

SENATE BILL REPORT

SB 5493

As Reported By Senate Committee On:
Judiciary, March 1, 1999

Title: An act relating to operating or having actual physical control of a vessel while under the influence of intoxicating liquor or any drug.

Brief Description: Changing provisions relating to operating a vessel while under the influence of intoxicating liquor or any drug.

Sponsors: Senators McCaslin and Winsley.

Brief History:

Committee Activity: Judiciary: 2/19/99, 3/1/99 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5493 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Lidia Mori (786-7755)

Background: It is currently illegal to operate a vessel while under the influence of alcohol or drugs. It is a per se violation to operate a boat with a blood or breath alcohol concentration (BAC) of 0.08 or more.

Operating a vessel while under the influence is a misdemeanor; however, driving a motor vehicle while under the influence (DUI) is a gross misdemeanor. There are also some features of the DUI law that are not present in the operating a vessel while under the influence law. Among the features of the DUI law not present in the operating a vessel while under the influence law are:

- „ A schedule of escalating mandatory minimum penalties for repeat and serious offenders;
- „ An implied consent provision requiring persons to submit to a BAC test;
- „ A separate "0.02" BAC provision for minors; and
- „ Evidentiary and procedural provisions relating to breath or blood alcohol samples.

Summary of Substitute Bill: It is a gross misdemeanor to operate a vessel with a BAC of 0.08 or more, or while under the influence of intoxicating liquor or any drug.

A persons who operates a boat is deemed to have given consent for a BAC test if arrested by an officer having reasonable grounds to believe the person is under the influence of

alcohol. Refusal to submit to the BAC test under those circumstances is a class 1 civil infraction subject to a fine of \$125.

A system of escalating penalties is provided. A \$125 fee, similar to one imposed for DUI, is assessed on each offender. The money from this fee is split between local jurisdictions and the state. Ten percent of the money goes to the death investigations account for the use of the State Toxicologist.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested on February 18, 1999.

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

Testimony For: The law we currently have for dealing with boating under the influence of liquor does not have any teeth. There is no implied consent so a person can just say no when asked to take the breathalyzer and then there's no tangible evidence. This bill gives us the tools to deal with the problem of operating a boat while under the influence.

Testimony Against: None.

Testified: Gregory Elwin, Thurston County Sheriff's Office (pro); Ray Schow, David Williams, Recreational Boating Association of Washington (pro w/concerns).