

SENATE BILL REPORT

2SHB 3070

As Reported By Senate Committee On:
Law & Justice, February 26, 1998
Ways & Means, March 2, 1998

Title: An act relating to penalties for driving under the influence.

Brief Description: Increasing penalties for drunk driving.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives McCune and Mulliken).

Brief History:

Committee Activity: Law & Justice: 2/26/98 [DP-WM].
Ways & Means: 3/2/98 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long, Stevens, Thibaudeau and Zarelli.

Staff: Lidia Mori (786-7755)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Kohl, Long, Loveland, McDonald, Roach, Rossi, Schow, Snyder, Spanel, Swecker, Thibaudeau and Zarelli.

Staff: Bryon Moore (786-7726)

Background: The driving under the influence (DUI) law has a variety of criminal and civil penalty provisions. These penalties escalate on the basis of repeat offenses and on the basis of the offender's blood or breath alcohol concentration (BAC). For purposes of counting "prior" DUIs, there is a five-year washout period. "Prior" offenses for purposes of these escalating penalties include: DUI; DUI-related vehicular homicide or assault; and negligent driving, if the conviction is the result of a charge originally filed as a DUI or vehicular homicide or assault. "Prior offenses" also include deferred prosecutions on DUI or DUI-related charges.

The implied consent law, the DUI vehicle forfeiture law, the occupational license law, and the deferred prosecution law also have provisions based on a five-year washout period for counting prior offenses.

The Department of Licensing (DOL) is required to keep DUI records for at least 10 years.

Vehicular homicide is a class A felony. It involves causing the death of another while driving either under the influence or while driving recklessly or with disregard for the safety of others. Under the Sentencing Reform Act (SRA), vehicular homicide is a level VII offense if committed while driving with disregard, a level VIII offense if committed while driving recklessly, and a level IX offense if committed while driving under the influence. The mid-point of the presumptive sentence range for a first-time offender for a level IX offense is three years in prison. The presumptive sentence range increases with the offender's criminal history. Various rules apply in determining an offender's criminal history score. Whether or not a prior conviction counts depends on the nature of the prior offense, the nature of the current offense, and the number of years since the prior conviction. As a class A felony, vehicular homicide never washes out of an offender's criminal history. If an offender's current crime is a felony traffic offense, such as vehicular homicide, then a prior vehicular homicide counts double in determining the offender score. Also, if the current offense is a felony traffic offense, some nonfelony prior traffic offenses count as well. These non-felony priors are called "serious traffic offenses" and include: DUI, reckless driving, and hit-and-run involving an attended vehicle. Under the SRA, serious traffic offenses have a five-year washout period.

A provision outside of the DUI law makes it illegal for a minor to drive with an alcohol concentration (BAC) of 0.02 or more. The standard for DUI currently is 0.10.

Summary of Amended Bill: All of the DUI-related, five-year washout periods are changed to 10-year periods, except for the periods applicable to deferred prosecutions, and to serious traffic offenses under the SRA. DOL is required to keep DUI-related records for 15 years.

The law is clarified to apply only to those persons under 21 years of age with BACs below the DUI level.

The bill is null and void unless funded in the budget.

Amended Bill Compared to Second Substitute Bill: The two year sentencing enhancement for DUI-related vehicular homicide, for each prior offense for DUI, DUI-related vehicular homicide or assault and negligent driving, if the conviction is the result of a charge originally filed as a DUI, or vehicular homicide or assault, is removed.

Appropriation: None.

Fiscal Note: Requested on February 8, 1998.

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

Testimony For: The change to the wash-out- period that is in this bill is a step forward but not an extreme change.

Testimony Against: None.

Testified: PRO: Representative McCune, original prime sponsor; Linda Grant, Association of Alcoholism and Addiction Programs; Debbie Schmidt, DOL (with concerns).