

SENATE BILL REPORT

ESB 5499

As Passed Senate, January 30, 1998

Title: An act relating to assault on bus drivers.

Brief Description: Defining when an assault on a bus driver constitutes assault in the third degree.

Sponsors: Senators Roach, Johnson, Goings, Jacobsen, Haugen, Horn, Zarelli, McCaslin, Long, Franklin, Winsley, Oke and Rasmussen.

Brief History:

Committee Activity: Law & Justice: 2/20/97, 3/3/97 [DP].

Passed Senate, 3/12/97, 46-0.

Passed Senate, 1/30/98, 48-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

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

Staff: Dick Armstrong (786-7460)

Background: An assault, in its simplest form, has been defined by case law as any intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim. An act of assault may range from spitting on someone to inflicting a permanently disabling or disfiguring injury. The criminal code divides the crime of assault into four degrees, and into some specific separate crimes. The various crimes are distinguished by the state of mind of the offender, the extent of injury done to the victim, whether or not a weapon was used, and who the victim was.

Fourth-degree assault, sometimes called "simple assault," is a gross misdemeanor. Any assault that does not fall within the definition of one of the other degrees or definitions of the crime is fourth-degree assault. Third-degree assault, the lowest level of felony assault, is a class C felony. Generally, in order to amount to third-degree assault, an assault must involve causing some bodily harm with a weapon, or must involve otherwise causing bodily harm that is "accompanied by substantial pain that extends for a period sufficient to cause considerable suffering."

However, the Legislature has also provided that with respect to certain victims, an assault that would otherwise be a gross misdemeanor will be a felony. That is, with respect to these victims, there is no need to show bodily harm caused by a weapon, or accompanied by substantial pain, in order for the crime to be a felony. A fourth-degree assault becomes a class C felony if committed against:

- a public or private transit vehicle driver;
- a public or private school bus driver;
- a firefighter;
- a law enforcement officer;
- personnel or volunteers at a juvenile corrections facility;
- personnel or volunteers at an adult corrections facility; and
- personnel or volunteers involved in community corrections.

An otherwise misdemeanor assault against one of these victims becomes a felony only if the victim is engaged in his or her job related duties at the time of the assault. In the case of transit vehicle and school bus drivers, however, it is also necessary that the driver be operating the vehicle and that there be at least one passenger on the vehicle.

Summary of Bill: An otherwise misdemeanor assault on a transit vehicle or school bus driver becomes a felony if committed while the driver is performing official duties. The requirements that the driver be operating the vehicle or bus and that at least one passenger be present are removed.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: There are instances where bus drivers are assaulted even though there are no passengers. The standard should be whether the driver is performing official duties at the time.— The bill is widely supported by numerous school district organizations. Drivers are required to be on and off the bus as part of their duties.

Testimony Against: None.

Testified: PRO: Wendy Rader-Konofalski, WFT; Vicki Sharnik, Renton School District; Steve Ross, SEIU, ATU; Sheryl Hinchliff, WSHIMA.