to persons under the age of twenty-one driving with
2 alcohol in their systems; amending RCW 46.04.480 and 46.20.311; adding
3 a new section to chapter 46.20 RCW; adding a new section to chapter
4 46.61 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20 RCW
7 to read as follows:

8 (1) Notwithstanding any other provision of this title, a person
9 under the age of twenty-one may not drive, operate, or be in physical
10 control of a motor vehicle while having alcohol in his or her system in
11 a concentration of 0.02 or above.

12 (2) A person under the age of twenty-one who drives or is in
13 physical control of a motor vehicle within this state is deemed to have
14 given consent, subject to RCW 46.61.506, to be detained long enough,
15 and be transported if necessary, to take a test or tests of that
16 person's blood or breath for the purpose of determining the alcohol
17 concentration in his or her system.

18 (3) A test or tests may be administered at the direction of a law
19 enforcement officer, who after stopping or detaining the driver, has

1 reasonable grounds to believe that the driver was driving or in actual
2 physical control of a motor vehicle while having alcohol in his or her
3 system.

4 (4) The law enforcement officer requesting the test or tests under
5 subsection (2) of this section shall warn the person requested to
6 submit to the test that a refusal to submit will result in that
7 person's driver's license or driving privilege being revoked.

8 (5) If the person refuses testing, or submits to a test that
9 discloses an alcohol concentration of 0.02 or more, the law enforcement
10 officer shall:

11 (a) Serve the person notice in writing on behalf of the department
12 of licensing of its intention to suspend, revoke, or deny the person's
13 license, permit, or privilege to drive;

14 (b) Serve the person notice in writing on behalf of the department
15 of licensing of the person's right to a hearing, specifying the steps
16 required to obtain a hearing;

17 (c) Confiscate the person's Washington state license or permit to
18 drive, if any, and issue a temporary license to replace any confiscated
19 license or permit. The temporary license shall be valid for thirty
20 days from the date of the traffic stop or until the suspension or
21 revocation of the person's license or permit is sustained at a hearing
22 as provided by subsection (7) of this section, whichever occurs first.
23 No temporary license is valid to any greater degree than the license or
24 permit it replaces;

25 (d) Notify the department of licensing of the traffic stop, and
26 transmit to the department any confiscated license or permit and a
27 sworn report stating:

28 (i) That the officer had reasonable grounds to believe the person
29 was driving or in actual physical control of a motor vehicle within
30 this state with alcohol in his or her system;

31 (ii) That pursuant to this section a test of the person's alcohol
32 concentration was administered or that the person refused to be tested;

33 (iii) If administered, that the test indicated the person's alcohol
34 concentration was 0.02 or higher; and

35 (iv) Any other information that the department may require by rule.

36 (6) Upon receipt of the sworn report of a law enforcement officer
37 under subsection (5) of this section, the department shall suspend or
38 revoke the driver's license or driving privilege beginning thirty days
39 from the date of the traffic stop or beginning when the suspension,

1 revocation, or denial is sustained at a hearing as provided by
2 subsection (7) of this section. Within fifteen days after notice of a
3 suspension or revocation has been given, the person may, in writing,
4 request a formal hearing. If such a request is not made within the
5 prescribed time the right to a hearing is waived. Upon receipt of such
6 request, the department shall afford the person an opportunity for a
7 hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall
8 be conducted in the county of the arrest. For the purposes of this
9 section, the hearing shall cover the issues of whether a law
10 enforcement officer had reasonable grounds to believe the person had
11 been driving or was in actual physical control of a motor vehicle
12 within this state while having alcohol in his or her system, whether
13 the person refused to submit to the test or tests upon request of the
14 officer after having been informed that the refusal would result in the
15 revocation of the person's driver's license or driving privilege, and,
16 if the test or tests of the person's breath or blood was administered,
17 whether the results indicated an alcohol concentration of 0.02 or more.
18 The department shall order that the suspension or revocation of the
19 person's driver's license or driving privilege either be rescinded or
20 sustained. Any decision by the department suspending or revoking a
21 person's driver's license or driving privilege is stayed and does not
22 take effect while a formal hearing is pending under this section or
23 during the pendency of a subsequent appeal to superior court so long as
24 there is no conviction for a moving violation or no finding that the
25 person has committed a traffic infraction that is a moving violation
26 during the pendency of the hearing and appeal. If the suspension or
27 revocation of the person's driver's license or driving privilege is
28 sustained after the hearing, the person may file a petition in the
29 superior court of the county of arrest to review the final order of
30 suspension or revocation by the department in the manner provided in
31 RCW 46.20.334.

32 (7) The department shall suspend or revoke the driver's license or
33 driving privilege of a person as required by this section as follows:

34 (a) In the case of a person who has refused a test or tests:

35 (i) For a first refusal within five years, revocation for one year;

36 (ii) For a second or subsequent refusal within five years,
37 revocation or denial for two years.

38 (b) In the case of an incident where a person has submitted to a
39 test or tests indicating an alcohol concentration of 0.02 or more:

1 (i) For a first incident within five years, suspension for ninety
2 days;

3 (ii) For a second or subsequent incident within five years,
4 revocation for one year or until the person reaches age twenty-one
5 whichever occurs first.

6 (8) For purposes of this section, "alcohol concentration" means (a)
7 grams of alcohol per two hundred ten liters of a person's breath, or
8 (b) the percent by weight of alcohol in a person's blood.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.61 RCW
10 to read as follows:

11 (1) Any person requested or signaled to stop by a law enforcement
12 officer pursuant to section 1 of this act has a duty to stop.

13 (2) Whenever any person is stopped pursuant to section 1 of this
14 act, the officer may detain that person for a reasonable period of time
15 necessary to: Identify the person; check the status of the person's
16 license, insurance identification card, and the vehicle's registration;
17 and transport the person, if necessary, to and administer a test or
18 tests to determine the alcohol concentration in the person's system.

19 (3) Any person requested to identify himself or herself to a law
20 enforcement officer pursuant to an investigation under section 1 of
21 this act has a duty to identify himself or herself, give his or her
22 current address, and sign an acknowledgement of receipt of the warning
23 required by section 1(4) of this act and receipt of the notice and
24 temporary license issued under section 1(5) of this act.

25 **Sec. 3.** RCW 46.04.480 and 1988 c 148 s 8 are each amended to read
26 as follows:

27 "Revoke," in all its forms, means the invalidation for a period of
28 one calendar year and thereafter until reissue: PROVIDED, That under
29 the provisions of section 1 of this act, RCW 46.20.285, 46.20.311,
30 46.20.265, or 46.61.515 and chapter 46.65 RCW the invalidation may last
31 for a period other than one calendar year.

32 **Sec. 4.** RCW 46.20.311 and 1993 c 501 s 5 are each amended to read
33 as follows:

34 (1) The department shall not suspend a driver's license or
35 privilege to drive a motor vehicle on the public highways for a fixed
36 period of more than one year, except as permitted under RCW 46.20.342

1 or 46.61.515. Except for a suspension under section 1 of this act, RCW
2 46.20.289 (~~and~~), or 46.20.291(5), whenever the license or driving
3 privilege of any person is suspended by reason of a conviction, a
4 finding that a traffic infraction has been committed, pursuant to
5 chapter 46.29 RCW, or pursuant to RCW 46.20.291, the suspension shall
6 remain in effect until the person gives and thereafter maintains proof
7 of financial responsibility for the future as provided in chapter 46.29
8 RCW. The department shall not issue to the person a new, duplicate, or
9 renewal license until the person pays a reissue fee of twenty dollars.
10 If the suspension is the result of a violation of RCW 46.61.502 (~~or~~),
11 46.61.504, or section 1 of this act, the reissue fee shall be fifty
12 dollars.

13 (2) Any person whose license or privilege to drive a motor vehicle
14 on the public highways has been revoked, unless the revocation was for
15 a cause which has been removed, is not entitled to have the license or
16 privilege renewed or restored until: (a) After the expiration of one
17 year from the date the license or privilege to drive was revoked; (b)
18 after the expiration of the applicable revocation period provided by
19 RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for
20 persons convicted of vehicular homicide; (d) after the expiration of
21 one year in cases of revocation for the first refusal within five years
22 to submit to a chemical test under RCW 46.20.308; (e) after the
23 expiration of two years in cases of revocation for the second or
24 subsequent refusal within five years to submit to a chemical test under
25 RCW 46.20.308; or (f) after the expiration of the applicable revocation
26 period provided by RCW 46.20.265 or section 1 of this act. After the
27 expiration of the appropriate period, the person may make application
28 for a new license as provided by law together with a reissue fee in the
29 amount of twenty dollars, but if the revocation is the result of a
30 violation of RCW 46.20.308, 46.61.502, (~~or~~) 46.61.504, or section 1
31 of this act, the reissue fee shall be fifty dollars. Except for a
32 revocation under RCW 46.20.265 or section 1 of this act, the department
33 shall not then issue a new license unless it is satisfied after
34 investigation of the driving ability of the person that it will be safe
35 to grant the privilege of driving a motor vehicle on the public
36 highways, and until the person gives and thereafter maintains proof of
37 financial responsibility for the future as provided in chapter 46.29
38 RCW. For a revocation under RCW 46.20.265 or section 1 of this act,
39 the department shall not issue a new license unless it is satisfied

1 after investigation of the driving ability of the person that it will
2 be safe to grant that person the privilege of driving a motor vehicle
3 on the public highways.

4 (3) Whenever the driver's license of any person is suspended
5 pursuant to Article IV of the nonresident violators compact or RCW
6 46.23.020 (~~(or)~~), 46.20.289, or 46.20.291(5), the department shall not
7 issue to the person any new or renewal license until the person pays a
8 reissue fee of twenty dollars. If the suspension is the result of a
9 violation of the laws of this or any other state, province, or other
10 jurisdiction involving (a) the operation or physical control of a motor
11 vehicle upon the public highways while under the influence of
12 intoxicating liquor or drugs, or (b) the refusal to submit to a
13 chemical test of the driver's blood alcohol content, the reissue fee
14 shall be fifty dollars.

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