
SECOND SUBSTITUTE SENATE BILL 6785

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Costa, Goings, Kline and Oke)

Read first time 02/08/2000.

1 AN ACT Relating to ignition interlock devices; amending RCW
2 46.20.720; reenacting and amending RCW 46.20.391 and 46.61.5055;
3 creating a new section; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.20.391 and 1999 c 274 s 4 and 1999 c 272 s 1 are
6 each reenacted and amended to read as follows:

7 (1) Any person licensed under this chapter who is convicted of an
8 offense relating to motor vehicles for which suspension or revocation
9 of the driver's license is mandatory, other than vehicular homicide or
10 vehicular assault, or who has had his or her license suspended under
11 RCW 46.20.3101 (2)(a) or (3)(a), may submit to the department an
12 application for an occupational driver's license. The department, upon
13 receipt of the prescribed fee and upon determining that the petitioner
14 is engaged in an occupation or trade that makes it essential that the
15 petitioner operate a motor vehicle, may issue an occupational driver's
16 license and may set definite restrictions as provided in RCW 46.20.394.
17 No person may petition for, and the department shall not issue, an
18 occupational driver's license that is effective during the first thirty
19 days of any suspension or revocation imposed either for a violation of

1 RCW 46.61.502 or 46.61.504 or under RCW 46.20.3101 (2)(a) or (3)(a), or
2 for both a violation of RCW 46.61.502 or 46.61.504 and under RCW
3 46.20.3101 (2)(a) or (3)(a) where the action arises from the same
4 incident. A person aggrieved by the decision of the department on the
5 application for an occupational driver's license may request a hearing
6 as provided by rule of the department.

7 (2)(a) A person licensed under this chapter whose driver's license
8 is suspended administratively due to failure to appear or pay a traffic
9 ticket under RCW 46.20.289; a violation of the financial responsibility
10 laws under chapter 46.29 RCW; or for multiple violations within a
11 specified period of time under RCW 46.20.291, may apply to the
12 department for an occupational driver's license if the applicant
13 demonstrates to the satisfaction of the department that one of the
14 following additional conditions are met:

15 (i) The applicant is in an apprenticeship program or an on-the-job
16 training program for which a driver's license is required;

17 (ii) The applicant presents evidence that he or she has applied for
18 a position in an apprenticeship or on-the-job training program and the
19 program has certified that a driver's license is required to begin the
20 program, provided that a license granted under this provision shall be
21 in effect no longer than fourteen days;

22 (iii) The applicant is in a program that assists persons who are
23 enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to
24 become gainfully employed and the program requires a driver's license;
25 or

26 (iv) The applicant is undergoing substance abuse treatment or is
27 participating in meetings of a twelve-step group such as alcoholics
28 anonymous.

29 (b) If the suspension is for failure to respond, pay, or comply
30 with a notice of traffic infraction or conviction, the applicant must
31 enter into a payment plan with the court.

32 (c) An occupational driver's license issued to an applicant
33 described in (a) of this subsection shall be valid for the period of
34 the suspension or revocation but not more than two years.

35 (d) Upon receipt of evidence that a holder of an occupational
36 driver's license granted under this subsection is no longer enrolled in
37 an apprenticeship or on-the-job training program, the director shall
38 give written notice by first class mail to the driver that the
39 occupational driver's license shall be canceled. The effective date of

1 cancellation shall be fifteen days from the date of mailing the notice.
2 If at any time before the cancellation goes into effect the driver
3 submits evidence of continued enrollment in the program, the
4 cancellation shall be stayed. If the cancellation becomes effective,
5 the driver may obtain, at no additional charge, a new occupational
6 driver's license upon submittal of evidence of enrollment in another
7 program that meets the criteria set forth in this subsection.

8 (e) The department shall not issue an occupational driver's license
9 under (a)(iv) of this subsection if the applicant is able to receive
10 transit services sufficient to allow for the applicant's participation
11 in the programs referenced under (a)(iv) of this subsection.

12 (3) An applicant for an occupational driver's license is eligible
13 to receive such license only if:

14 (a) Within one year immediately preceding the date of the offense
15 that gave rise to the present conviction, the applicant has not
16 committed any offense relating to motor vehicles for which suspension
17 or revocation of a driver's license is mandatory; and

18 (b) Within seven years immediately preceding the date of the
19 offense that gave rise to the present conviction or incident, the
20 applicant has not committed any of the following offenses: (i) Driving
21 or being in actual physical control of a motor vehicle while under the
22 influence of intoxicating liquor; (ii) vehicular homicide under RCW
23 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

24 (c) The applicant is engaged in an occupation or trade that makes
25 it essential that he or she operate a motor vehicle, except as allowed
26 under subsection (2)(a) of this section; and

27 (d) The applicant files satisfactory proof of financial
28 responsibility under chapter 46.29 RCW; and

29 (e) The applicant, where subject to suspension or revocation under
30 RCW 46.61.502, 46.61.504, 46.20.3101 (2)(a) or (3)(a), provides to the
31 department proof of installation of an ignition interlock or other
32 biological or technical device on his or her vehicle from a provider
33 certified by the Washington state patrol. The Washington state patrol
34 shall revoke the certification of a provider that issues any false or
35 inaccurate form of proof of installation of an ignition interlock or
36 other biological or technical device.

37 (4) The director shall cancel an occupational driver's license upon
38 receipt of notice that the holder thereof has been convicted of
39 operating a motor vehicle in violation of its restrictions, or of a

1 separate offense that under chapter 46.20 RCW would warrant suspension
2 or revocation of a regular driver's license. The cancellation is
3 effective as of the date of the conviction, and continues with the same
4 force and effect as any suspension or revocation under this title.

5 **Sec. 2.** RCW 46.20.720 and 1999 c 331 s 3 are each amended to read
6 as follows:

7 (1) The court may 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 may drive only a motor vehicle equipped with
12 a functioning ignition interlock or other biological or technical
13 device.

14 (2) If a person is convicted of a violation of RCW 46.61.502 or
15 46.61.504 or an equivalent local ordinance and it is(~~((a))~~) the
16 person's first or subsequent conviction or a deferred prosecution under
17 chapter 10.05 RCW (~~(and his or her alcohol concentration was at least~~
18 ~~0.15, or by reason of the person's refusal to take a test offered~~
19 ~~pursuant to RCW 46.20.308 there is no test result indicating the~~
20 ~~person's alcohol concentration; or (b) the person's second or~~
21 ~~subsequent conviction; or (c) the person's first conviction and the~~
22 ~~person has a previous deferred prosecution under chapter 10.05 RCW or~~
23 ~~it is a deferred prosecution under chapter 10.05 RCW and the person has~~
24 ~~a previous conviction)), the court shall order that after any
25 applicable period of suspension, revocation, or denial of driving
26 privileges, the person may drive only a motor vehicle equipped with a
27 functioning ignition interlock or other biological or technical device.
28 The court may waive the requirement for the use of such a device if the
29 court makes a specific finding in writing that such devices are not
30 reasonably available in the local area. Nothing in this section may be
31 interpreted as entitling a person to more than one deferred
32 prosecution.~~

33 (3) The court shall establish a specific calibration setting at
34 which the ignition interlock or other biological or technical device
35 will prevent the motor vehicle from being started and the period of
36 time that the person shall be subject to the restriction. In the case
37 of a person under subsection (2) of this section, the period of time of
38 the restriction will be as follows:

1 (a) For a person (i) who is subject to RCW 46.61.5055 (1)((b)),
2 (2), or (3), or who is subject to a deferred prosecution program under
3 chapter 10.05 RCW, and (ii) who has not previously been restricted
4 under this section, a period of not less than one year;

5 (b) For a person who has previously been restricted under (a) of
6 this subsection, a period of not less than five years;

7 (c) For a person who has previously been restricted under (b) of
8 this subsection, a period of not less than ten years.

9 For purposes of this section, "convicted" means being found guilty
10 of an offense or being placed on a deferred prosecution program under
11 chapter 10.05 RCW.

12 (4) Any person whose license is restricted to operating only a
13 motor vehicle with an ignition interlock device installed may operate
14 an employer's vehicle without an ignition interlock device installed
15 during normal business activities, provided that the person does not
16 partly or entirely own or control the employer's vehicle or business.

17 **Sec. 3.** RCW 46.61.5055 and 1999 c 324 s 5, 1999 c 274 s 6, and
18 1999 c 5 s 1 are each reenacted and amended to read as follows:

19 (1) A person who is convicted of a violation of RCW 46.61.502 or
20 46.61.504 and who has no prior offense within seven years shall be
21 punished as follows:

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

26 (i) By imprisonment for not less than one day nor more than one
27 year. Twenty-four consecutive hours of the imprisonment may not be
28 suspended or deferred unless the court finds that the imposition of
29 this mandatory minimum sentence would impose a substantial risk to the
30 offender's physical or mental well-being. Whenever the mandatory
31 minimum sentence is suspended or deferred, the court shall state in
32 writing the reason for granting the suspension or deferral and the
33 facts upon which the suspension or deferral is based. In lieu of the
34 mandatory minimum term of imprisonment required under this subsection
35 (1)(a)(i), the court may order not less than fifteen days of electronic
36 home monitoring. The offender shall pay the cost of electronic home
37 monitoring. The county or municipality in which the penalty is being
38 imposed shall determine the cost. The court may also require the

1 offender's electronic home monitoring device to include an alcohol
2 detection breathalyzer, and the court may restrict the amount of
3 alcohol the offender may consume during the time the offender is on
4 electronic home monitoring; and

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

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

13 (i) By imprisonment for not less than two days nor more than one
14 year. Two consecutive days of the imprisonment may not be suspended or
15 deferred unless the court finds that the imposition of this mandatory
16 minimum sentence would impose a substantial risk to the offender's
17 physical or mental well-being. Whenever the mandatory minimum sentence
18 is suspended or deferred, the court shall state in writing the reason
19 for granting the suspension or deferral and the facts upon which the
20 suspension or deferral is based. In lieu of the mandatory minimum term
21 of imprisonment required under this subsection (1)(b)(i), the court may
22 order not less than thirty days of electronic home monitoring. The
23 offender shall pay the cost of electronic home monitoring. The county
24 or municipality in which the penalty is being imposed shall determine
25 the cost. The court may also require the offender's electronic home
26 monitoring device to include an alcohol detection breathalyzer, and the
27 court may restrict the amount of alcohol the offender may consume
28 during the time the offender is on electronic home monitoring; 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 a court-ordered restriction under RCW 46.20.720.

34 (2) A person who is convicted of a violation of RCW 46.61.502 or
35 46.61.504 and who has one prior offense within seven years shall be
36 punished as follows:

37 (a) In the case of a person whose alcohol concentration was less
38 than 0.15, or for whom for reasons other than the person's refusal to

1 take a test offered pursuant to RCW 46.20.308 there is no test result
2 indicating the person's alcohol concentration:

3 (i) By imprisonment for not less than thirty days nor more than one
4 year and sixty days of electronic home monitoring. The offender shall
5 pay for the cost of the electronic monitoring. The county or
6 municipality where the penalty is being imposed shall determine the
7 cost. The court may also require the offender's electronic home
8 monitoring device include an alcohol detection breathalyzer, and may
9 restrict the amount of alcohol the offender may consume during the time
10 the offender is on electronic home monitoring. Thirty days of
11 imprisonment and sixty days of electronic home monitoring may not be
12 suspended or deferred unless the court finds that the imposition of
13 this mandatory minimum sentence would impose a substantial risk to the
14 offender's physical or mental well-being. Whenever the mandatory
15 minimum sentence is suspended or deferred, the court shall state in
16 writing the reason for granting the suspension or deferral and the
17 facts upon which the suspension or deferral is based; and

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

22 (iii) By a court-ordered restriction under RCW 46.20.720; or

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

27 (i) By imprisonment for not less than forty-five days nor more than
28 one year and ninety days of electronic home monitoring. The offender
29 shall pay for the cost of the electronic monitoring. The county or
30 municipality where the penalty is being imposed shall determine the
31 cost. The court may also require the offender's electronic home
32 monitoring device include an alcohol detection breathalyzer, and may
33 restrict the amount of alcohol the offender may consume during the time
34 the offender is on electronic home monitoring. Forty-five days of
35 imprisonment and ninety days of electronic home monitoring may not be
36 suspended or deferred unless the court finds that the imposition of
37 this mandatory minimum sentence would impose a substantial risk to the
38 offender's physical or mental well-being. Whenever the mandatory
39 minimum sentence is suspended or deferred, the court shall state in

1 writing the reason for granting the suspension or deferral and the
2 facts upon which the 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 a court-ordered restriction under RCW 46.20.720.

8 (3) A person who is convicted of a violation of RCW 46.61.502 or
9 46.61.504 and who has two or more prior offenses within seven years
10 shall be punished as follows:

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

15 (i) By imprisonment for not less than ninety days nor more than one
16 year and one hundred twenty days of electronic home monitoring. The
17 offender shall pay for the cost of the electronic monitoring. The
18 county or municipality where the penalty is being imposed shall
19 determine the cost. The court may also require the offender's
20 electronic home monitoring device include an alcohol detection
21 breathalyzer, and may restrict the amount of alcohol the offender may
22 consume during the time the offender is on electronic home monitoring.
23 Ninety days of imprisonment and one hundred twenty days of electronic
24 home monitoring may not be suspended or deferred unless the court finds
25 that the imposition of this mandatory minimum sentence would impose a
26 substantial risk to the offender's physical or mental well-being.
27 Whenever the mandatory minimum sentence is suspended or deferred, the
28 court shall state in writing the reason for granting the suspension or
29 deferral and the facts upon which the suspension or deferral is based;
30 and

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

35 (iii) By a court-ordered restriction under RCW 46.20.720; or

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

1 (i) By imprisonment for not less than one hundred twenty days nor
2 more than one year and one hundred fifty days of electronic home
3 monitoring. The offender shall pay for the cost of the electronic
4 monitoring. The county or municipality where the penalty is being
5 imposed shall determine the cost. The court may also require the
6 offender's electronic home monitoring device include an alcohol
7 detection breathalyzer, and may restrict the amount of alcohol the
8 offender may consume during the time the offender is on electronic home
9 monitoring. One hundred twenty days of imprisonment and one hundred
10 fifty days of electronic home monitoring may not be suspended or
11 deferred unless the court finds that the imposition of this mandatory
12 minimum sentence would impose a substantial risk to the offender's
13 physical or mental well-being. Whenever the mandatory minimum sentence
14 is suspended or deferred, the court shall state in writing the reason
15 for 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 one thousand five hundred dollars
18 nor more than five thousand dollars. One thousand five hundred dollars
19 of the fine may not be suspended or deferred unless the court finds the
20 offender to be indigent; and

21 (iii) By a court-ordered restriction under RCW 46.20.720.

22 (4) In exercising its discretion in setting penalties within the
23 limits allowed by this section, the court shall particularly consider
24 the following:

25 (a) Whether the person's driving at the time of the offense was
26 responsible for injury or damage to another or another's property; and

27 (b) Whether the person was driving or in physical control of a
28 vehicle with one or more passengers at the time of the offense.

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

31 (6) The license, permit, or nonresident privilege of a person
32 convicted of driving or being in physical control of a motor vehicle
33 while under the influence of intoxicating liquor or drugs must:

34 (a) If the person's alcohol concentration was less than 0.15, or if
35 for reasons other than the person's refusal to take a test offered
36 under RCW 46.20.308 there is no test result indicating the person's
37 alcohol concentration:

38 (i) Where there has been no prior offense within seven years, be
39 suspended or denied by the department for ninety days;

1 (ii) Where there has been one prior offense within seven years, be
2 revoked or denied by the department for two years; or

3 (iii) Where there have been two or more prior offenses within seven
4 years, be revoked or denied by the department for three years;

5 (b) If the person's alcohol concentration was at least 0.15, or if
6 by reason of the person's refusal to take a test offered under RCW
7 46.20.308 there is no test result indicating the person's alcohol
8 concentration:

9 (i) Where there has been no prior offense within seven years, be
10 revoked or denied by the department for one year: PROVIDED, That in
11 the case of a person whose alcohol concentration was at least 0.15, the
12 person may make application for a new license after the expiration of
13 six months from the date the license or privilege to drive was revoked
14 if the applicant provides the department with proof of installation of
15 an ignition interlock or other biological or technical device on his or
16 her vehicle. The applicant must agree to operate no other vehicle for
17 a period of one year from the date of issuance of a new license except
18 as allowed in RCW 46.20.720(4);

19 (ii) Where there has been one prior offense within seven years, be
20 revoked or denied by the department for nine hundred days; or

21 (iii) Where there have been two or more prior offenses within seven
22 years, be revoked or denied by the department for four years.

23 For purposes of this subsection, the department shall refer to the
24 driver's record maintained under RCW 46.52.120 when determining the
25 existence of prior offenses.

26 (7) After expiration of any period of suspension, revocation, or
27 denial of the offender's license, permit, or privilege to drive
28 required by this section, the department shall place the offender's
29 driving privilege in probationary status pursuant to RCW 46.20.355.

30 (8)(a) In addition to any nonsuspendable and nondeferrable jail
31 sentence required by this section, whenever the court imposes less than
32 one year in jail, the court shall also suspend but shall not defer a
33 period of confinement for a period not exceeding five years. The court
34 shall impose conditions of probation that include: (i) Not driving a
35 motor vehicle within this state without a valid license to drive and
36 proof of financial responsibility for the future; (ii) not driving a
37 motor vehicle within this state while having an alcohol concentration
38 of 0.08 or more within two hours after driving; and (iii) not refusing
39 to submit to a test of his or her breath or blood to determine alcohol

1 concentration upon request of a law enforcement officer who has
2 reasonable grounds to believe the person was driving or was in actual
3 physical control of a motor vehicle within this state while under the
4 influence of intoxicating liquor. The court may impose conditions of
5 probation that include nonrepetition, installation of an ignition
6 interlock or other biological or technical device on the probationer's
7 motor vehicle, alcohol or drug treatment, supervised probation, or
8 other conditions that may be appropriate. The sentence may be imposed
9 in whole or in part upon violation of a condition of probation during
10 the suspension period.

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

15 (c) For each incident involving a violation of a mandatory
16 condition of probation imposed under this subsection, the license,
17 permit, or privilege to drive of the person shall be suspended by the
18 court for thirty days or, if such license, permit, or privilege to
19 drive already is suspended, revoked, or denied at the time the finding
20 of probation violation is made, the suspension, revocation, or denial
21 then in effect shall be extended by thirty days. The court shall
22 notify the department of any suspension, revocation, or denial or any
23 extension of a suspension, revocation, or denial imposed under this
24 subsection.

25 (9) A court may waive the electronic home monitoring requirements
26 of this chapter when:

27 (a) The offender does not have a dwelling, telephone service, or
28 any other necessity to operate an electronic home monitoring system;

29 (b) The offender does not reside in the state of Washington; or

30 (c) The court determines that there is reason to believe that the
31 offender would violate the conditions of the electronic home monitoring
32 penalty.

33 Whenever the mandatory minimum term of electronic home monitoring
34 is waived, the court shall state in writing the reason for granting the
35 waiver and the facts upon which the waiver is based, and shall impose
36 an alternative sentence with similar punitive consequences. The
37 alternative sentence may include, but is not limited to, additional
38 jail time, work crew, or work camp.

1 Whenever the combination of jail time and electronic home
2 monitoring or alternative sentence would exceed three hundred sixty-
3 five days, the offender shall serve the jail portion of the sentence
4 first, and the electronic home monitoring or alternative portion of the
5 sentence shall be reduced so that the combination does not exceed three
6 hundred sixty-five days.

7 (10) An offender serving a sentence under this section, whether or
8 not a mandatory minimum term has expired, may be granted an
9 extraordinary medical placement by the jail administrator subject to
10 the standards and limitations set forth in RCW 9.94A.150(4).

11 (11) For purposes of this section:

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

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

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

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

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

21 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
22 9A.36.050 or an equivalent local ordinance, if the conviction is the
23 result of a charge that was originally filed as a violation of RCW
24 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
25 46.61.520 or 46.61.522;

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

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

32 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
33 prosecution for a violation of RCW 46.61.5249, or an equivalent local
34 ordinance, if the charge under which the deferred prosecution was
35 granted was originally filed as a violation of RCW 46.61.502 or
36 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
37 46.61.522; and

38 (b) "Within seven years" means that the arrest for a prior offense
39 occurred within seven years of the arrest for the current offense.

1 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this
2 act, referencing this act by bill or chapter number, is not provided by
3 June 30, 2000, in the transportation budget, this act is null and void.

--- END ---