

# HOUSE BILL REPORT

## HB 2130

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to providing a means to determine "prior offenses" to implement chapter 73, Laws of 2006, regarding driving under the influence.

**Brief Description:** Providing a means to determine "prior offenses" to implement chapter 73, Laws of 2006, regarding driving under the influence.

**Sponsors:** Representatives Goodman, Lantz, Moeller and Rodne.

**Brief History:**

**Committee Activity:**

Judiciary: 2/23/07, 2/26/07 [DPS].

**Brief Summary of Substitute Bill**

- Defines the term "within ten years" for the purposes of determining prior offenses under the felony DUI law.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Ahern, Kirby, Moeller, Pedersen, Ross and Williams.

**Staff:** Trudes Tango (786-7384).

**Background:**

A person can commit driving under the influence of intoxicating liquor or any drug (DUI) in two ways:

- if the person drives and has, within two hours of driving, a blood or breath alcohol concentration of .08 or higher (per se violation); or
- if the person drives and is under the influence of or affected by intoxicating liquor, any drug, or both (actual impairment).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Until July 1, 2007, all DUI convictions are gross misdemeanors, regardless of the defendant's number of prior convictions. The misdemeanor DUI laws contain a complex system of mandatory minimum penalties that escalate based on the number of "prior offenses within seven years" that the offender has and the offender's blood or breath alcohol concentration for the current offense.

A prior offense is "within seven years" if the arrest for a prior offense occurred within seven years of the arrest for the current offense. By contrast, under felony sentencing laws, the corresponding time period is generally from the end of the person's confinement for a prior crime to the commission of the new crime.

"Prior offenses" include convictions for: (a) DUI; (b) vehicular homicide and vehicular assault if either was committed while under the influence; (c) negligent driving after having consumed alcohol ("wet neg"), reckless driving, and reckless endangerment, if the original charge was DUI, vehicular homicide, or vehicular assault; and (d) an equivalent local DUI ordinance or out-of-state DUI 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 program.

In 2006, the Legislature passed a law that makes DUI a class C felony if the person has four or more "prior offenses within ten years." The law, which takes effect July 1, 2007, does not define "within ten years."

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#### **Summary of Substitute Bill:**

For the purposes of determining prior offenses under the felony DUI law, the term "within ten years" means that the arrest for a prior offense occurred within 10 years of the arrest for the current offense.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill removes the section requiring a DUI defendant's fingerprints to be affixed to the judgment and sentence.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 2007.

#### **Staff Summary of Public Testimony:**

(In support) This bill makes sure that prosecutors have evidence of prior offenses. It ensures that fingerprints of gross misdemeanor DUI offenders are attached to the judgment and

sentence. It defines prior offenses within 10 years to mean the court should count from arrest to arrest.

(With concerns) The definition of "within ten years" is necessary to implement the felony DUI law when it becomes effective. Although the fingerprint requirement in the bill makes sense on a policy level, it might have a fiscal impact and the bill might not pass because of it. Prosecutors need that definition section of the bill. The most efficient time to do fingerprints is at the time of arrest, but that will be a big fiscal hit for local law enforcement and that would mean officers will be pulled off the street for longer periods if they have to take every offender in to fingerprint them. Fingerprints taken at the time of arrest are different than the quick "slap" prints. Quick prints are not as high quality as the 10 point prints taken at arrest. The bill will give the impression that the fingerprints of the defendant are the only method of proving priors. Other methods should remain available.

(Opposed) None.

**Persons Testifying:** (In support) Representative Goodman, prime sponsor.

(With concerns) Tom McBride, Washington Association of Prosecuting Attorneys; and Jeff DeVere, Washington State Patrol.

**Persons Signed In To Testify But Not Testifying:** None.