

# HOUSE BILL REPORT

## HB 1151

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*As of House Second Reading  
March 12, 1991*

**Title:** An act relating to changing the blood and breath alcohol content standards for intoxication for those persons under the age of twenty-one.

**Brief Description:** Changing blood and breath alcohol content standards for intoxication for those persons under the age of twenty-one.

**Sponsor(s):** Representatives Ferguson, Appelwick, Winsley, Rasmussen, Tate, Fuhrman, Broback, Moyer, Holland, Dorn, Phillips, Pruitt, H. Sommers, Brumsickle, D. Sommers, Ogden, Ballard, Forner, Grant, Roland, Vance, Morris, Spanel, Paris, Haugen, May, Rayburn, Zellinsky, Silver, Betrozoff, Nealey, Sprenkle and Orr.

**Brief History:**

Reported by House Committee on:  
Judiciary, February 22, 1991, DP;  
House Second Reading, March 12, 1991.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *Do pass.* Signed by 18 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; Tate; Vance; and Wineberry.

**Staff:** Bill Perry (786-7123).

**Background:** One of the ways a driver can commit the crime of driving while intoxicated (DWI) is to drive with a certain amount of alcohol in his or her system. This version of DWI is called a "per se" crime because it does not require that the driver be under the influence of alcohol. It only requires that the driver have the specified level of alcohol in his or her system. The per se standard is set both for alcohol in the breath and alcohol in the blood. Those standards are 0.10 grams of alcohol per 210 liters of breath and 0.10 percent by weight of alcohol in the blood. These two standards are considered to be

equivalent. That is, on average, a person with 0.10 grams under the breath standard will also be found to have about 0.10 percent under the blood standard. Although in most DWI cases the breath test is used, there are circumstances in which a blood sample may be taken in lieu of or in addition to a breath standard.

The per se standard represents in part a legislative agreement with scientific evidence that virtually everyone's driving ability is impaired at these levels. There is evidence that in fact most drivers are affected to some degree at considerably lower levels. However, the lack of a lower standard does not necessarily mean that persons cannot be convicted of DWI if their tested alcohol levels are below the 0.10 standard. A person also commits DWI if he or she drives while "under the influence of or affected by intoxicating liquor or any drug." This version of DWI is independent of a per se standard, although a tested reading of below 0.10 could certainly be one piece of evidence to be considered in determining whether a driver was in fact under the influence.

It is generally against the law for persons under the age of 21 to possess or consume alcohol. However, drivers under the age of 21 are over-represented in DWI related accidents. That is, the percentage of drivers who are in that age group is smaller than the percentage of DWI related accidents involving that group. There is also evidence that younger drivers may be impaired at lower alcohol consumption levels than are older drivers.

**Summary of Bill:** The alcohol concentration standard for DWI per se is lowered for drivers under the age of 21. That is, a person under the age of 21 commits the crime of DWI if he or she drives with 0.04 grams or more of alcohol per 210 liters of breath, or 0.04 percent or more by weight of alcohol in the blood. The standard for a DWI per se violation by a driver age 21 or over remains unchanged.

**Fiscal Note:** Requested February 2, 1991.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Persons under 21 are prohibited from drinking. Nonetheless, they are still over-represented in DWI cases.

**Testimony Against:** The bill will result in increased costs to state and local governments.

**Witnesses:** Steve Lind, Washington Traffic Safety Commission (in favor); Tim Erickson, Washington State Patrol (in favor); Susie Tracey, Washington State Medical Association (in favor); Pete Youngers, Washington State Council on Alcoholism (in favor); Mike Redman, Washington Association of Prosecuting Attorneys (expressed concern); and Ken Stark, Department of Social and Health Services (opposes).