
Judiciary Committee

HB 2254

Title: An act relating to changing the penalties for gross misdemeanor driving under the influence convictions.

Brief Description: Changing the penalties for gross misdemeanor driving under the influence convictions.

Sponsors: Representatives Goodman, Lantz, O'Brien, Williams, Hurst, Lovick, Roach, Rodne, Miloscia, Kelley, Sells, Haler, Morrell and Rolfes.

Brief Summary of Bill

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| <ul style="list-style-type: none">• Removes the distinction in the misdemeanor DUI laws between BACs under .15 and BACs of .15 or over, for the purposes of imposing mandatory minimum sentences. |
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Hearing Date: 2/23/07

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).

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 and the offender's BAC for the current offense. The mandatory minimum penalties are as follows:

First offense:

BAC under 0.15 or no BAC for reasons other than refusal to take test

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- one day in jail *or* 15 days of electronic monitoring;
- \$350 fine;
- 90 days license loss.

BAC of 0.15 or higher or person refused BAC

- two days in jail *or* 30 days of electronic monitoring;
- \$500 fine;
- one year license loss or two years if refused BAC.

One prior offense within seven years:

BAC under 0.15 or no BAC for reasons other than refusal

- 30 days in jail;
- 60 days of electronic monitoring;
- \$500 fine;
- two years license loss.

BAC of 0.15 or more or person refused BAC

- 45 days in jail;
- 90 days of electronic monitoring;
- \$750 fine;
- 900 days license loss or three years if refused BAC.

Two or more prior offenses within seven years:

BAC under 0.15 or no BAC for reasons other than refusal

- 90 days in jail;
- 120 days of electronic monitoring;
- \$1,000 fine;
- three years license loss.

BAC of 0.15 or more or person refused BAC

- 120 days in jail;
- 150 days of electronic monitoring;
- \$1,500 fine;
- 4 years license loss.

In addition to the mandatory minimums set forth above, a DUI offender is subject to other sanctions, including alcohol assessment and treatment, the mandatory use of an ignition interlock system on any vehicle the offender drives, and probation.

In 2006, the Legislature passed a law that makes a person's 5th DUI within ten years a class C felony. That law takes effect July 1, 2007.

Summary of Bill:

For the purposes of imposing mandatory minimum sentences for misdemeanor DUIs, the distinction between BACs under .15 and BACs of .15 and over is eliminated. The mandatory minimum sentences for misdemeanor DUIs are as follows:

First offense:

- two days in jail *or* 30 days of electronic monitoring;

- \$500 fine;
- one year license loss or two years if refused BAC.

One prior offense within seven years:

- 45 days in jail;
- 90 days of electronic monitoring;
- \$750 fine;
- 900 days license loss or three years if refused BAC.

Two or more prior offenses within seven years:

- 120 days in jail;
- 150 days of electronic monitoring;
- \$1,500 fine;
- 4 years license loss.

Appropriation: None.

Fiscal Note: Requested on February 16, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.