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SENATE BILL 6014

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State of Washington                      63rd Legislature                      2014 Regular Session

By Senators Roach and Fain

Read first time 01/13/14. Referred to Committee on Law & Justice.

1            AN ACT Relating to operation of a vessel under the influence of an  
2 intoxicant; and amending RCW 79A.60.040 and 79A.60.700.

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

4            **Sec. 1.** RCW 79A.60.040 and 2013 c 278 s 1 are each amended to read  
5 as follows:

6            (1) It is unlawful for any person to operate a vessel in a reckless  
7 manner.

8            (2) It is unlawful for a person to operate a vessel while under the  
9 influence of intoxicating liquor, marijuana, or any drug. A person is  
10 considered to be under the influence of intoxicating liquor, marijuana,  
11 or any drug if, within two hours of operating a vessel:

12            (a) The person has an alcohol concentration of 0.08 or higher as  
13 shown by analysis of the person's breath or blood made under RCW  
14 46.61.506; or

15            (b) The person has a THC concentration of 5.00 or higher as shown  
16 by analysis of the person's blood made under RCW 46.61.506; or

17            (c) The person is under the influence of or affected by  
18 intoxicating liquor, marijuana, or any drug; or

1 (d) The person is under the combined influence of or affected by  
2 intoxicating liquor, marijuana, and any drug.

3 (3) The fact that any person charged with a violation of this  
4 section is or has been entitled to use such drug under the laws of this  
5 state shall not constitute a defense against any charge of violating  
6 this section.

7 (4)(a) Any person who operates a vessel within this state is deemed  
8 to have given consent, subject to the provisions of RCW 46.61.506, to  
9 a test or tests of the person's breath (~~(or blood)~~) for the purpose of  
10 determining the alcohol concentration(~~(, THC concentration, or presence~~  
11 ~~of any drug)~~) in the person's breath (~~(or blood)~~) if arrested for any  
12 offense where, at the time of the arrest, the arresting officer has  
13 reasonable grounds to believe the person was operating a vessel while  
14 under the influence of intoxicating liquor(~~(, marijuana,)~~) or a  
15 combination of intoxicating liquor and any other drug.

16 (b) When an arrest results from an accident in which there has been  
17 serious bodily injury to another person or the arresting officer has  
18 reasonable grounds to believe the person was operating a vessel while  
19 under the influence of THC or any other drug, a blood test may be  
20 administered with the consent of the arrested person and a valid waiver  
21 of the warrant requirement or without the consent of the person so  
22 arrested pursuant to a search warrant or when exigent circumstances  
23 exist.

24 (c) Neither consent nor this section precludes a police officer  
25 from obtaining a search warrant for a person's breath or blood.

26 (d) An arresting officer may administer field sobriety tests when  
27 circumstances permit.

28 (5) The test or tests of breath must be administered pursuant to  
29 RCW 46.20.308. (~~(Where the officer has reasonable grounds to believe~~  
30 ~~that the person is under the influence of a drug, or where the person~~  
31 ~~is incapable due to physical injury, physical incapacity, or other~~  
32 ~~physical limitation, of providing a breath sample, or where the person~~  
33 ~~is being treated in a hospital, clinic, doctor's office, emergency~~  
34 ~~medical vehicle, ambulance, or other similar facility, a blood test~~  
35 ~~must be administered by a qualified person as provided in RCW~~  
36 ~~46.61.506(5).)) The officer shall warn the person that if the person  
37 refuses to take the test, the person will be issued a class 1 civil  
38 infraction under RCW 7.80.120.~~

1 (6) A violation of subsection (1) of this section is a misdemeanor.  
2 A violation of subsection (2) of this section is a gross misdemeanor.  
3 In addition to the statutory penalties imposed, the court may order the  
4 defendant to pay restitution for any damages or injuries resulting from  
5 the offense.

6 **Sec. 2.** RCW 79A.60.700 and 2013 c 278 s 2 are each amended to read  
7 as follows:

8 (1) The refusal of a person to submit to a test of the alcohol  
9 concentration(~~(, THC concentration, or presence of any drug)~~) in the  
10 person's blood or breath is not admissible into evidence at a  
11 subsequent criminal trial.

12 (2) A person's refusal to submit to a test or tests pursuant to RCW  
13 79A.60.040 constitutes a class 1 civil infraction under RCW 7.80.120.

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