

# HOUSE BILL REPORT

## E2SSB 6293

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**As Reported By House Committee On:**

Law & Justice

**Title:** An act relating to drunk driving.

**Brief Description:** Establishing penalties for drunk driving.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Benton, Roach, T. Sheldon, Rossi, McDonald and Oke).

**Brief History:**

**Committee Activity:**

Law & Justice: 2/24/98, 2/27/98 [DPA].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

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

**Background:** The drunk driving law contains a variety of penalties. Generally, mandatory fines, periods of jail time, and driver's license suspensions escalate with successive convictions for driving while under the influence (DUI). There is a five-year "washout" period for purposes of counting prior convictions. That is, a second DUI conviction only enhances penalties if it occurs within five years of a prior offense.

Penalties also vary depending on the breath or blood alcohol concentration (BAC) of the offender. BACs of 0.15 or more result in enhanced penalties. If there is no BAC reading available, penalties are also enhanced if the reason for the absence of a BAC reading was the offender's refusal to submit to a BAC test.

DUI is a gross misdemeanor with a maximum penalty of one year in jail and a \$5,000 fine. Mandatory minimum jail sentences begin with 24 hours in jail for an offender with no priors and a BAC below 0.15, and escalate to 120 days in jail for an offender with two or more priors and a BAC of 0.15 or above.

**Summary of Amended Bill:** A new penalty is added to those that apply to DUI cases. Electronic home monitoring is optional in lieu of mandatory minimum jail time for first-time offenders. It is a mandatory addition to mandatory minimum jail time for second or third offenders. Mandatory periods of home monitoring range from 15 days in lieu of one day in jail for a first-time offender with a BAC below 0.15, to 150 days in addition to 120 days in jail for a third-time offender with a BAC of 0.15 or above.

Electronic home monitoring may include restrictions on the consumption of alcohol and the use of an alcohol detection device. The offender is to pay the cost of home monitoring as determined by the local jurisdiction in which the penalty is imposed.

DUI defendants are required to appear in person for arraignment following arrest or charging. In the case of an arrest, the defendant must appear on the next judicial day following arrest. In the case of a charge without an arrest, the defendant must appear within 14 days of the next judicial day following the charging. At the appearance, the court is to consider conditions of pretrial release.

**Amended Bill Compared to Engrossed Second Substitute Bill:** The engrossed second substitute bill makes electronic home monitoring a mandatory part of every DUI sentence. It includes increases in the fines charged for DUI. It provides for the "permanent" revocation of a driver's license on a third DUI. It creates a new crime of driving with a permanently revoked license that is a gross misdemeanor on a first offense and a class C felony on a second offense. It changes the washout period for first- and second-time offenders from five years to seven years, and for third-time offenders from five years to lifetime. It directs the Traffic Safety Commission to publicize the contents of the act. It also allows local governments to submit claims to the state for costs incurred in implementing mandatory provisions of the act.

The amended bill removes all of those provisions and adds the provisions making electronic monitoring an option for first-time offenders and mandatory for second- and third-time offenders. It also adds the provisions relating to mandatory court appearances within certain time limits and verification of criminal history before sentencing, dismissal, or granting of a deferred prosecution.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 19, 1998.

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

**Testimony For:** Electronic home monitoring can be an effective addition to the penalties for DUI. It is cost efficient since the offenders will pay for it. Increasing fines also will enhance local revenues. A serious repeat offender should lose his or her license

permanently and should only be able to get it back if he or she cannot demonstrate rehabilitation. It is very important that new DUI laws be publicized if they are to have maximum effect.

**Testimony Against:** None.

**Testified:** Senator Benton, prime sponsor; Senator Roach (pro); Senator Strannigan (pro); Karolyn Nunnallee, President, Mothers Against Drunk Drivers (pro); Don Lennon, President, Mothers Against Drunk Drivers, Washington Chapter (pro); Bill Hanson, Washington State Patrol Troopers Association (pro); Annette Sandberg, Chief, Washington State Patrol (pro); Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (pro, with amendment); Steve Lind, Washington Traffic Safety Commission (pro); Russ Hauge, Washington Association of Prosecuting Attorneys (pro); Kathy Gerke, Association of Washington Cities (pro, with concerns re fiscal impact); Mark Sidron, Seattle City Attorney (pro); Evan Simpson, Harborview Injury Prevention Center (pro); Pamela Simpson, citizen (pro); and Cheryl Fox, citizen (pro).