

SENATE BILL REPORT

SHB 2885

As Reported By Senate Committee On:
Law & Justice, February 26, 1998

Title: An act relating to drunk driving.

Brief Description: Providing additional penalty options for drunk driving.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Mulliken, Sheahan, Costa, McDonald, Backlund, Mielke, Smith, Boldt and Thompson).

Brief History:

Committee Activity: Law & Justice: 2/26/98 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Roach, Chair; Fairley, Goings, Kline, Long, McCaslin and Stevens.

Staff: Lidia Mori (786-7755)

Background: The drunk driving (DUI) law has a variety of criminal penalty provisions, including a number of mandatory minimum penalties. For a first DUI offense within five years, the mandatory minimum jail sentence is one day if the offender's BAC was less than 0.15. For a first-time offender with a BAC of 0.15 or more, the mandatory minimum jail sentence is two days.

DUI trials in which BAC evidence is to be presented may involve testimony from witnesses regarding the calibration and use of the alcohol analyzing equipment used to determine the defendant's BAC. The Legislature has provided for the use of certified copies of analytical lab reports as prima facie evidence of the BAC findings. However, the laboratory personnel themselves may still be subpoenaed and required to attend evidentiary hearings and trials.

Courts have jurisdiction over DUI offenders for two years in order to supervise probationary sentences.

Summary of Bill: Alternatives to the mandatory minimum jail sentences for a first-time DUI offender are provided.

For a first-time offender with a BAC below 0.15, the court may order that in lieu of one day in jail the offender is subject to not less than 15 days of electronic home monitoring. The home monitoring must be paid for by the offender and may include breathalyzer testing and restrictions on alcohol consumption.

For a first-time offender with a BAC of 0.15 or more, the same electronic home monitoring option is available in lieu of the mandatory two days in jail, but the monitoring is for a minimum of 30 days.

Courts may allow forensic scientists and toxicologists to testify in DUI hearings and trials via live interactive teleconferencing. The court may allow the use of this technology if the court is satisfied it will allow high quality presentation of evidence and will not violate the defendant's right to confront witnesses.

The period of court jurisdiction over DUI offenders on probation is extended from two years to five years.

Appropriation: None.

Fiscal Note: Requested on February 25, 1998.

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

Testimony For: This bill takes fiscal concerns into consideration and it takes the DUI offender off the streets for a good period of time. Fifteen days on electronic monitoring is much more punishment than one day in jail and electronic monitoring in lieu of jail saves money.

Testimony Against: Where does the allowance to testify via teleconferencing stop? The right to confrontation includes the right to observe the demeanor of a witness. There is an unfair negative impact from electronic monitoring on indigent offenders.

Testified: PRO: Representative Mulliken, prime sponsor; Tim Schellberg, WA Association of Sheriffs and Police Chiefs; CON: Dave Chapman, WA Association of Criminal Defense Attorneys.