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SECOND SUBSTITUTE HOUSE BILL 3089

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State of Washington

55th Legislature

1998 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives McDonald, Sheahan, Kessler, Bush, Robertson and Boldt)

Read first time 02/07/98. Referred to Committee on .

1 AN ACT Relating to drunk driving; amending RCW 10.05.010,  
2 10.05.100, 10.05.120, and 10.05.160; and creating a new section.

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

4 **Sec. 1.** RCW 10.05.010 and 1985 c 352 s 4 are each amended to read  
5 as follows:

6 In a court of limited jurisdiction a person charged with a  
7 misdemeanor or gross misdemeanor may petition the court to be  
8 considered for a deferred prosecution program. The petition shall be  
9 filed with the court at least seven days before the date set for trial  
10 but, upon a written motion and affidavit establishing good cause for  
11 the delay and failure to comply with this section, the court may waive  
12 this requirement subject to the defendant's reimbursement to the court  
13 of the witness fees and expenses due for subpoenaed witnesses who have  
14 appeared on the date set for trial.

15 A person charged with a traffic infraction, misdemeanor, or gross  
16 misdemeanor under Title 46 RCW shall not be eligible for a deferred  
17 prosecution program unless the court makes specific findings pursuant  
18 to RCW 10.05.020. Such person shall not be eligible for a deferred  
19 prosecution program more than once (~~in any five-year period~~).

1 Separate offenses committed more than seven days apart may not be  
2 consolidated in a single program.

3 **Sec. 2.** RCW 10.05.100 and 1985 c 352 s 13 are each amended to read  
4 as follows:

5 If a petitioner is subsequently convicted of a similar offense  
6 (~~while~~) that was committed while the petitioner was in a deferred  
7 prosecution program, upon notice the court shall remove the  
8 petitioner's docket from the deferred prosecution file and the court  
9 shall enter judgment pursuant to RCW 10.05.020.

10 **Sec. 3.** RCW 10.05.120 and 1994 c 275 s 19 are each amended to read  
11 as follows:

12 (~~Upon~~) Three years after receiving proof of successful completion  
13 of the two-year treatment program, but not before five years following  
14 entry of the order of deferred prosecution, the court shall dismiss the  
15 charges pending against the petitioner.

16 **Sec. 4.** RCW 10.05.160 and 1985 c 352 s 18 are each amended to read  
17 as follows:

18 The prosecutor may appeal an order granting deferred prosecution on  
19 any or all of the following grounds:

20 (1) Prior deferred prosecution has been granted to the defendant  
21 (~~within five years~~);

22 (2) Failure of the court to obtain proof of insurance or a  
23 treatment plan conforming to the requirements of this chapter;

24 (3) Failure of the court to comply with the requirements of RCW  
25 10.05.100;

26 (4) Failure of the evaluation facility to provide the information  
27 required in RCW 10.05.040 and 10.05.050, if the defendant has been  
28 referred to the facility for treatment. If an appeal on such basis is  
29 successful, the trial court may consider the use of another treatment  
30 facility.

31 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this  
32 act, referencing this act by bill or chapter number, is not provided by

1 June 30, 1998, in the omnibus appropriations act, this act is null and  
2 void.

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