

**SENATE BILL REPORT**

**SB 5340**

**AS PASSED SENATE, MARCH 4, 1993**

**Brief Description:** Increasing penalties for persons under the influence of intoxicating liquor or drugs.

**SPONSORS:** Senators A. Smith, Quigley, McCaslin, Winsley, Talmadge, Fraser, von Reichbauer, M. Rasmussen, Roach and Oke

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Roach, and Spanel.

**Staff:** Lidia Mori (786-7755)

**Hearing Dates:** February 4, 1993; February 10, 1993

**BACKGROUND:**

A person may be convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor if his or her breath or blood alcohol level is 0.10 or above. The breath level is determined by the grams of alcohol per 210 liters of breath and the blood level is determined by the percent of alcohol in the blood by weight.

Research has shown that a person's ability to drive a motor vehicle is substantially impaired at an alcohol concentration level lower than 0.10. The United States Surgeon General, the National Highway Traffic Safety Administration, and Mothers Against Drunk Driving, among others, have recommended that all states adopt illegal per se alcohol concentration levels below 0.10.

An illegal per se alcohol level of 0.08 has been adopted in Oregon, California, Maine, Utah, and Vermont. Seven other states, plus the District of Columbia, have adopted presumptive levels of intoxication at or below the 0.08 level. Colorado adopted .051, Oklahoma .051, District of Columbia .051, Connecticut .071, Maryland .071, Michigan .071, New York .071, and Idaho .081.

**SUMMARY:**

The illegal per se level of breath and blood alcohol concentration is lowered from 0.10 to 0.08 for DWI offenses.

The penalty for a conviction of a DWI offense when the amount of alcohol in the person's blood or breath at the time of the

offense is less than 0.18 includes imprisonment for not less than 24 hours nor more than one year. Additionally, a fine is imposed that is not less than \$250 nor more than \$1000 and the driver's license or permit to drive is suspended until the person reaches age 19 or for 90 days, whichever is longer. If a person is convicted of a DWI offense and the amount of alcohol in the person's blood or breath is 0.18 or more, the penalty consists of imprisonment for not less than 24 hours nor more than one year, a fine of not less than \$500 nor more than \$2000 and suspension of the driver's license or permit to drive until the person reaches the age of 20 or for 180 days, whichever is longer.

The penalty for a second or subsequent DWI offense within a five-year period if a person's blood or breath alcohol level is less than 0.18 at the time of the offense is imprisonment for not less than seven days nor more than one year, a fine of not less than \$500 nor more than \$2000 and revocation of the driver's license or permit to drive for one year. If a person is convicted of a second or subsequent DWI offense within a five-year period and the amount of alcohol in the person's blood or breath is 0.18 or more, the penalty is not less than seven days nor more than one year, a fine of not less than \$1000 and not more than \$4000 and revocation of the driver's license for two years.

For a third or subsequent conviction of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, vehicular homicide, or vehicular assault within a five-year period, the driver's license is revoked for two years if the amount of alcohol in the person's blood or breath is less than 0.18. The incarceration time and the fine is the same as for a second offense involving a blood or breath alcohol level of less than 0.18. A third or subsequent conviction of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, vehicular homicide, or vehicular assault within a five-year period where the blood or breath alcohol level is 0.18 or greater requires revocation of the person's driver's license for four years. The time of imprisonment and the fine are the same as for a second DWI offense involving a blood or breath alcohol level of 0.18 or greater.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested

**TESTIMONY FOR:**

Studies show that above .15 blood alcohol level there is a greatly increased risk of crash. Lowering the blood alcohol per se illegal standard will assist in the prosecution of borderline DWI cases.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Steve Lind, Washington Traffic Safety Commission; Bob Alexander, Washington Advocates for Highway & Auto Safety; Adam Kline, Mothers Against Drunk Driving; Mark Thompson, Thurston County Prosecuting Attorney; Matt Thomas, Washington Association of Prosecuting Attorneys; Pat Cooper, Pierce County Prosecuting Attorney; Jean Leonard, State Farm Insurance