

**FINAL BILL REPORT**

**SSB 6047**

**PARTIAL VETO**

**C 275 L 94**

**SYNOPSIS AS ENACTED**

**Brief Description:** Revising provisions relating to crimes involving alcohol, drugs, or mental problems.

**SPONSORS:** Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Quigley and Oke)

**SENATE COMMITTEE ON LAW & JUSTICE**

**SENATE COMMITTEE ON TRANSPORTATION**

**HOUSE COMMITTEE ON JUDICIARY**

**BACKGROUND:**

Under current law a person charged with driving while intoxicated is allowed by a court to enter a deferred prosecution program and avoids the possibility of being found guilty of the charge as long as he or she successfully completes the treatment program. A person is not eligible for a deferred prosecution program more than once in a five-year period. If a person on deferred prosecution fails to meet any of the requirements of the treatment plan, the treatment provider must notify the court, the prosecutor, and the person's attorney. The court dismisses the pending charges if the person successfully completes the two-year treatment plan and does not have any convictions for similar offenses during the two-year period. It is believed that the terms and conditions of deferred prosecution are often violated without the appropriate consequences ensuing.

Washington law currently allows a person charged with a DUI to keep his or her driver's license until the end of all legal proceedings, including appeals, due to automatic stay provisions in the statutes. There is concern that this provides a strong incentive for defendants to delay and litigate which in turn drives up caseloads and costs. Thirty-four states have adopted administrative license suspension which removes the license issue from the prosecution of the case.

These and a variety of other DUI issues are addressed.

**SUMMARY:**

DUI Sanctions. A person who is convicted of DUI with an alcohol concentration of at least .10 but less than .15 will be punished by imprisonment for not less than one day nor more than one year, a fine of \$350 to \$5000, and a suspension of his or her driver's license for 90 days. The court may suspend all or part of the 90 days upon a plea agreement by the prosecutor and the defendant. These sanctions will apply only if the person has not had a conviction of DUI within the previous five years and his or her driver's license is not in a probationary, suspended, or revoked status.

A person who is convicted of DUI with an alcohol concentration of .15 or more or who refuses to submit to the breathalyzer test will be punished by imprisonment for not less than two days nor more than one year, a fine of \$500 to \$5000 and suspension of his or her driver's license for 120 days. In addition, the person's driver's license is considered to be in a probationary status for five years. These sanctions only apply if the person's driver's license is not in a probationary, suspended, or revoked status at the time of the violation and there is no conviction of DUI within the previous five years.

A person whose driver's license is in a probationary status when he or she violates the law prescribing driving while intoxicated and who has an alcohol concentration of at least .10 but less than .15 will be punished by imprisonment for not less than seven days nor more than one year, a fine of \$500 to \$5000, and suspension of his or her driver's license for one year.

A person whose driver's license is in a probationary status when he or she violates the law pertaining to driving while intoxicated and who has an alcohol concentration of .15 or more or who refuses to submit to the breathalyzer will be punished by imprisonment for 10 days to one year, a fine of \$750 to \$5000 and revocation of his or her driver's license for 450 days.

Imprisonment for 90 days to one year, a fine of \$750 to \$5000, and revocation of one's driver's license for two years is the punishment for a person who violates the law prescribing driving while intoxicated while also having his or her driver's license in a suspended or revoked status or with a previous conviction of DUI within five years of the current offense.

Whenever a court imposes less than one year in jail, it must suspend a period of confinement for not more than two years. The court is directed to impose conditions of probation including not driving without a valid license and proof of financial responsibility, not driving with an alcohol concentration of .08 or more, and not refusing to submit to a breath or blood test. For each violation of these conditions, the court will require the person to be imprisoned for not less than 30 days.

Probationary Licenses. A probationary license will be issued to a driver who has been granted a deferred prosecution or when a driver with an alcohol concentration of at least 0.10 is subject to administrative license action for the first time. The probationary license will continue for five years, and will allow a police officer to determine that the person is on probationary status for a DUI violation. The fact that a person has a probationary license will not be available to insurance companies through the person's driving record.

Administrative License Suspension/Revocation. Administrative suspension or revocation applies to any minor driver with an alcohol concentration of 0.02 percent or higher, and to any second time adult DUI offender with an alcohol concentration of 0.10 percent or higher. A suspension or revocation will be stayed if the person is granted a deferred prosecution on criminal charges arising out of the same offense that triggered the administrative action. Administrative issuance of a probationary license applies to an adult first-time offender with an alcohol concentration of 0.10 percent or higher.

Alcohol Problem Assessment and Treatment. An alcohol treatment agency that knowingly fails to report a driver's noncompliance with treatment is subject to a \$250 fine, and upon a third such failure in a year is subject to loss of its license to provide alcohol treatment.

Driving Records. The Department of Licensing is directed to keep alcohol related driving records for 10 years instead of five. The department is also directed to mask certain information on a driver's record when an abstract of that record is provided to an insurance company. Masked information includes any record of a DUI infraction unless there is a subsequent DUI offense within five years, and any record of a deferred prosecution unless the person has been removed from the deferral for failure to comply with the conditions imposed as part of the deferral.

Vehicular Homicide. The seriousness level of the crime of vehicular homicide is raised from level eight to level nine when the homicide involves DUI. This change means that under the Sentencing Reform Act the presumptive sentence for a first-time offender is three years in prison instead of two.

Ignition Interlock. The ignition interlock law is amended to allow the use of biological devices or other new technologies designed to prevent an intoxicated person from driving.

Lawsuits Against Drunk Drivers. An intoxicated person who is injured by a drunk driver is not barred from recovering damages from the drunk driver unless the injured person's own intoxication was a cause of the accident that resulted in the injury.

**VOTES ON FINAL PASSAGE:**

Senate	39	8	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	96	0
Senate	45	0

**EFFECTIVE:** July 1, 1994

**Partial Veto Summary:** Section 35 was vetoed due to being in conflict with section 19 and the intent of the bill to maintain records for deferred prosecution for ten years.