
HOUSE BILL 2355

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By Representatives Riley, Belcher, Cooper, Tate, Paris, Scott, P. Johnson, Vance, Locke, Jacobsen, Winsley, Brough, Broback, Kremen, Heavey, Mitchell, Sheldon, Rasmussen and Sprenkle

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1 AN ACT Relating to driving while under the influence of
2 intoxicating liquor or drugs; and amending RCW 46.61.515 and
3 46.61.5151.

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

5 **Sec. 1.** RCW 46.61.515 and 1985 c 352 s 1 are each amended to read
6 as follows:

7 (1) Every person who is convicted of a violation of RCW 46.61.502
8 or 46.61.504 shall be punished by imprisonment for not less than
9 (~~twenty-four~~) seventy-two consecutive hours nor more than one year,
10 and by a fine of not less than two hundred fifty dollars and not more
11 than one thousand dollars. Unless the judge finds the person to be
12 indigent, two hundred fifty dollars of the fine shall not be suspended
13 or deferred. (~~Twenty-four~~) Seventy-two consecutive hours of the jail
14 sentence shall not be suspended or deferred unless the judge finds that

1 the imposition of the jail sentence will pose a risk to the defendant's
2 physical or mental well-being. Whenever the mandatory jail sentence is
3 suspended or deferred, the judge must state, in writing, the reason for
4 granting the suspension or deferral and the facts upon which the
5 suspension or deferral is based. The court may impose conditions of
6 probation that may include nonrepetition, alcohol or drug treatment,
7 supervised probation, or other conditions that may be appropriate. The
8 convicted person shall, in addition, be required to complete a course
9 in an alcohol information school approved by the department of social
10 and health services or more intensive treatment in a program approved
11 by the department of social and health services, as determined by the
12 court. A diagnostic evaluation and treatment recommendation shall be
13 prepared under the direction of the court by an alcoholism agency
14 approved by the department of social and health services or a qualified
15 probation department approved by the department of social and health
16 services. A copy of the report shall be forwarded to the department of
17 licensing. Based on the diagnostic evaluation, the court shall
18 determine whether the convicted person shall be required to complete a
19 course in an alcohol information school approved by the department of
20 social and health services or more intensive treatment in a program
21 approved by the department of social and health services. Standards
22 for approval for alcohol treatment programs shall be prescribed by rule
23 under the administrative procedure act, chapter 34.05 RCW. The courts
24 shall periodically review the costs of alcohol information schools and
25 treatment programs within their jurisdictions.

26 (2) On a second or subsequent conviction for driving or being in
27 physical control of a motor vehicle while under the influence of
28 intoxicating liquor or drugs within a five-year period a person shall
29 be punished by imprisonment for not less than seven days nor more than
30 one year and by a fine of not less than five hundred dollars and not

1 more than two thousand dollars. District courts and courts organized
2 under chapter 35.20 RCW are authorized to impose such fine. Unless the
3 judge finds the person to be indigent, five hundred dollars of the fine
4 shall not be suspended or deferred. The jail sentence shall not be
5 suspended or deferred unless the judge finds that the imposition of the
6 jail sentence will pose a risk to the defendant's physical or mental
7 well-being. Whenever the mandatory jail sentence is suspended or
8 deferred, the judge must state, in writing, the reason for granting the
9 suspension or deferral and the facts upon which the suspension or
10 deferral is based. If, at the time of a second or subsequent
11 conviction, the driver is without a license or permit because of a
12 previous suspension or revocation, the minimum mandatory sentence shall
13 be ninety days in jail and a two hundred dollar fine. The penalty so
14 imposed shall not be suspended or deferred. The person shall, in
15 addition, be required to complete a diagnostic evaluation by an
16 alcoholism agency approved by the department of social and health
17 services or a qualified probation department approved by the department
18 of social and health services. The report shall be forwarded to the
19 department of licensing. If the person is found to have an alcohol or
20 drug problem requiring treatment, the person shall complete treatment
21 at an approved alcoholism treatment ((facility)) program or approved
22 drug treatment center.

23 In addition to any nonsuspendable and nondeferrable jail sentence
24 required by this subsection, the court shall sentence a person to a
25 term of imprisonment not exceeding one hundred eighty days and shall
26 suspend but shall not defer the sentence for a period not exceeding two
27 years. The suspension of the sentence may be conditioned upon
28 nonrepetition, alcohol or drug treatment, supervised probation, or
29 other conditions that may be appropriate. The sentence may be imposed

1 in whole or in part upon violation of a condition of suspension during
2 the suspension period.

3 (3) The license or permit to drive or any nonresident privilege of
4 any person convicted of driving or being in physical control of a motor
5 vehicle while under the influence of intoxicating liquor or drugs
6 shall:

7 (a) On the first conviction under either offense, be suspended by
8 the department until the person reaches age nineteen or for ninety
9 days, whichever is longer. The department of licensing shall determine
10 the person's eligibility for licensing based upon the reports provided
11 by the designated alcoholism agency or probation department and shall
12 deny reinstatement until enrollment and participation in an approved
13 program has been established and the person is otherwise qualified;

14 (b) On a second conviction under either offense within a five-year
15 period, be revoked by the department for one year. The department of
16 licensing shall determine the person's eligibility for licensing based
17 upon the reports provided by the designated alcoholism agency or
18 probation department and shall deny reinstatement until satisfactory
19 progress in an approved program has been established and the person is
20 otherwise qualified;

21 (c) On a third or subsequent conviction of driving or being in
22 physical control of a motor vehicle while under the influence of
23 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,
24 or any combination thereof within a five-year period, be revoked by the
25 department for two years.

26 (4) In any case provided for in this section, where a driver's
27 license is to be revoked or suspended, the revocation or suspension
28 shall be stayed and shall not take effect until after the determination
29 of any appeal from the conviction which may lawfully be taken, but in
30 case the conviction is sustained on appeal the revocation or suspension

1 takes effect as of the date that the conviction becomes effective for
2 other purposes.

3 **Sec. 2.** RCW 46.61.5151 and 1983 c 165 s 33 are each amended to
4 read as follows:

5 A sentencing court may allow persons convicted of violating RCW
6 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in
7 RCW 46.61.515 (1) or (2) in nonconsecutive or intermittent time
8 periods. However, the first (~~twenty-four~~) seventy-two hours of any
9 sentence under RCW 46.61.515(1) and the first (~~forty-eight~~) seventy-
10 two hours of any sentence under RCW 46.61.515(2) shall be served
11 consecutively unless suspended or deferred as otherwise provided by
12 law.