
SUBSTITUTE SENATE BILL 6165

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Rossi, Roach, Rasmussen, Goings, T. Sheldon, McCaslin, Strannigan, Zarelli, Long, Deccio, Oke, Kline, Wood, Schow, Swecker, Stevens, Haugen, Johnson, Benton and Winsley)

Read first time 1/15/98.

1 AN ACT Relating to use of ignition interlock devices; amending RCW
2 46.20.720, 46.20.740, and 46.55.113; reenacting and amending RCW
3 46.61.5055; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.20.720 and 1997 c 229 s 8 are each amended to read
6 as follows:

7 The court (~~(may)~~) shall order that after a period of suspension,
8 revocation, or denial of driving privileges, (~~(and for up to as long as~~
9 ~~the court has jurisdiction,)~~) any person convicted of (~~(any offense~~
10 ~~involving the use, consumption, or possession of alcohol while~~
11 ~~operating a motor vehicle)~~) a violation of RCW 46.61.502 or 46.61.504
12 or an equivalent local ordinance may drive only a motor vehicle
13 equipped with a functioning ignition interlock or other biological or
14 technical device. The period of time of the restriction will be as
15 follows:

16 (1) For a person subject to RCW 46.61.5055 (1)(b), (2), or (3) who
17 has not previously been restricted under this section, a period of not
18 less than one year;

1 (2) For a person who has previously been restricted under
2 subsection (1) of this section, a period of not less than five years;

3 (3) For a person who has previously been restricted under
4 subsection (2) of this section, a permanent, lifetime restriction.

5 The court shall establish a specific calibration setting at which
6 the ignition interlock or other biological or technical device will
7 prevent the motor vehicle from being started (~~((and the period of time~~
8 ~~that the person shall be subject to the restriction))~~).

9 For purposes of this section, "convicted" means being found guilty
10 of (~~(an offense))~~ a violation of RCW 46.61.502 or 46.61.504 or an
11 equivalent local ordinance or being placed on a deferred prosecution
12 program under chapter 10.05 RCW.

13 **Sec. 2.** RCW 46.20.740 and 1997 c 229 s 10 are each amended to read
14 as follows:

15 (1) The department shall attach or imprint a notation on the
16 driver's license of any person restricted under RCW 46.20.720 or
17 46.61.5055 stating that the person may operate only a motor vehicle
18 equipped with an ignition interlock or other biological or technical
19 device.

20 (2) It is a misdemeanor for a person with such a notation on his or
21 her driver's license to operate a motor vehicle that is not so
22 equipped. For the first such conviction, the minimum sentence is
23 thirty days in jail. For a second offense, the minimum sentence is
24 sixty days in jail. For a third or subsequent offense, the minimum
25 sentence is ninety days in jail.

26 **Sec. 3.** RCW 46.61.5055 and 1997 c 229 s 11 and 1997 c 66 s 14 are
27 each reenacted and amended to read as follows:

28 (1) A person who is convicted of a violation of RCW 46.61.502 or
29 46.61.504 and who has no prior offense within five years shall be
30 punished as follows:

31 (a) In the case of a person whose alcohol concentration was less
32 than 0.15, or for whom for reasons other than the person's refusal to
33 take a test offered pursuant to RCW 46.20.308 there is no test result
34 indicating the person's alcohol concentration:

35 (i) By imprisonment for not less than one day nor more than one
36 year. Twenty-four consecutive hours of the imprisonment may not be
37 suspended or deferred unless the court finds that the imposition of

1 this mandatory minimum sentence would impose a substantial risk to the
2 offender's physical or mental well-being. Whenever the mandatory
3 minimum sentence is suspended or deferred, the court shall state in
4 writing the reason for granting the suspension or deferral and the
5 facts upon which the suspension or deferral is based; and

6 (ii) By a fine of not less than three hundred fifty dollars nor
7 more than five thousand dollars. Three hundred fifty dollars of the
8 fine may not be suspended or deferred unless the court finds the
9 offender to be indigent; and

10 (iii) By suspension of the offender's license or permit to drive,
11 or suspension of any nonresident privilege to drive, for a period of
12 ninety days. The period of license, permit, or privilege suspension
13 may not be suspended. The court shall notify the department of
14 licensing of the conviction, and upon receiving notification of the
15 conviction the department shall suspend the offender's license, permit,
16 or privilege; or

17 (b) In the case of a person whose alcohol concentration was at
18 least 0.15, or for whom by reason of the person's refusal to take a
19 test offered pursuant to RCW 46.20.308 there is no test result
20 indicating the person's alcohol concentration:

21 (i) By imprisonment for not less than two days nor more than one
22 year. Two consecutive days of the imprisonment may not be suspended or
23 deferred unless the court finds that the imposition of this mandatory
24 minimum sentence would impose a substantial risk to the offender's
25 physical or mental well-being. Whenever the mandatory minimum sentence
26 is suspended or deferred, the court shall state in writing the reason
27 for granting the suspension or deferral and the facts upon which the
28 suspension or deferral is based; and

29 (ii) By a fine of not less than five hundred dollars nor more than
30 five thousand dollars. Five hundred dollars of the fine may not be
31 suspended or deferred unless the court finds the offender to be
32 indigent; and

33 (iii) By revocation of the offender's license or permit to drive,
34 or suspension of any nonresident privilege to drive, for a period of
35 one year. The period of license, permit, or privilege suspension may
36 not be suspended. The court shall notify the department of licensing
37 of the conviction, and upon receiving notification of the conviction
38 the department shall suspend the offender's license, permit, or
39 privilege; and

1 (iv) By a court-ordered restriction under RCW 46.20.720.

2 (2) A person who is convicted of a violation of RCW 46.61.502 or
3 46.61.504 and who has one prior offense within five years shall be
4 punished as follows:

5 (a) In the case of a person whose alcohol concentration was less
6 than 0.15, or for whom for reasons other than the person's refusal to
7 take a test offered pursuant to RCW 46.20.308 there is no test result
8 indicating the person's alcohol concentration:

9 (i) By imprisonment for not less than thirty days nor more than one
10 year. Thirty days of the imprisonment may not be suspended or deferred
11 unless the court finds that the imposition of this mandatory minimum
12 sentence would impose a substantial risk to the offender's physical or
13 mental well-being. Whenever the mandatory minimum sentence is
14 suspended or deferred, the court shall state in writing the reason for
15 granting the suspension or deferral and the facts upon which the
16 suspension or deferral is based; and

17 (ii) By a fine of not less than five hundred dollars nor more than
18 five thousand dollars. Five hundred dollars of the fine may not be
19 suspended or deferred unless the court finds the offender to be
20 indigent; and

21 (iii) By revocation of the offender's license or permit to drive,
22 or suspension of any nonresident privilege to drive, for a period of
23 two years. The period of license, permit, or privilege revocation may
24 not be suspended. The court shall notify the department of licensing
25 of the conviction, and upon receiving notification of the conviction
26 the department shall revoke the offender's license, permit, or
27 privilege; and

28 (iv) By a court-ordered restriction under RCW 46.20.720; or

29 (b) In the case of a person whose alcohol concentration was at
30 least 0.15, or for whom by reason of the person's refusal to take a
31 test offered pursuant to RCW 46.20.308 there is no test result
32 indicating the person's alcohol concentration:

33 (i) By imprisonment for not less than forty-five days nor more than
34 one year. Forty-five days of the imprisonment may not be suspended or
35 deferred unless the court finds that the imposition of this mandatory
36 minimum sentence would impose a substantial risk to the offender's
37 physical or mental well-being. Whenever the mandatory minimum sentence
38 is suspended or deferred, the court shall state in writing the reason

1 for granting the suspension or deferral and the facts upon which the
2 suspension or deferral is based; and

3 (ii) By a fine of not less than seven hundred fifty dollars nor
4 more than five thousand dollars. Seven hundred fifty dollars of the
5 fine may not be suspended or deferred unless the court finds the
6 offender to be indigent; and

7 (iii) By revocation of the offender's license or permit to drive,
8 or suspension of any nonresident privilege to drive, for a period of
9 nine hundred days. The period of license, permit, or privilege
10 revocation may not be suspended. The court shall notify the department
11 of licensing of the conviction, and upon receiving notification of the
12 conviction the department shall revoke the offender's license, permit,
13 or privilege; and

14 (iv) By a court-ordered restriction under RCW 46.20.720.

15 (3) A person who is convicted of a violation of RCW 46.61.502 or
16 46.61.504 and who has two or more prior offenses within five years
17 shall be punished as follows:

18 (a) In the case of a person whose alcohol concentration was less
19 than 0.15, or for whom for reasons other than the person's refusal to
20 take a test offered pursuant to RCW 46.20.308 there is no test result
21 indicating the person's alcohol concentration:

22 (i) By imprisonment for not less than ninety days nor more than one
23 year. Ninety days of the imprisonment may not be suspended or deferred
24 unless the court finds that the imposition of this mandatory minimum
25 sentence would impose a substantial risk to the offender's physical or
26 mental well-being. Whenever the mandatory minimum sentence is
27 suspended or deferred, the court shall state in writing the reason for
28 granting the suspension or deferral and the facts upon which the
29 suspension or deferral is based; and

30 (ii) By a fine of not less than one thousand dollars nor more than
31 five thousand dollars. One thousand dollars of the fine may not be
32 suspended or deferred unless the court finds the offender to be
33 indigent; and

34 (iii) By revocation of the offender's license or permit to drive,
35 or suspension of any nonresident privilege to drive, for a period of
36 three years. The period of license, permit, or privilege revocation
37 may not be suspended. The court shall notify the department of
38 licensing of the conviction, and upon receiving notification of the

1 conviction the department shall revoke the offender's license, permit,
2 or privilege; and

3 (iv) By a court-ordered restriction under RCW 46.20.720; or

4 (b) In the case of a person whose alcohol concentration was at
5 least 0.15, or for whom by reason of the person's refusal to take a
6 test offered pursuant to RCW 46.20.308 there is no test result
7 indicating the person's alcohol concentration:

8 (i) By imprisonment for not less than one hundred twenty days nor
9 more than one year. One hundred twenty days of the imprisonment may
10 not be suspended or deferred unless the court finds that the imposition
11 of this mandatory minimum sentence would impose a substantial risk to
12 the offender's physical or mental well-being. Whenever the mandatory
13 minimum sentence is suspended or deferred, the court shall state in
14 writing the reason for granting the suspension or deferral and the
15 facts upon which the suspension or deferral is based; and

16 (ii) By a fine of not less than one thousand five hundred dollars
17 nor more than five thousand dollars. One thousand five hundred dollars
18 of the fine may not be suspended or deferred unless the court finds the
19 offender to be indigent; and

20 (iii) By revocation of the offender's license or permit to drive,
21 or suspension of any nonresident privilege to drive, for a period of
22 four years. The period of license, permit, or privilege revocation may
23 not be suspended. The court shall notify the department of licensing
24 of the conviction, and upon receiving notification of the conviction
25 the department shall revoke the offender's license, permit, or
26 privilege; and

27 (iv) By a court-ordered restriction under RCW 46.20.720.

28 (4) In exercising its discretion in setting penalties within the
29 limits allowed by this section, the court shall particularly consider
30 whether the person's driving at the time of the offense was responsible
31 for injury or damage to another or another's property.

32 (5) An offender punishable under this section is subject to the
33 alcohol assessment and treatment provisions of RCW 46.61.5056.

34 (6) After expiration of any period of suspension or revocation of
35 the offender's license, permit, or privilege to drive required by this
36 section, the department shall place the offender's driving privilege in
37 probationary status pursuant to RCW 46.20.355.

38 (7)(a) In addition to any nonsuspendable and nondeferrable jail
39 sentence required by this section, whenever the court imposes less than

1 one year in jail, the court shall also suspend but shall not defer a
2 period of confinement for a period not exceeding two years. The court
3 shall impose conditions of probation that include: (i) Not driving a
4 motor vehicle within this state without a valid license to drive and
5 proof of financial responsibility for the future; (ii) not driving a
6 motor vehicle within this state while having an alcohol concentration
7 of 0.08 or more within two hours after driving; and (iii) not refusing
8 to submit to a test of his or her breath or blood to determine alcohol
9 concentration upon request of a law enforcement officer who has
10 reasonable grounds to believe the person was driving or was in actual
11 physical control of a motor vehicle within this state while under the
12 influence of intoxicating liquor. The court may impose conditions of
13 probation that include nonrepetition, installation of an ignition
14 interlock or other biological or technical device on the probationer's
15 motor vehicle, alcohol or drug treatment, supervised probation, or
16 other conditions that may be appropriate. The sentence may be imposed
17 in whole or in part upon violation of a condition of probation during
18 the suspension period.

19 (b) For each violation of mandatory conditions of probation under
20 (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall
21 order the convicted person to be confined for thirty days, which shall
22 not be suspended or deferred.

23 (c) For each incident involving a violation of a mandatory
24 condition of probation imposed under this subsection, the license,
25 permit, or privilege to drive of the person shall be suspended by the
26 court for thirty days or, if such license, permit, or privilege to
27 drive already is suspended, revoked, or denied at the time the finding
28 of probation violation is made, the suspension, revocation, or denial
29 then in effect shall be extended by thirty days. The court shall
30 notify the department of any suspension, revocation, or denial or any
31 extension of a suspension, revocation, or denial imposed under this
32 subsection.

33 (8)(a) A "prior offense" means any of the following:

34 (i) A conviction for a violation of RCW 46.61.502 or an equivalent
35 local ordinance;

36 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent
37 local ordinance;

38 (iii) A conviction for a violation of RCW 46.61.520 committed while
39 under the influence of intoxicating liquor or any drug;

1 (iv) A conviction for a violation of RCW 46.61.522 committed while
2 under the influence of intoxicating liquor or any drug;

3 (v) A conviction for a violation of RCW 46.61.5249 or an equivalent
4 local ordinance, if the conviction is the result of a charge that was
5 originally filed as a violation of RCW 46.61.502 or 46.61.504, or an
6 equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

7 (vi) An out-of-state conviction for a violation that would have
8 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this
9 subsection if committed in this state;

10 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
11 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
12 equivalent local ordinance; or

13 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
14 prosecution for a violation of RCW 46.61.5249, or an equivalent local
15 ordinance, if the charge under which the deferred prosecution was
16 granted was originally filed as a violation of RCW 46.61.502 or
17 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
18 46.61.522.

19 (b) "Within five years" means that the arrest for a prior offense
20 occurred within five years of the arrest for the current offense.

21 **Sec. 4.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read
22 as follows:

23 Whenever the driver of a vehicle is arrested for a violation of RCW
24 46.61.502 or 46.61.504 or any similar municipal ordinance, the
25 arresting officer may take custody of the vehicle and provide for its
26 prompt removal to a place of safety. If the driver is in violation of
27 a restriction under RCW 46.20.720 or 46.61.5055 to operate only a motor
28 vehicle equipped with an ignition interlock or other biological or
29 technical device, the arresting officer shall take custody of the
30 vehicle and provide for its prompt removal to a place of safety. The
31 vehicle will remain impounded for use as evidence at a trial regarding
32 the violation of the restriction.

33 In addition, a police officer may take custody of a vehicle and
34 provide for its prompt removal to a place of safety under any of the
35 following circumstances:

36 (1) Whenever a police officer finds a vehicle standing upon the
37 roadway in violation of any of the provisions of RCW 46.61.560, the
38 officer may provide for the removal of the vehicle or require the

1 driver or other person in charge of the vehicle to move the vehicle to
2 a position off the roadway;

3 (2) Whenever a police officer finds a vehicle unattended upon a
4 highway where the vehicle constitutes an obstruction to traffic or
5 jeopardizes public safety;

6 (3) Whenever a police officer finds an unattended vehicle at the
7 scene of an accident or when the driver of a vehicle involved in an
8 accident is physically or mentally incapable of deciding upon steps to
9 be taken to protect his or her property;

10 (4) Whenever the driver of a vehicle is arrested and taken into
11 custody by a police officer;

12 (5) Whenever a police officer discovers a vehicle that the officer
13 determines to be a stolen vehicle;

14 (6) Whenever a vehicle without a special license plate, card, or
15 decal indicating that the vehicle is being used to transport a disabled
16 person under RCW 46.16.381 is parked in a stall or space clearly and
17 conspicuously marked under RCW 46.61.581 which space is provided on
18 private property without charge or on public property;

19 (7) Upon determining that a person is operating a motor vehicle
20 without a valid driver's license in violation of RCW 46.20.005 or with
21 a license that has been expired for ninety days or more, or with a
22 suspended or revoked license in violation of RCW 46.20.342 or
23 46.20.420.

24 Nothing in this section may derogate from the powers of police
25 officers under the common law. For the purposes of this section, a
26 place of safety may include the business location of a registered tow
27 truck operator.

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