
HOUSE BILL 2188

State of Washington

55th Legislature

1997 Regular Session

By Representative Kessler

Read first time 02/25/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to driving a motor vehicle after consuming alcohol;
2 and amending RCW 46.61.503.

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

4 **Sec. 1.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read
5 as follows:

6 (1) Notwithstanding any other provision of this title, a person is
7 guilty of driving a motor vehicle after consuming alcohol if the person
8 operates a motor vehicle within this state and (~~the person~~):

9 (a) The person:

10 (i) Is under the age of twenty-one; and

11 (~~(b)~~) (ii) Has, within two hours after operating the motor
12 vehicle, an alcohol concentration of 0.02 or more, as shown by analysis
13 of the person's breath or blood made under RCW 46.61.506; or

14 (b) The person:

15 (i) Is under the age of twenty-one; and

16 (ii) At the time of arrest and/or traffic stop was operating a
17 motor vehicle and was in the possession of, or in control of, alcohol
18 in an open container.

1 (2) It is an affirmative defense to a violation of subsection (1)
2 of this section which the defendant must prove by a preponderance of
3 the evidence that the defendant consumed a sufficient quantity of
4 alcohol after the time of driving and before the administration of an
5 analysis of the person's breath or blood to cause the defendant's
6 alcohol concentration to be 0.02 or more within two hours after
7 driving. The court shall not admit evidence of this defense unless the
8 defendant notifies the prosecution prior to the earlier of: (a) Seven
9 days prior to trial; or (b) the omnibus or pretrial hearing in the case
10 of the defendant's intent to assert the affirmative defense.

11 (3) Analyses of blood or breath samples obtained more than two
12 hours after the alleged driving may be used as evidence that within two
13 hours of the alleged driving, a person had an alcohol concentration of
14 0.02 or more in violation of subsection (1) of this section.

15 (4) A violation of this section is a misdemeanor.

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