SENATE BILL REPORT
SB 5355

As Reported By Senate Committee On:
Judiciary, February 12, 2003

Title: An act relating to eliminating voluntary intoxication as a consideration for mental state.

Brief Description: Eliminating voluntary intoxication as a consideration for mental state.

Sponsors: Senators Brandland, Jacobsen, Esser, Rasmussen, Parlette, Swecker, Sheahan, McCaslin and Mulliken.

Brief History:
Committee Activity: Judiciary: 2/7/03, 2/12/03 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5355 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson and Roach.

Staff: Aldo Melchiori (786-7439)

Background: An act is not less criminal when committed by a person who is voluntarily intoxicated. "Voluntary intoxication" means intoxication not caused by force or fraud, and therefore includes intoxication that results from addiction. Intoxication may, however, be taken into consideration when determining whether a defendant had a particular mental state that is a necessary element of the crime charged.

The mental states of intent, knowledge, and recklessness are typically involved in criminal cases and must be proved beyond a reasonable doubt. Intoxication may be used as evidence to rebut the existence of these mental states if a defendant can show that because of intoxication he or she was unable to form the intent or knowledge required to commit the crime. Intoxication may not be used as a defense in cases involving criminal negligence, because criminal negligence does not require a particular state of mind.

Fifteen states currently exclude voluntary intoxication as a criminal defense. The United States Supreme Court upheld a Montana statute that prohibited a defendant from introducing evidence of voluntary intoxication in a criminal trial. The court ruled that prohibiting the introduction of evidence of voluntary intoxication did not violate the due process clause of the federal Constitution because the restriction does not "offend a principle of justice so rooted in the traditions and conscience of our people as to be ranked fundamental."

Summary of Substitute Bill: Voluntary intoxication is not a consideration in determining the existence of a mental state required as an element of a criminal offense.

Substitute Bill Compared to Original Bill: It is clarified that voluntary intoxication is not a defense to a criminal charge and the fact may not be used to demonstrate the lack of a particular mental state that is an element of a crime. A voluntarily intoxicated person that acts in a manner that would be considered intentional, knowing, or reckless, if he or she were not intoxicated, is deemed to have acted with the required mental state.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The practical effect of the current law is that people can get voluntarily intoxicated and commit crimes, then claim they are innocent because they could not have formed the required mental state. Police often encounter people who claim they did not know that they were committing a crime because they were voluntarily intoxicated. These cases never even make it to court.

Testimony Against: This new rule will not make a difference because defendants are reluctant to admit intoxication to the jury. Juries have little trouble seeing through false claims of intoxication. This bill eliminates a defendant's ability to prove a lesser mental state under appropriate circumstances.

Testified: Seth Fine, Snohomish County Prosecutor's Office (pro); Larry Erickson, WASPC (pro); Bill Jayuette, Washington Defender Association (con).