

SENATE BILL REPORT

SB 6759

As of February 26, 1998

Title: An act relating to drunk driving.

Brief Description: Changing provisions relating to drunk driving.

Sponsors: Senator Roach.

Brief History:

Committee Activity: Law & Justice: 2/26/98.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lidia Mori (786-7755)

Background: 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 (BAC) standard is .08. The offense of a driver under 21 years of age consuming alcohol is limited to those persons under 21 years of age who have a BAC of at least .02 but less than the illegal per se blood alcohol level for the offense of driving under the influence of alcohol (DUI).

Local governments are authorized to submit claims for reimbursement by the Legislature if this bill results in additional costs to local government. If implementation of this act results in increased costs to any local government, that local government is not required to comply with this act.

A person's driver's license is administratively suspended for 90 days for a first DUI violation. A person who had his or her license administratively suspended for a first violation of DUI may submit an application for an occupational driver's license to the Department of Licensing.

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 or is operating the vehicle while having a suspended or revoked driver's license.

If the operator of the impounded vehicle has not had a prior DUI violation, the vehicle may be held for up to 15 days. If the vehicle is impounded because the driver is in violation of DWLS 3, and the driver has a previous violation of DWLS 3 in the past five years, the vehicle may be held for up to 15 days at the written direction of the agency ordering the impound. If the vehicle is impounded because the driver is in violation of DWLS 1 or DWLS 2, the vehicle may be held for up to 15 days. The vehicle may not be released until

towing, removal, and storage fees have been paid, or pursuant to an agency rule or local ordinance that authorizes release due to economic or personal hardship to the spouse of the operator. Public safety factors, including the criminal history and driving record of the operator must be considered in deciding to release the vehicle to the spouse of the operator. A person has the right to a hearing in district or municipal court to contest the validity of the impoundment. The petitioner must pay the filing fee for the hearing.

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. If the operator of the vehicle was previously convicted of DWLS 1 or DWLS 2 within the past five years, the vehicle is subject to forfeiture if the operator has a financial interest in the vehicle. 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 unless an agency rule or local ordinance prohibits forfeiture in situations of economic or personal hardship to the spouse of the operator considering also the operator's criminal history and driving record. If a claim is made within 45 days and the vehicle was impounded due to DUI, 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 DUI, the person has a prior DUI violation and has an ownership interest in the vehicle. If a claim is made within 45 days and the vehicle was impounded due to DWLS 1 or DWLS 2 and the person has been previously convicted of DWLS 1 or DWLS 2, a hearing is held and the seizing agency must prove by a preponderance of the evidence that the vehicle was operated by a person who was previously convicted of DWLS 1 or DWLS 2. 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 person convicted of driving under the influence of alcohol or drugs (DUI) with a blood or breath alcohol level of .15 or more who has not been previously restricted to driving only a vehicle equipped with an ignition interlock device is restricted for one year to driving only a vehicle equipped with an ignition interlock device. A person convicted of DUI who has a prior DUI within the past five years and who has previously been restricted to driving only a vehicle equipped with an ignition interlock device for one year is restricted to driving only a vehicle equipped with an ignition interlock device for five years. A person who has two or more prior DUI's within the past five years and who is convicted of another DUI and has previously been restricted to driving only a vehicle equipped with an ignition interlock device for five years is permanently restricted to driving a vehicle equipped with an ignition interlock device.

The first conviction of driving a vehicle that is not equipped with an ignition interlock device when a person is required to only drive such a vehicle results in a minimum jail term of 30 days. A second such offense results in a jail term of at least 60 days and a third offense results in a jail term of 90 days. When a person is arrested for circumventing the interlock device, the car is impounded as evidence.

The penalties for drunk driving convictions are expanded to include varying lengths of electronic home monitoring. The court may also require the electronic home monitoring device to include an alcohol detection breathalyzer.

Minimum fines are increased. If the offender has two or more convictions, his or her license is permanently revoked. Person may petition for reinstatement of license after seven years. The person must show good cause— which is defined as sufficient evidence of permanent rehabilitation. It is a gross misdemeanor to drive while one's license is permanently revoked. A second violation is a class C felony.

The identicard of a person who is convicted of driving under the influence of alcohol must be canceled by the Department of Licensing. The new identicard must be clearly marked by the department to show that the person has been convicted of DUI within the last five years.

A person who is seeking to have his or her license reinstated after suspension for DUI must pay the current reissue fee and an additional fee of \$300. A new license may not be issued to a person whose license has been revoked due to driving under the influence of alcohol until he or she pays the current reissue fee and an additional fee of \$300.

The department is required to mark a new or reissued license that is issued after a period of suspension or revocation to show that the person has been convicted of a DUI violation within the last five years.

A person convicted of DUI may obtain an occupational driver's license only after successful completion of the driver's license examination and payment of a fee of \$300. The occupational license must be clearly marked to show that the person's regular license was suspended or revoked due to a DUI conviction.

Funding is provided during the biennium ending June 30, 1999, to reimburse city and county governments for the costs of implementing legislation passed during the 1998 legislative session related to driving or boating while under the influence of intoxicating liquor or any drug.

Appropriation: None.

Fiscal Note: Requested on February 26, 1998.

Effective Date: Section 36 of this act takes effect immediately. Sections 34 through 36 of this act take effect November 1, 1998.