

SENATE BILL REPORT

ESSB 5670

As Passed Senate, February 13, 2002

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: Senate Committee on Judiciary (originally sponsored by Senators Costa, Kline, Long, Hargrove, Prentice, Thibaudeau, Eide, Regala, Shin, Franklin, Patterson and Jacobsen).

Brief History:

Committee Activity: Judiciary: 2/13/01, 2/26/01 [DPS]; 1/28/02 [DPS].

Passed Senate: 2/13/02, 45-3.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5670 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Hargrove, Long, McCaslin, Poulsen and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: It is 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 is a gross misdemeanor. Some features of the DUI law are not present in the operating a vessel while under the influence law, including:

- 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" provision for minors; and
- Evidentiary and procedural provisions relating to breath or blood samples.

Summary of Bill: It is a gross misdemeanor to operate a vessel equipped with a motor or other propulsion machinery of more than 2 horsepower, or any sailboat, with a BAC of 0.08 or more, or while under the influence of intoxicating liquor or any drug. It is a misdemeanor to operate any other vessel with a BAC of 0.08 or more or while under the influence of intoxicating liquor or any drug. It is a misdemeanor for a person under the age of 21 to operate a vessel after consuming alcohol with a BAC of 0.02 or more. The court may order

a person convicted of this offense to pay restitution for any damages or injuries resulting from the offense.

A person who operates a vessel is deemed to have given consent to a BAC test if arrested by an officer having reasonable grounds to believe the person is under the influence of alcohol or any drug. Refusal to submit to the BAC test is a class 1 civil infraction subject to a fine of \$125.

A system of escalating penalties is provided for operating a vessel while under the influence of liquor or any drug. A person who is convicted of operating a vessel while under the influence of alcohol or any drug and who has at least one prior such conviction is required by the court to complete a course in boating safety approved by the Washington State Parks and Recreation Commission.

When the operator of a vessel is arrested for operating the vessel while under the influence, the arresting officer may take custody of the vessel and provide for its removal to a place of safety.

Appropriation: None.

Fiscal Note: Requested on February 9, 2001.

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

Testimony For: None.

Testimony Against: None.

Testified: No one.