
SENATE BILL 5744

State of Washington 58th Legislature 2003 Regular Session

By Senators Esser, Kline and Roach

Read first time 02/10/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to alcohol-related offenses; and amending RCW
2 10.05.140 and 46.20.720.

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

4 **Sec. 1.** RCW 10.05.140 and 1999 c 331 s 4 are each amended to read
5 as follows:

6 As a condition of granting a deferred prosecution petition, the
7 court shall order that the petitioner shall not operate a motor vehicle
8 upon the public highways without a valid operator's license and proof
9 of liability insurance. The amount of liability insurance shall be
10 established by the court at not less than that established by RCW
11 46.29.490. As a condition of granting a deferred prosecution petition
12 on all alcohol-related cases, the court shall also order the
13 installation of an ignition interlock or other device under RCW
14 46.20.720 for a (~~petitioner who has previously been convicted of a~~
15 ~~violation of RCW 46.61.502 or 46.61.504 or an equivalent local~~
16 ~~ordinance or a petitioner who has been charged with such an offense and~~
17 ~~had an alcohol concentration of at least .15, or by reason of the~~
18 ~~person's refusal to take a test offered pursuant to RCW 46.20.308 there~~
19 ~~is no test result indicating the person's alcohol concentration))~~

1 period of not less than two years. The court may consider suspending
2 this requirement on the petitioner's showing of installation and one
3 year of regular use of the device. In the event the petitioner has had
4 a prior interlock restriction under RCW 46.20.720, the court shall
5 condition granting any deferred prosecution petition on installation of
6 an interlock device for a minimum time period of five years. The court
7 may consider suspension of this requirement on petitioner's showing of
8 installation and three years of regular use of the device.

9 For any other petitioner, the court may order the installation of
10 an interlock device under RCW 46.20.720(1) as a condition of granting
11 a deferred prosecution petition. As a condition of granting a deferred
12 prosecution petition, the court may order the petitioner to make
13 restitution and to pay costs as defined in RCW 10.01.160. The court
14 may terminate the deferred prosecution program upon violation of this
15 section.

16 **Sec. 2.** RCW 46.20.720 and 2001 c 247 s 1 are each amended to read
17 as follows:

18 (1) The court may order that after a period of suspension,
19 revocation, or denial of driving privileges, if any, and for up to as
20 long as the court has jurisdiction, any person originally charged with
21 or convicted of any offense involving the use, consumption, or
22 possession of alcohol (~~((while operating a motor vehicle))~~) may drive
23 only a motor vehicle equipped with a functioning ignition interlock or
24 other biological or technical device.

25 (2) If a person is convicted of a violation of RCW 46.61.502 or
26 46.61.504 or an equivalent local ordinance and it is: (a) The person's
27 first conviction (~~((or a deferred prosecution under chapter 10.05 RCW))~~)
28 and his or her alcohol concentration was (~~((at least))~~) 0.15 or higher,
29 or (~~((by reason of the person's refusal))~~) the person refused to take a
30 test offered pursuant to RCW 46.20.308 (~~((there is no test result~~
31 ~~indicating the person's alcohol concentration))~~); or (b) the person's
32 second or subsequent conviction; or (c) the (~~((person's first conviction~~
33 ~~and the person has a previous deferred prosecution under chapter 10.05~~
34 ~~RCW or it is))~~) person enters a deferred prosecution under chapter 10.05
35 RCW (~~((and the person has a previous conviction))~~), the court shall order
36 installation of a functioning ignition interlock or other biological or
37 technical device and that, after any applicable period of suspension,

1 revocation, or denial of driving privileges, the person may drive only
2 a motor vehicle equipped with a functioning ignition interlock or other
3 biological or technical device. The requirement to drive only a motor
4 vehicle equipped with a functioning ignition interlock or other
5 biological or technical device may not be suspended except as provided
6 under RCW 10.05.140. The court may waive the requirement for the use
7 of such a device if the court makes a specific finding in writing that
8 such devices are not reasonably available in the local area. Nothing
9 in this section may be interpreted as entitling a person to more than
10 one deferred prosecution.

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

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

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

23 (c) For a person who has previously been restricted under (b) of
24 this subsection, a period of not less than ten years;

25 (d) For a person who enters a deferred prosecution under chapter
26 10.05 RCW, for the periods of time indicated in RCW 10.05.140.

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

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