

---

HOUSE BILL 1636

---

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Scott, Padden, Wineberry, Beck, Appelwick, Tate, Riley, Belcher, Winsley, Orr, Wynne and Broback.

Read first time February 5, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to emergency management; amending RCW 9.95.210 and  
2 38.52.010; adding a new section to chapter 38.52 RCW; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a public  
6 agency incurs expenses in an emergency response. It is the intent of  
7 the legislature to allow a public agency to recover the expenses of an  
8 emergency response to an incident involving persons who operate a motor  
9 vehicle, boat or vessel, or a civil aircraft while under the influence  
10 of an alcoholic beverage or a drug, or the combined influence of an  
11 alcoholic beverage and a drug. It is the intent of the legislature  
12 that the recovery of expenses of an emergency response under this act  
13 shall supplement and shall not supplant other provisions of law  
14 relating to the recovery of those expenses.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 38.52 RCW  
2 to read as follows:

3        A person who is under the influence of an alcoholic beverage or a  
4 drug, or the combined influence of an alcoholic beverage and a drug,  
5 whose negligent operation of a motor vehicle, boat or vessel, or a  
6 civil aircraft, caused by that influence proximately causes an incident  
7 resulting in an appropriate emergency response, and a person whose  
8 intentionally wrongful conduct proximately causes an incident resulting  
9 in an appropriate emergency response, is liable for the expense of an  
10 emergency response by a public agency to the incident.

11        For purposes of this section, a person is under the influence of an  
12 alcoholic beverage or a drug, or the combined influence of an alcoholic  
13 beverage and a drug, when as a result of drinking an alcoholic beverage  
14 or using a drug, or both, his or her physical or mental abilities are  
15 impaired to a degree that he or she no longer has the ability to  
16 operate a motor vehicle, boat or vessel, or aircraft with the caution  
17 of a sober person of ordinary prudence under the same or similar  
18 circumstances.

19        The expense of an emergency response is a charge against the person  
20 liable for expenses under this section. The charge constitutes a debt  
21 of that person and is collectible by the public agency incurring those  
22 costs in the same manner as in the case of an obligation under a  
23 contract, expressed or implied, except that liability for the expenses  
24 provided for in this section is not insurable and no insurance policy  
25 shall provide or pay for the expenses.

26        In no event shall a person's liability under this section for the  
27 expense of an emergency response exceed one thousand dollars for a  
28 particular incident.

29        A testimony, admission, or another statement made by the defendant  
30 in a proceeding brought pursuant to this section, or evidence derived

1 from the testimony, admission, or other statement, is not admitted or  
2 otherwise used in a criminal proceeding arising out of the same  
3 incident.

4 **Sec. 3.** RCW 9.95.210 and 1987 c 202 s 146 are each amended to read  
5 as follows:

6 In granting probation, the court may suspend the imposition or the  
7 execution of the sentence and may direct that the suspension may  
8 continue upon such conditions and for such time as it shall designate,  
9 not exceeding the maximum term of sentence or two years, whichever is  
10 longer.

11 In the order granting probation and as a condition thereof, the  
12 court may in its discretion imprison the defendant in the county jail  
13 for a period not exceeding one year and may fine the defendant any sum  
14 not exceeding the statutory limit for the offense committed, and court  
15 costs. As a condition of probation, the court shall require the  
16 payment of the penalty assessment required by RCW 7.68.035. The court  
17 may also require the defendant to make such monetary payments, on such  
18 terms as it deems appropriate under the circumstances, as are necessary  
19 (1) to comply with any order of the court for the payment of family  
20 support, (2) to make restitution to any person or persons who may have  
21 suffered loss or damage by reason of the commission of the crime in  
22 question or when the offender pleads guilty to a lesser offense or  
23 fewer offenses and agrees with the prosecutor's recommendation that the  
24 offender be required to pay restitution to a victim of an offense or  
25 offenses which are not prosecuted pursuant to a plea agreement, (3) to  
26 pay such fine as may be imposed and court costs, including  
27 reimbursement of the state for costs of extradition if return to this  
28 state by extradition was required, ~~((and))~~ (4) to contribute to a  
29 county or interlocal drug fund, and (5) to make restitution to a public

1 agency for the costs of an emergency response pursuant to section 2 of  
2 this act, and may require bonds for the faithful observance of any and  
3 all conditions imposed in the probation. The court shall order the  
4 probationer to report to the secretary of corrections or such officer  
5 as the secretary may designate and as a condition of the probation to  
6 follow implicitly the instructions of the secretary. If the  
7 probationer has been ordered to make restitution, the officer  
8 supervising the probationer shall make a reasonable effort to ascertain  
9 whether restitution has been made. If restitution has not been made as  
10 ordered, the officer shall inform the prosecutor of that violation of  
11 the terms of probation not less than three months prior to the  
12 termination of the probation period. The secretary of corrections will  
13 promulgate rules and regulations for the conduct of the person during  
14 the term of probation. For defendants found guilty in district court,  
15 like functions as the secretary performs in regard to probation may be  
16 performed by probation officers employed for that purpose by the county  
17 legislative authority of the county wherein the court is located.

18 **Sec. 4.** RCW 38.52.010 and 1986 c 266 s 23 are each amended to read  
19 as follows:

20 As used in this chapter:

21 (1) "Emergency management" or "comprehensive emergency management"  
22 means the preparation for and the carrying out of all emergency  
23 functions, other than functions for which the military forces are  
24 primarily responsible, to mitigate, prepare for, respond to, and  
25 recover from emergencies and disasters, and to aid victims suffering  
26 from injury or damage, resulting from disasters caused by all hazards,  
27 whether natural or man-made, and to provide support for search and  
28 rescue operations for persons and property in distress. However,  
29 "emergency management" or "comprehensive emergency management" does not

1 mean preparation for emergency evacuation or relocation of residents in  
2 anticipation of nuclear attack.

3 (2) "Local organization for emergency services or management" means  
4 an organization created in accordance with the provisions of this  
5 chapter by state or local authority to perform local emergency  
6 management functions.

7 (3) "Political subdivision" means any county, city or town.

8 (4) "Emergency worker" means any person who is registered with a  
9 local emergency management organization or the department of community  
10 development and holds an identification card issued by the local  
11 emergency management director or the department of community  
12 development for the purpose of engaging in authorized emergency  
13 management activities or is an employee of the state of Washington or  
14 any political subdivision thereof who is called upon to perform  
15 emergency management activities.

16 (5) "Injury" as used in this chapter shall mean and include  
17 accidental injuries and/or occupational diseases arising out of  
18 emergency management activities.

19 (6) "Emergency or disaster" as used in this chapter shall mean an  
20 event or set of circumstances which: (a) Demands immediate action to  
21 preserve public health, protect life, protect public property, or to  
22 provide relief to any stricken community overtaken by such occurrences,  
23 or (b) reaches such a dimension or degree of destructiveness as to  
24 warrant the governor declaring a state of emergency pursuant to RCW  
25 43.06.010.

26 (7) "Search and rescue" means the acts of searching for, rescuing,  
27 or recovering by means of ground, marine, or air activity any person  
28 who becomes lost, injured, or is killed while outdoors or as a result  
29 of a natural or man-made disaster, including instances involving  
30 searches for downed aircraft when ground personnel are used. Nothing in

1 this section shall affect appropriate activity by the department of  
2 transportation under chapter 47.68 RCW.

3 (8) "Executive head" and "executive heads" means the county  
4 executive in those charter counties with an elective office of county  
5 executive, however designated, and, in the case of other counties, the  
6 county legislative authority. In the case of cities and towns, it means  
7 the mayor.

8 (9) "Director" means the director of community development.

9 (10) "Local director" means the director of a local organization of  
10 emergency management or emergency services.

11 (11) "Department" means the department of community development.

12 (12) "Emergency response" means a public agency's use of emergency  
13 services during an emergency or disaster as defined in this section.

14 (13) "Expense of an emergency response" means reasonable costs  
15 incurred by a public agency in reasonably making an appropriate  
16 emergency response to the incident, but shall only include those costs  
17 directly arising from the response to the particular incident.  
18 Reasonable costs shall include the costs of providing police, fire  
19 fighting, rescue, and emergency medical services at the scene of the  
20 incident, as well as the salaries of the personnel responding to the  
21 incident.

22 (14) "Public agency" means the state, and a city, county, municipal  
23 corporation, district, or public authority located, in whole or in  
24 part, within this state which provides or may provide fire fighting,  
25 police, ambulance, medical, or other emergency services.

26 (15) "Intentionally wrongful conduct" means conduct intended to  
27 injure another person or property.