

SENATE BILL REPORT

SB 6434

As Reported By Senate Committee On:
Judiciary, February 4, 2000

Title: An act relating to driving while under the influence of alcohol or any drug.

Brief Description: Increasing penalties for third and subsequent DUI offenses.

Sponsors: Senators Patterson, Costa, McCaslin, Heavey, Rossi, Hale, Goings, Winsley, McAuliffe, Benton, Gardner, Oke, Roach and Bauer.

Brief History:

Committee Activity: Judiciary: 1/19/2000, 2/4/2000 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6434 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Haugen, Long, Roach and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: Under current Washington law, the crimes of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug (DUI) are gross misdemeanors. The maximum penalty that can be imposed is up to one year in jail and/or a \$5,000 fine. Current law specifies an escalating scale of mandatory minimum penalties for DUI offenses, depending upon the alcohol concentration (BAC) involved, whether the person refused a test of his or her breath or blood, and whether the person has had one or more prior offenses within seven years. A prior offense is defined as a conviction for DUI or physical control, vehicular homicide or vehicular assault committed while under the influence of liquor or any drug, a conviction for negligent driving first degree, reckless driving, or reckless endangerment if the conviction is the result of a charge that was originally filed as a DUI, vehicular homicide or vehicular assault.

There is concern that regardless of how many prior offenses a person convicted of DUI may have, he or she will not be punished by more than one year in jail. To ensure closer monitoring of chronic DUI offenders and stricter penalties, 41 states have enacted some sort of felony drunken driving law.

Summary of Substitute Bill: Driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug is a class C felony if the offender has three or more prior offenses— (as defined in RCW 46.61.5055) or a prior felony DUI, vehicular homicide or vehicular assault within a seven-year period. For purposes of sentencing, it is listed at seriousness level II.

The Department of Licensing must refrain from destroying records of convictions for DUI, negligent driving first degree, reckless driving, or any other violation where the offense originally charged was DUI, vehicular assault or vehicular homicide for 50 years or until the death of the subject of the records.

A person who is convicted of felony driving under the influence or felony being in actual physical control of a motor vehicle while under the influence is not eligible to be a first-time offender. The definition of a felony traffic offense includes felony driving under the influence and felony being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug.

Substitute Bill Compared to Original Bill: A person can be found guilty of felony DUI if he or she is charged with a DUI and has three or more prior offenses— as defined in RCW 46.61.5055 or has another felony DUI, vehicular homicide or vehicular assault within a seven-year period. It is a level II offense. The provision that made DUI offenders whose alcohol concentration levels were .20 or higher ineligible for deferred prosecution is removed.

Appropriation: None.

Fiscal Note: Requested on January 17, 2000.

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

Testimony For: Three chances is enough of an opportunity for a drunk driver to kill or maim someone. It's about time Washington stepped up and treated chronic offenders in a special capacity. The great majority of those who commit vehicular homicide or assault have two, three, and four drunk driving convictions. This is the least expensive way to save lives in Washington and chronic DUI offenders can receive treatment in prison. When California passed a similar law, the deterrent effect was amazing. Many professionals know that if they get a felony conviction, they will lose their jobs. There were 307 people killed by drunk drivers in 1998; they are more dangerous than many of the felons that are currently in prison.

Testimony Against: None.

Testified: PRO: Karen Minahan, Mothers Against Drunk Driving; John Ladenburg, WA Assn. of Criminal Defense Lawyers, WDA; Susan Sergiojan, Director, Mothers Against Drunk Driving.