

# SENATE BILL REPORT

## SB 6475

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As of January 28, 1998

**Title:** An act relating to driving under the influence of intoxicating liquor or any drug.

**Brief Description:** Revising provisions relating to driving while under the influence.

**Sponsors:** Senators Roach, Fairley, Patterson, Kline, Haugen, McAuliffe, Goings, Kohl, Rasmussen and Oke; by request of Governor Locke.

**Brief History:**

**Committee Activity:** Law & Justice: 1/28/98.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Lidia Mori (786-7755)

**Background:** The illegal per se breath and blood alcohol concentration level is .10.

The administrative sanction for a first driving under the influence of alcohol or drugs offense (DUI) is placement by the Department of Licensing of the person's driver's license in probationary status for five years.

Currently, a person arrested for driving under the influence of alcohol, who has had a prior DUI within five years, is prohibited from selling, transferring, or encumbering the vehicle pending acquittal, dismissal, or 60 days after conviction of the DUI. If the person is convicted of the DUI and has had a prior DUI within five years, the vehicle is subject to seizure and forfeiture. A vehicle subject to forfeiture may be seized by a law enforcement officer with a court order. There is concern that this process is unworkable and has therefore seldom been put to use.

A person is not eligible for a deferred prosecution program in connection with a charge of driving under the influence of alcohol or drugs more than once in any five-year period. The court is required to dismiss the DUI charges pending against the person after receipt of proof of successful completion of the two-year treatment program under the deferred prosecution. A DUI conviction does not appear on the convicted person's driving record after the passage of five years.

This bill derives from a variety of sources and incorporates numerous approaches to strengthening the laws pertaining to driving under the influence of liquor or drugs in the state of Washington.

**Summary of Bill:** The illegal per se breath and blood alcohol concentration standard is .08.

A person's driver's license is administratively suspended for 90 days for a first violation of the laws pertaining to driving under the influence of alcohol or drugs.

A vehicle may be impounded at the direction of law enforcement and pursuant to local ordinance or agency rule whenever the driver is arrested for violation of the laws pertaining to driving under the influence of liquor or drugs. If the operator of the impounded vehicle has not had a prior DUI violation within the past five years, the vehicle may be held for up to 15 days. It may not be released until towing, removal, and storage fees have been paid. A person has the right to a hearing in district court to contest the validity of the impoundment. If the operator of the impounded vehicle has had a prior DUI and has a financial interest in the vehicle, the vehicle is subject to forfeiture. Notice of the intended forfeiture is provided to the owner of the vehicle, the tow truck operator, and to any person having a right or interest in the vehicle, including a community property interest. If no one notifies the seizing law enforcement agency of a claim of ownership or right to possession within 45 days, the vehicle is deemed forfeited. If a claim is made within 45 days, a hearing is held and the seizing agency must prove by a preponderance of the evidence that the vehicle was operated by the person in violation of the laws pertaining to driving under the influence of alcohol or drugs, the person has a prior DUI violation and has an ownership interest in the vehicle. If the vehicle is forfeited, the seizing law enforcement agency must satisfy any bona fide security interest and satisfy any bona fide community property interest. In addition, the value of the undivided community property interest of the innocent spouse may not be diminished by the towing, removal, or storage charges.

A DUI conviction remains permanently on the convicted person's record. A person is not eligible for a deferred prosecution program in connection with a charge of driving under the influence of alcohol or drugs more than once in his or her lifetime. The court will dismiss the charges pending against a person who successfully completes the two-year treatment program but not before five years following entry of the order of deferred prosecution.

The court and prosecutor are required to verify a defendant's criminal history and driving record immediately before the court orders a sentence or deferred prosecution in cases involving the following offenses: DUI, vehicular homicide committed while under the influence of liquor or any drug, vehicular assault committed while under the influence of liquor or any drug, negligent driving first degree and reckless endangerment second degree if the latter two convictions are the result of charges that were originally filed as DUIs or vehicular homicide or vehicular assault. Reckless endangerment when originally filed as a DUI is counted as a prior DUI offense.

**Appropriation:** None.

**Fiscal Note:** Requested on January 28, 1998.

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