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SENATE BILL 6077

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State of Washington                      54th Legislature    1995 1st Special Session

By Senator Smith

Read first time 05/09/95.

1            AN ACT Relating to probationary licenses and reissue charges for  
2 alcohol-related offenses; amending RCW 46.20.355, 46.61.--- (section 5,  
3 chapter . . . (SSB 5141), Laws of 1995), and 46.20.311; and providing  
4 an effective date.

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

6            **Sec. 1.** RCW 46.20.355 and 1995 c . . . (SSB 5141) s 4 are each  
7 amended to read as follows:

8            (1) Upon placing a license, permit, or privilege to drive in  
9 probationary status under RCW 46.20.---(2)(a) (section 3(2)(a), chapter  
10 . . . (SSB 5141), Laws of 1995), or upon receipt of an abstract  
11 indicating a deferred prosecution has been granted under RCW 10.05.060,  
12 or upon receipt of a notice of conviction of RCW 46.61.502 or  
13 46.61.504, the department of licensing shall order the person to  
14 surrender any Washington state driver's license that may be in his or  
15 her possession. The department shall revoke the license, permit, or  
16 privilege to drive of any person who fails to surrender it as required  
17 by this section for one year, unless the license has been previously  
18 surrendered to the department, a law enforcement officer, or a court,  
19 or the person has completed an affidavit of lost, stolen, destroyed, or

1 previously surrendered license, such revocation to take effect thirty  
2 days after notice is given of the requirement for license surrender.

3 (2) The department shall place a person's driving privilege in  
4 probationary status as required by RCW 10.05.060 (~~(or)~~), 46.20.308, or  
5 46.61.--- (section 5, chapter . . . (SSB 5141), Laws of 1995) for a  
6 period of five years from the date the probationary status is required  
7 to go into effect.

8 (3) Following receipt of an abstract indicating a deferred  
9 prosecution has been granted under RCW 10.05.060, or following receipt  
10 of a sworn report under RCW 46.20.308 that requires immediate placement  
11 in probationary status under RCW 46.20.---(2)(a) (section 3(2)(a),  
12 chapter . . . (SSB 5141), Laws of 1995), or upon reinstatement or  
13 reissuance of a driver's license suspended or revoked as the result of  
14 a conviction of RCW 46.61.502 or 46.61.504, the department shall  
15 require the person to obtain a probationary license in order to operate  
16 a motor vehicle in the state of Washington, except as otherwise exempt  
17 under RCW 46.20.025. The department shall not issue the probationary  
18 license unless the person is otherwise qualified for licensing, and the  
19 person must renew the probationary license on the same cycle as the  
20 person's regular license would have been renewed until the expiration  
21 of the five-year probationary status period imposed under subsection  
22 (2) of this section.

23 (4) For each original issue or renewal of a probationary license  
24 under this section, the department shall charge a fee of fifty dollars  
25 in addition to any other licensing fees required. Except for when  
26 renewing a probationary license, the department shall waive the fifty-  
27 dollar fee if the person has a probationary license in his or her  
28 possession at the time a new probationary license is required.

29 (5) A probationary license shall enable the department and law  
30 enforcement personnel to determine that the person is on probationary  
31 status. The fact that a person's driving privilege is in probationary  
32 status or that the person has been issued a probationary license shall  
33 not be a part of the person's record that is available to insurance  
34 companies.

35 **Sec. 2.** RCW 46.61.--- and 1995 c . . . (SSB 5141) s 5 are each  
36 amended to read as follows:

1 (1) A person who is convicted of a violation of RCW 46.61.502 or  
2 46.61.504 and who has no prior offense within five years shall be  
3 punished as follows:

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

8 (i) By imprisonment for not less than one day nor more than one  
9 year. Twenty-four consecutive hours of the imprisonment may not be  
10 suspended or deferred unless the court finds that the imposition of  
11 this mandatory minimum sentence would impose a substantial risk to the  
12 offender's physical or mental well-being. Whenever the mandatory  
13 minimum sentence is suspended or deferred, the court shall state in  
14 writing the reason for granting the suspension or deferral and the  
15 facts upon which the suspension or deferral is based; and

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

20 (iii) By suspension of the offender's license or permit to drive,  
21 or suspension of any nonresident privilege to drive, for a period of  
22 ninety days. The period of license, permit, or privilege suspension  
23 may not be suspended. The court shall notify the department of  
24 licensing of the conviction, and upon receiving notification of the  
25 conviction the department shall suspend the offender's license, permit,  
26 or privilege; or

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

31 (i) By imprisonment for not less than two days nor more than one  
32 year. Two consecutive days of the imprisonment may not be suspended or  
33 deferred unless the court finds that the imposition of this mandatory  
34 minimum sentence would impose a substantial risk to the offender's  
35 physical or mental well-being. Whenever the mandatory minimum sentence  
36 is suspended or deferred, the court shall state in writing the reason  
37 for granting the suspension or deferral and the facts upon which the  
38 suspension or deferral is based; and

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

5 (iii) By suspension of the offender's license or permit to drive,  
6 or suspension of any nonresident privilege to drive, for a period of  
7 one hundred twenty days. The period of license, permit, or privilege  
8 suspension may not be suspended. The court shall notify the department  
9 of licensing of the conviction, and upon receiving notification of the  
10 conviction the department shall suspend the offender's license, permit,  
11 or privilege.

12 (2) A person who is convicted of a violation of RCW 46.61.502 or  
13 46.61.504 and who has one prior offense within five years shall be  
14 punished as follows:

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

19 (i) By imprisonment for not less than thirty days nor more than one  
20 year. Thirty days of the imprisonment may not be suspended or deferred  
21 unless the court finds that the imposition of this mandatory minimum  
22 sentence would impose a substantial risk to the offender's physical or  
23 mental well-being. Whenever the mandatory minimum sentence is  
24 suspended or deferred, the court shall state in writing the reason for  
25 granting the suspension or deferral and the facts upon which the  
26 suspension or deferral is based; and

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

31 (iii) By revocation of the offender's license or permit to drive,  
32 or suspension of any nonresident privilege to drive, for a period of  
33 one year. The period of license, permit, or privilege revocation may  
34 not be suspended. The court shall notify the department of licensing  
35 of the conviction, and upon receiving notification of the conviction  
36 the department shall revoke the offender's license, permit, or  
37 privilege; or

38 (b) In the case of a person whose alcohol concentration was at  
39 least 0.15, or for whom by reason of the person's refusal to take a

1 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 forty-five days nor more than  
4 one year. Forty-five days of the imprisonment may not be suspended or  
5 deferred unless the court finds that the imposition of this mandatory  
6 minimum sentence would impose a substantial risk to the offender's  
7 physical or mental well-being. Whenever the mandatory minimum sentence  
8 is suspended or deferred, the court shall state in writing the reason  
9 for granting the suspension or deferral and the facts upon which the  
10 suspension or deferral is based; and

11 (ii) By a fine of not less than seven hundred fifty dollars nor  
12 more than five thousand dollars. Seven hundred fifty dollars of the  
13 fine may not be suspended or deferred unless the court finds the  
14 offender to be indigent; and

15 (iii) By revocation of the offender's license or permit to drive,  
16 or suspension of any nonresident privilege to drive, for a period of  
17 four hundred fifty days. The period of license, permit, or privilege  
18 revocation may not be suspended. The court shall notify the department  
19 of licensing of the conviction, and upon receiving notification of the  
20 conviction the department shall revoke the offender's license, permit,  
21 or privilege.

22 (3) A person who is convicted of a violation of RCW 46.61.502 or  
23 46.61.504 and who has two or more prior offenses within five years  
24 shall be punished as follows:

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

29 (i) By imprisonment for not less than ninety days nor more than one  
30 year. Ninety days of the imprisonment may not be suspended or deferred  
31 unless the court finds that the imposition of this mandatory minimum  
32 sentence would impose a substantial risk to the offender's physical or  
33 mental well-being. Whenever the mandatory minimum sentence is  
34 suspended or deferred, the court shall state in writing the reason for  
35 granting the suspension or deferral and the facts upon which the  
36 suspension or deferral is based; and

37 (ii) By a fine of not less than one thousand dollars nor more than  
38 five thousand dollars. One thousand dollars of the fine may not be

1 suspended or deferred unless the court finds the offender to be  
2 indigent; and

3 (iii) By revocation of the offender's license or permit to drive,  
4 or suspension of any nonresident privilege to drive, for a period of  
5 two years. The period of license, permit, or privilege revocation may  
6 not be suspended. The court shall notify the department of licensing  
7 of the conviction, and upon receiving notification of the conviction  
8 the department shall revoke the offender's license, permit, or  
9 privilege; or

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

14 (i) By imprisonment for not less than one hundred twenty days nor  
15 more than one year. One hundred twenty days of the imprisonment may  
16 not be suspended or deferred unless the court finds that the imposition  
17 of this mandatory minimum sentence would impose a substantial risk to  
18 the offender's physical or mental well-being. Whenever the mandatory  
19 minimum sentence is suspended or deferred, the court shall state in  
20 writing the reason for granting the suspension or deferral and the  
21 facts upon which the suspension or deferral is based; and

22 (ii) By a fine of not less than one thousand five hundred dollars  
23 nor more than five thousand dollars. One thousand five hundred dollars  
24 of the fine may not be suspended or deferred unless the court finds the  
25 offender to be indigent; and

26 (iii) By revocation of the offender's license or permit to drive,  
27 or suspension of any nonresident privilege to drive, for a period of  
28 three years. The period of license, permit, or privilege revocation  
29 may not be suspended. The court shall notify the department of  
30 licensing of the conviction, and upon receiving notification of the  
31 conviction the department shall revoke the offender's license, permit,  
32 or privilege.

33 (4) In exercising its discretion in setting penalties within the  
34 limits allowed by this section, the court shall particularly consider  
35 whether the person's driving at the time of the offense was responsible  
36 for injury or damage to another or another's property.

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

1       (6) After expiration of any period of suspension or revocation of  
2 the offender's license, permit, or privilege to drive required by this  
3 section, the department shall place the offender's driving privilege in  
4 probationary status pursuant to RCW 46.20.355.

5       (7)(a) In addition to any nonsuspendable and nondeferrable jail  
6 sentence required by this section, whenever the court imposes less than  
7 one year in jail, the court shall also suspend but shall not defer a  
8 period of confinement for a period not exceeding two years. The court  
9 shall impose conditions of probation that include: (i) Not driving a  
10 motor vehicle within this state without a valid license to drive and  
11 proof of financial responsibility for the future; (ii) not driving a  
12 motor vehicle within this state while having an alcohol concentration  
13 of 0.08 or more within two hours after driving; and (iii) not refusing  
14 to submit to a test of his or her breath or blood to determine alcohol  
15 concentration upon request of a law enforcement officer who has  
16 reasonable grounds to believe the person was driving or was in actual  
17 physical control of a motor vehicle within this state while under the  
18 influence of intoxicating liquor. The court may impose conditions of  
19 probation that include nonrepetition, alcohol or drug treatment,  
20 supervised probation, or other conditions that may be appropriate. The  
21 sentence may be imposed in whole or in part upon violation of a  
22 condition of probation during the suspension period.

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

27       (c) For each incident involving a violation of a mandatory  
28 condition of probation imposed under this subsection, the license,  
29 permit, or privilege to drive of the person shall be suspended by the  
30 court for thirty days or, if such license, permit, or privilege to  
31 drive already is suspended, revoked, or denied at the time the finding  
32 of probation violation is made, the suspension, revocation, or denial  
33 then in effect shall be extended by thirty days. The court shall  
34 notify the department of any suspension, revocation, or denial or any  
35 extension of a suspension, revocation, or denial imposed under this  
36 subsection.

37       (~~(7)~~)(8)(a) A "prior offense" means any of the following:

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

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

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

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

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

10 (vi) A deferred prosecution under chapter 10.05 RCW granted in a  
11 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
12 equivalent local ordinance.

13 (b) "Within five years" means that the arrest for a prior offense  
14 occurred within five years of the arrest for the current offense.

15 **Sec. 3.** RCW 46.20.311 and 1995 c . . . (SSB 5141) s 11 are each  
16 amended to read as follows:

17 (1) The department shall not suspend a driver's license or  
18 privilege to drive a motor vehicle on the public highways for a fixed  
19 period of more than one year, except as specifically permitted under  
20 RCW 46.20.342 or other provision of law. Except for a suspension under  
21 RCW 46.20.289 and 46.20.291(5), whenever the license or driving  
22 privilege of any person is suspended by reason of a conviction, a  
23 finding that a traffic infraction has been committed, pursuant to  
24 chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the  
25 suspension shall remain in effect until the person gives and thereafter  
26 maintains proof of financial responsibility for the future as provided  
27 in chapter 46.29 RCW. If the suspension is the result of a violation  
28 of RCW 46.61.502 or 46.61.504, the department shall determine the  
29 person's eligibility for licensing based upon the reports provided by  
30 the alcoholism agency or probation department designated under RCW  
31 46.61.5056 and shall deny reinstatement until enrollment and  
32 participation in an approved program has been established and the  
33 person is otherwise qualified. The department shall not issue to the  
34 person a new, duplicate, or renewal license until the person pays a  
35 reissue fee of twenty dollars. If the suspension is the result of a  
36 violation of RCW 46.61.502 or 46.61.504, or is the result of  
37 administrative action under RCW 46.20.308, the reissue fee shall be  
38 (~~fifty~~) one hundred dollars.

1 (2) Any person whose license or privilege to drive a motor vehicle  
2 on the public highways has been revoked, unless the revocation was for  
3 a cause which has been removed, is not entitled to have the license or  
4 privilege renewed or restored until: (a) After the expiration of one  
5 year from the date the license or privilege to drive was revoked; (b)  
6 after the expiration of the applicable revocation period provided by  
7 RCW 46.20.--- (section 3, chapter . . . (SSB 5141), Laws of 1995) or  
8 RCW 46.61.--- (section 5, chapter . . . (SSB 5141), Laws of 1995); (c)  
9 after the expiration of two years for persons convicted of vehicular  
10 homicide; or (d) after the expiration of the applicable revocation  
11 period provided by RCW 46.20.265. After the expiration of the  
12 appropriate period, the person may make application for a new license  
13 as provided by law together with a reissue fee in the amount of twenty  
14 dollars, but if the revocation is the result of a violation of RCW  
15 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be (~~fifty~~)  
16 one hundred dollars. If the revocation is the result of a violation of  
17 RCW 46.61.502 or 46.61.504, the department shall determine the person's  
18 eligibility for licensing based upon the reports provided by the  
19 alcoholism agency or probation department designated under RCW  
20 46.61.5056 and shall deny reissuance of a license, permit, or privilege  
21 to drive until enrollment and participation in an approved program has  
22 been established and the person is otherwise qualified. Except for a  
23 revocation under RCW 46.20.265, the department shall not then issue a  
24 new license unless it is satisfied after investigation of the driving  
25 ability of the person that it will be safe to grant the privilege of  
26 driving a motor vehicle on the public highways, and until the person  
27 gives and thereafter maintains proof of financial responsibility for  
28 the future as provided in chapter 46.29 RCW. For a revocation under  
29 RCW 46.20.265, the department shall not issue a new license unless it  
30 is satisfied after investigation of the driving ability of the person  
31 that it will be safe to grant that person the privilege of driving a  
32 motor vehicle on the public highways.

33 (3) Whenever the driver's license of any person is suspended  
34 pursuant to Article IV of the nonresident violators compact or RCW  
35 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue  
36 to the person any new or renewal license until the person pays a  
37 reissue fee of twenty dollars. If the suspension is the result of a  
38 violation of the laws of this or any other state, province, or other  
39 jurisdiction involving (a) the operation or physical control of a motor

1 vehicle upon the public highways while under the influence of  
2 intoxicating liquor or drugs, or (b) the refusal to submit to a  
3 chemical test of the driver's blood alcohol content, the reissue fee  
4 shall be ((fifty)) one hundred dollars.

5 NEW SECTION. **Sec. 4.** This act shall take effect September 1,  
6 1995.

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