

HOUSE BILL REPORT

SHB 1676

*As Passed House
February 3, 1992*

Title: An act relating to punitive damages for wrongful death or personal injuries caused while driving under the influence of alcohol or drugs.

Brief Description: Establishing punitive liability for injury or wrongful death from driving while intoxicated.

Sponsor(s): By House Committee on Judiciary (originally sponsored by Representatives Inslee, Winsley, R. Meyers, Dorn, Dellwo, Zellinsky, Jacobsen, Rasmussen and Sheldon).

Brief History:

Reported by House Committee on:
Judiciary, February 15, 1991, DPS;
Passed House, March 13, 1991, 83-14;
Passed House, February 3, 1992, 77-15.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 1676 be substituted therefor, and the substitute bill do pass.* Signed by 10 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Broback; Hargrove; Inslee; R. Meyers; H. Myers; Riley; and Scott.

Minority Report: *Do not pass.* Signed by 6 members: Representatives Paris, Assistant Ranking Minority Member; Forner; Locke; Mielke; Tate; and Vance.

Staff: Pat Shelledy (786-7149).

Background: Generally, in tort actions for personal injuries or wrongful death, a victim may recover actual damages for the injury or death, but not punitive damages. In cases involving a drunk driver, the driver's insurance company may pay all the victim's damages, while the drunk driver may not have any out-of-pocket expenses to pay the victim's damages.

In many contingency fee cases, clients and their attorneys agree that the attorney will be paid a percentage of the damages awarded to the victim.

Summary of Bill: A trier of fact may impose punitive damages against a driver who injures or kills a victim in an accident that is proximately caused by the person driving a motor vehicle while under the influence of alcohol or drugs. Punitive damages may be awarded in addition to other recoverable damages. Each person the defendant injures or kills may recover double the actual damages or \$5,000, whichever is less. Insurance companies may not pay the punitive damages, nor may any liability be imputed to anyone other than the driver. The attorney may not, as part of the attorney's fee, take a percentage of the punitive damages awarded to the victim.

Fiscal Note: Not requested.

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

Testimony For: Because drunk drivers are insured, they frequently do not have to pay any out-of-pocket expenses for hurting or killing someone. This bill will make the drunk driver suffer direct impact.

Testimony Against: The insurance companies should not be responsible for paying punitive damages. The bill should be clarified so that insurance companies will not be held responsible for paying the punitive damages under imputed liability policies. In general, punitive damages in tort cases sets a bad policy. Drunk drivers should be incarcerated, not fined.

Witnesses: Representative Inslee, Prime Sponsor (pro); Basil Badley, American Insurance Association (will support if no imputed liability can be imposed so insurance companies will not have to pay the punitive damages); and Dick Ducharme, Liability Reform Coalition (con - does not support imposition of punitive damages as a deterrent, prefers incarceration of offenders).