

# FINAL BILL REPORT

## HB 3317

---

C 73 L 06

Synopsis as Enacted

**Brief Description:** Changing provisions relating to driving under the influence of intoxicating liquor or any drug.

**Sponsors:** By Representatives Ahern, Lantz, Lovick, Darneille, Chase, Williams, Hunter, Clibborn, Kilmer, Hudgins, Ericks, Simpson, Conway, Takko and Morrell.

**Senate Committee on Judiciary**

### **Background:**

#### DUI Law

Drunk driving (DUI) is a gross misdemeanor. The maximum confinement sentence for a gross misdemeanor is one year in jail. The DUI law contains a complex system of mandatory minimum penalties that escalate based on the number of prior offenses and the concentration of alcohol in the offender's blood or breath (BAC).

The penalties range from one day in jail for a first time offender with a BAC under 0.15, to 120 days in jail and 150 days of electronic home monitoring for an offender who has a BAC over 0.15 and has two or more prior offenses within seven years. In addition to mandatory jail time, the court must impose minimum fines ranging from \$350 to \$1,500 and license suspension ranging from 90 days (for a first time offender with a low BAC) to four years (for a multiple offender with a high BAC). A DUI offender is also subject to alcohol assessment, mandatory use of ignition interlocks, and probation.

A "prior offense" counts to increase an offender's sentence under the DUI laws if the arrest for that offense occurred within seven years of the arrest for the current offense. "Prior offenses" include convictions for: (1) DUI; (2) vehicular homicide and vehicular assault if committed while under the influence; (3) negligent driving after having consumed alcohol ("wet neg"), reckless driving, and reckless endangerment if the original charge for any of those offenses was DUI; and (4) any equivalent local DUI ordinance or out-of-state law. In addition, a deferred prosecution for DUI or "wet neg" counts as a prior offense even if the charges are dropped after successful completion of the deferred prosecution treatment program.

#### Felony Sentencing Under the Sentencing Reform Act

An adult who is convicted of a felony is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA has a sentencing grid in statute that provides a standard sentence range based on the seriousness level of the current offense and the offender's prior criminal history score. Unless the sentencing judge imposes an exceptional sentence upward or downward, the sentencing judge will sentence the offender to a period of confinement within that standard range. However, in no case may a sentence be longer than the maximum

allowed by statute for a particular class of felony. For class C felonies, this maximum is five years in prison.

Felonies are "ranked" in the SRA from Level I (low) to Level XVI (high). An offender's criminal history score ranges from 0 to 9+ and is calculated based on numerous factors, including the number of prior felony convictions and the relationship between those prior convictions and the current offense. Some prior non-felony crimes can count toward an offender's score in sentencing for a current felony. "Serious traffic" offenses, which include DUI, are non-felony crimes that count when the current offense is a felony traffic offense. Prior felony traffic offenses, which include vehicular assault and vehicular homicide, count double when the current offense is also a felony traffic offense.

The SRA has "washout" periods that determine how long a prior conviction continues to count toward an offender's score. Class C felonies and serious traffic offenses wash out if the offender has spent five years without committing an offense since the date of his or her release from confinement.

At the time of sentencing, the court also imposes a term of community custody for offenders who have been convicted of an offense categorized as a "Crime Against Persons." Conditions of community custody and levels of supervision are based on risk. The court has discretion when setting the range of community custody, but generally, the range for a person convicted of a "Crime Against Persons" will be between nine to 18 months.

In addition, for offenses categorized as "Crimes Against Persons," an offender is eligible for up to one-third off as earned early release.

#### Juvenile Adjudications

The Juvenile Justice Act (Act) governs the disposition (or sentencing) of juvenile offenders. The Act contains a disposition grid with presumptive sanctions based on the seriousness of the offense and prior criminal history. Offenses are "categorized" (very much like ranking in the SRA) between Category E (least serious) through Category A+ (most serious). A DUI is categorized as a D offense. A juvenile adjudicated of DUI who has no prior criminal history will typically receive local sanctions. More serious offenders are subject to confinement in a state juvenile facility.

#### **Summary:**

A DUI conviction is a class C felony if the offender: (1) has four or more prior offenses within 10 years; or (2) has ever been convicted of vehicular homicide while under the influence of alcohol or drugs or vehicular assault while under the influence of alcohol or drugs.

Felony DUI is a Level V offense. This means a DUI offender with four prior misdemeanor DUIs will receive a presumptive sentence range of 22 - 29 months.

Felony DUI is categorized as a "Crime Against Persons." This means the offender is eligible for earned early release not to exceed one-third of his or her sentence, and the community custody provisions apply.

An offender is not eligible for the first time offender waiver program, DOSA, or work ethic camp. The court must order the offender to undergo treatment during incarceration. The offender is liable for the costs of treatment unless the court finds the offender indigent and no third-party insurance is available. The license suspension and ignition interlock provisions under the misdemeanor DUI laws apply.

Under the Juvenile Justice Act, felony DUI is made a Category B+ offense. This means a juvenile adjudicated of felony DUI will receive a presumptive disposition range of 15 - 36 weeks in a state juvenile facility.

**Votes on Final Passage:**

House	97	0	
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

**Effective:** July 1, 2007