

SENATE BILL REPORT

SB 5068

AS PASSED SENATE, FEBRUARY 11, 1991

Brief Description: Changing provisions relating to vehicular offenses.

SPONSORS: Senators Nelson, Rasmussen, Bailey, Metcalf, Erwin, Oke, Craswell, McCaslin, Thorsness and Sellar.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Hayner, Madsen, Newhouse, and Rasmussen.

Staff: Richard Rodger (786-7461)

Hearing Dates: January 22, 1991, January 28, 1991

BACKGROUND:

Deaths and injuries frequently occur in automobile accidents where the operator is driving recklessly or while under the influence of alcohol and/or drugs. Under our present law, those persons may be charged with the offenses of vehicular homicide or vehicular assault if the driver's conduct proximately caused the accident. The prosecutor must prove the proximate cause of the accident beyond a reasonable doubt.

There have been several accidents in our state where, although the driver was legally intoxicated at the time of the accident, the prosecutor has been unable to prove beyond a reasonable doubt that the driver's condition was the proximate cause of the accident. The defendant in these cases needs only to allege that some other condition caused the accident to be unavoidable, such as the weather, to raise a doubt for the jurors.

SUMMARY:

The burden of proof on the issue of causation is shifted to the defendant for the offenses of vehicular homicide and vehicular assault. The defendant may raise the defense that no negligent act on his or her part was a proximate cause of the accident. Defendants must prove their defense by a preponderance of the evidence.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The shift in the burden of proof will assist the prosecutors in obtaining convictions for people who drive while intoxicated and cause accidents involving injuries or death.

TESTIMONY AGAINST: None

TESTIFIED: Seth Dawson, Snohomish County Prosecutor (pro); Lori Moran, victim (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro); Tim Erickson, WSP (pro); Mike Lambeaux, WSTLA (con)