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HOUSE BILL 1165

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State of Washington                      55th Legislature                      1997 Regular Session

By Representatives Backlund, O'Brien, Skinner, Cairnes, Dyer, Dunn, Lambert, Sherstad, Sterk, Delvin and Mielke

Read first time 01/16/97. Referred to Committee on Law & Justice.

1            AN ACT Relating to homicide or assault by watercraft; reenacting  
2 and amending RCW 9.94A.320; adding new sections to chapter 88.12 RCW;  
3 and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 88.12 RCW  
6 to read as follows:

7            (1) When the death of any person ensues within three years as a  
8 proximate result of injury proximately caused by the operating of any  
9 vessel by any person, the operator is guilty of homicide by watercraft  
10 if he or she was operating the vessel:

11            (a) While under the influence of intoxicating liquor or any drug,  
12 as defined by RCW 88.12.025;

13            (b) In a reckless manner; or

14            (c) With disregard for the safety of others.

15            (2) A violation of this section is punishable as a class A felony  
16 according to chapter 9A.20 RCW.

17            NEW SECTION.    **Sec. 2.** A new section is added to chapter 88.12 RCW  
18 to read as follows:

1 (1) "Serious bodily injury" means bodily injury which involves a  
2 substantial risk of death, serious permanent disfigurement, or  
3 protracted loss or impairment of the function of any part or organ of  
4 the body.

5 (2) A person is guilty of assault by watercraft if he or she  
6 operates any vessel:

7 (a) In a reckless manner, and this conduct is the proximate cause  
8 of serious bodily injury to another; or

9 (b) While under the influence of intoxicating liquor or any drug,  
10 as defined by RCW 88.12.025, and this conduct is the proximate cause of  
11 serious bodily injury to another.

12 (3) A violation of this section is punishable as a class B felony  
13 according to chapter 9A.20 RCW.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.12 RCW  
15 to read as follows:

16 A person convicted under section 1 or 2 of this act shall, as a  
17 condition of community supervision imposed under RCW 9.94A.383 or  
18 community placement imposed under RCW 9.94A.120(9), complete a  
19 diagnostic evaluation by an alcohol or drug dependency agency approved  
20 by the department of social and health services or a qualified  
21 probation department, defined under RCW 46.61.516, that has been  
22 approved by the department of social and health services. If the  
23 person is found to have an alcohol or drug problem that requires  
24 treatment, the person shall complete treatment in a program approved by  
25 the department of social and health services under chapter 70.96A RCW.  
26 If the person is found not to have an alcohol or drug problem that  
27 requires treatment, he or she shall complete a course in an information  
28 school approved by the department of social and health services under  
29 chapter 70.96A RCW. The convicted person shall pay all costs for any  
30 evaluation, education, or treatment required by this section, unless  
31 the person is eligible for an existing program offered or approved by  
32 the department of social and health services. Nothing in chapter ...,  
33 Laws of 1997 (this act) requires the addition of new treatment or  
34 assessment facilities nor affects the department of social and health  
35 services use of existing programs and facilities authorized by law.

36 **Sec. 4.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996  
37 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6	XIII	Murder 2 (RCW 9A.32.050)
7	XII	Assault 1 (RCW 9A.36.011)
8		Assault of a Child 1 (RCW 9A.36.120)
9	XI	Rape 1 (RCW 9A.44.040)
10		Rape of a Child 1 (RCW 9A.44.073)
11	X	Kidnapping 1 (RCW 9A.40.020)
12		Rape 2 (RCW 9A.44.050)
13		Rape of a Child 2 (RCW 9A.44.076)
14		Child Molestation 1 (RCW 9A.44.083)
15		Damaging building, etc., by explosion with
16		threat to human being (RCW
17		70.74.280(1))
18		Over 18 and deliver heroin or narcotic from
19		Schedule I or II to someone under 18
20		(RCW 69.50.406)
21		Leading Organized Crime (RCW
22		9A.82.060(1)(a))
23	IX	Assault of a Child 2 (RCW 9A.36.130)
24		Robbery 1 (RCW 9A.56.200)
25		Manslaughter 1 (RCW 9A.32.060)
26		Explosive devices prohibited (RCW
27		70.74.180)
28		Indecent Liberties (with forcible
29		compulsion) (RCW 9A.44.100(1)(a))
30		Endangering life and property by explosives
31		with threat to human being (RCW
32		70.74.270)

1 Over 18 and deliver narcotic from Schedule  
2 III, IV, or V or a nonnarcotic from  
3 Schedule I-V to someone under 18 and 3  
4 years junior (RCW 69.50.406)  
5 Controlled Substance Homicide (RCW  
6 69.50.415)  
7 Sexual Exploitation (RCW 9.68A.040)  
8 Inciting Criminal Profiteering (RCW  
9 9A.82.060(1)(b))  
10 Vehicular Homicide, by being under the  
11 influence of intoxicating liquor or  
12 any drug (RCW 46.61.520)  
13 Homicide by Watercraft, by being under the  
14 influence of intoxicating liquor or  
15 any drug (section 1 of this act)  
16 VIII Arson 1 (RCW 9A.48.020)  
17 Promoting Prostitution 1 (RCW 9A.88.070)  
18 Selling for profit (controlled or  
19 counterfeit) any controlled substance  
20 (RCW 69.50.410)  
21 Manufacture, deliver, or possess with  
22 intent to deliver heroin or cocaine  
23 (RCW 69.50.401(a)(1)(i))  
24 Manufacture, deliver, or possess with  
25 intent to deliver methamphetamine (RCW  
26 69.50.401(a)(1)(ii))  
27 Possession of ephedrine or pseudoephedrine  
28 with intent to manufacture  
29 methamphetamine (RCW 69.50.440)  
30 Vehicular Homicide, by the operation of any  
31 vehicle in a reckless manner (RCW  
32 46.61.520)  
33 Homicide by Watercraft, by the operation of  
34 any vessel in a reckless manner  
35 (section 1 of this act)

1 VII Burglary 1 (RCW 9A.52.020)  
2 Vehicular Homicide, by disregard for the  
3 safety of others (RCW 46.61.520)  
4 Homicide by Watercraft, by disregard for  
5 the safety of others (section 1 of  
6 this act)  
7 Introducing Contraband 1 (RCW 9A.76.140)  
8 Indecent Liberties (without forcible  
9 compulsion) (RCW 9A.44.100(1) (b) and  
10 (c))  
11 Child Molestation 2 (RCW 9A.44.086)  
12 Dealing in depictions of minor engaged in  
13 sexually explicit conduct (RCW  
14 9.68A.050)  
15 Sending, bringing into state depictions of  
16 minor engaged in sexually explicit  
17 conduct (RCW 9.68A.060)  
18 Involving a minor in drug dealing (RCW  
19 69.50.401(f))  
20 Reckless Endangerment 1 (RCW 9A.36.045)  
21 Unlawful Possession of a Firearm in the  
22 first degree (RCW 9.41.040(1)(a))  
23 VI Bribery (RCW 9A.68.010)  
24 Manslaughter 2 (RCW 9A.32.070)  
25 Rape of a Child 3 (RCW 9A.44.079)  
26 Intimidating a Juror/Witness (RCW  
27 9A.72.110, 9A.72.130)  
28 Damaging building, etc., by explosion with  
29 no threat to human being (RCW  
30 70.74.280(2))  
31 Endangering life and property by explosives  
32 with no threat to human being (RCW  
33 70.74.270)  
34 Incest 1 (RCW 9A.64.020(1))  
35 Manufacture, deliver, or possess with  
36 intent to deliver narcotics from  
37 Schedule I or II (except heroin or  
38 cocaine) (RCW 69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)  
2 Bail Jumping with Murder 1 (RCW  
3 9A.76.170(2)(a))  
4 Theft of a Firearm (RCW 9A.56.300)  
5 V Persistent prison misbehavior (RCW  
6 9.94.070)  
7 Criminal Mistreatment 1 (RCW 9A.42.020)  
8 Abandonment of dependent person 1 (RCW  
9 9A.42.060)  
10 Rape 3 (RCW 9A.44.060)  
11 Sexual Misconduct with a Minor 1 (RCW  
12 9A.44.093)  
13 Child Molestation 3 (RCW 9A.44.089)  
14 Kidnapping 2 (RCW 9A.40.030)  
15 Extortion 1 (RCW 9A.56.120)  
16 Incest 2 (RCW 9A.64.020(2))  
17 Perjury 1 (RCW 9A.72.020)  
18 Extortionate Extension of Credit (RCW  
19 9A.82.020)  
20 Advancing money or property for  
21 extortionate extension of credit (RCW  
22 9A.82.030)  
23 Extortionate Means to Collect Extensions of  
24 Credit (RCW 9A.82.040)  
25 Rendering Criminal Assistance 1 (RCW  
26 9A.76.070)  
27 Bail Jumping with class A Felony (RCW  
28 9A.76.170(2)(b))  
29 Sexually Violating Human Remains (RCW  
30 9A.44.105)  
31 Delivery of imitation controlled substance  
32 by person eighteen or over to person  
33 under eighteen (RCW 69.52.030(2))  
34 Possession of a Stolen Firearm (RCW  
35 9A.56.310)  
36 IV Residential Burglary (RCW 9A.52.025)  
37 Theft of Livestock 1 (RCW 9A.56.080)  
38 Robbery 2 (RCW 9A.56.210)

1 Assault 2 (RCW 9A.36.021)  
2 Escape 1 (RCW 9A.76.110)  
3 Arson 2 (RCW 9A.48.030)  
4 Commercial Bribery (RCW 9A.68.060)  
5 Bribing a Witness/Bribe Received by Witness  
6 (RCW 9A.72.090, 9A.72.100)  
7 Malicious Harassment (RCW 9A.36.080)  
8 Threats to Bomb (RCW 9.61.160)  
9 Willful Failure to Return from Furlough  
10 (RCW 72.66.060)  
11 Hit and Run -- Injury Accident (RCW  
12 46.52.020(4))  
13 Hit and Run with Vessel -- Injury Accident  
14 (RCW 88.12.155(3))  
15 Vehicular Assault (RCW 46.61.522)  
16 Assault by Watercraft (section 2 of this  
17 act)  
18 Manufacture, deliver, or possess with  
19 intent to deliver narcotics from  
20 Schedule III, IV, or V or nonnarcotics  
21 from Schedule I-V (except marijuana or  
22 methamphetamines) (RCW 69.50.401(a)(1)  
23 (iii) through (v))  
24 Influencing Outcome of Sporting Event (RCW  
25 9A.82.070)  
26 Use of Proceeds of Criminal Profiteering  
27 (RCW 9A.82.080 (1) and (2))  
28 Knowingly Trafficking in Stolen Property  
29 (RCW 9A.82.050(2))  
30 III Criminal Mistreatment 2 (RCW 9A.42.030)  
31 Abandonment of dependent person 2 (RCW  
32 9A.42.070)  
33 Extortion 2 (RCW 9A.56.130)  
34 Unlawful Imprisonment (RCW 9A.40.040)  
35 Assault 3 (RCW 9A.36.031)  
36 Assault of a Child 3 (RCW 9A.36.140)  
37 Custodial Assault (RCW 9A.36.100)  
38 Unlawful possession of firearm in the  
39 second degree (RCW 9.41.040(1)(b))

1 Harassment (RCW 9A.46.020)  
2 Promoting Prostitution 2 (RCW 9A.88.080)  
3 Willful Failure to Return from Work Release  
4 (RCW 72.65.070)  
5 Burglary 2 (RCW 9A.52.030)  
6 Introducing Contraband 2 (RCW 9A.76.150)  
7 Communication with a Minor for Immoral  
8 Purposes (RCW 9.68A.090)  
9 Patronizing a Juvenile Prostitute (RCW  
10 9.68A.100)  
11 Escape 2 (RCW 9A.76.120)  
12 Perjury 2 (RCW 9A.72.030)  
13 Bail Jumping with class B or C Felony (RCW  
14 9A.76.170(2)(c))  
15 Intimidating a Public Servant (RCW  
16 9A.76.180)  
17 Tampering with a Witness (RCW 9A.72.120)  
18 Manufacture, deliver, or possess with  
19 intent to deliver marijuana (RCW  
20 69.50.401(a)(1)(iii))  
21 Delivery of a material in lieu of a  
22 controlled substance (RCW  
23 69.50.401(c))  
24 Manufacture, distribute, or possess with  
25 intent to distribute an imitation  
26 controlled substance (RCW  
27 69.52.030(1))  
28 Recklessly Trafficking in Stolen Property  
29 (RCW 9A.82.050(1))  
30 Theft of livestock 2 (RCW 9A.56.080)  
31 Securities Act violation (RCW 21.20.400)  
32 II Unlawful Practice of Law (RCW 2.48.180)  
33 Malicious Mischief 1 (RCW 9A.48.070)  
34 Possession of Stolen Property 1 (RCW  
35 9A.56.150)  
36 Theft 1 (RCW 9A.56.030)  
37 Trafficking in Insurance Claims (RCW  
38 48.30A.015)



1 Unlicensed Practice of a Profession or  
2 Business (RCW 18.130.190(7))  
3 Health Care False Claims (RCW 48.80.030)  
4 Possession of controlled substance that is  
5 either heroin or narcotics from  
6 Schedule I or II (RCW 69.50.401(d))  
7 Possession of phencyclidine (PCP) (RCW  
8 69.50.401(d))  
9 Create, deliver, or possess a counterfeit  
10 controlled substance (RCW  
11 69.50.401(b))  
12 Computer Trespass 1 (RCW 9A.52.110)  
13 Escape from Community Custody (RCW  
14 72.09.310)

15 I Theft 2 (RCW 9A.56.040)  
16 Possession of Stolen Property 2 (RCW  
17 9A.56.160)  
18 Forgery (RCW 9A.60.020)  
19 Taking Motor Vehicle Without Permission  
20 (RCW 9A.56.070)  
21 Vehicle Prowl 1 (RCW 9A.52.095)  
22 Attempting to Elude a Pursuing Police  
23 Vehicle (RCW 46.61.024)  
24 Malicious Mischief 2 (RCW 9A.48.080)  
25 Reckless Burning 1 (RCW 9A.48.040)  
26 Unlawful Issuance of Checks or Drafts (RCW  
27 9A.56.060)  
28 Unlawful Use of Food Stamps (RCW 9.91.140  
29 (2) and (3))  
30 False Verification for Welfare (RCW  
31 74.08.055)  
32 Forged Prescription (RCW 69.41.020)  
33 Forged Prescription for a Controlled  
34 Substance (RCW 69.50.403)  
35 Possess Controlled Substance that is a  
36 Narcotic from Schedule III, IV, or V  
37 or Non-narcotic from Schedule I-V

1 (except phencyclidine) (RCW  
2 69.50.401(d))

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