

SENATE BILL REPORT

SB 5223

As Reported By Senate Committee On:
Judiciary, February 22, 2005

Title: An act relating to decriminalizing "fine-only" misdemeanors.

Brief Description: Decriminalizing "fine-only" misdemeanors.

Sponsors: Senators Esser and Doumit.

Brief History:

Committee Activity: Judiciary: 2/2/05, 2/22/05 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: There are a number of statutes, scattered throughout the revised code of Washington, that punish behavior as misdemeanors, but limit punishment to a fine only. Defendants charged with these misdemeanors are entitled to an attorney and may demand a jury trial. The standard of proof is "beyond a reasonable doubt." These offenses are typically tried in district courts.

District courts also have jurisdiction over civil infractions of state laws. A notice of civil infraction represents a determination that it has been committed. That determination is final unless contested. The defendant may request a mitigation hearing or a contested court hearing. If a court hearing is requested, the court hears the case without a jury and the state has the burden of proving by a preponderance of the evidence that the infraction occurred. The state is represented by a prosecuting attorney and the defendant may have an attorney, but the attorney is not provided at state expense. A prevailing party may be awarded attorney fees. Civil infractions are not crimes and may not be punished by incarceration. If the person cannot afford to pay, the court may order community restitution in lieu of the fine.

Summary of Bill: Statutes identified as misdemeanors for which the punishment is limited to a fine are changed to civil infractions. Maximum penalties for civil infractions consist of: \$25 for class 4 infractions; \$50 for class 3 infractions; \$125 for class 2 infractions; and \$250 for class 1 infractions. Statutory assessments may be imposed separately. Restitution may also be ordered.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This is a smart on crime bill. If the legislature has determined that these offenses should be punished by fines only, it is appropriate to treat them as infractions. This bill will save court time while providing adequate due process for violators.

Testimony Against: None.

Who Testified: PRO: Senator Esser, prime sponsor; Tom McBride, WAPA.