

SENATE BILL REPORT

SHB 2130

As Reported By Senate Committee On:
Judiciary, March 30, 2007

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: House Committee on Judiciary (originally sponsored by Representatives Goodman, Lantz, Moeller and Rodne).

Brief History: Passed House: 3/13/07, 96-0.

Committee Activity: Judiciary: 3/30/07 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Murray, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: A person can commit driving under the influence of intoxicating liquor or any drug (DUI) in two ways: a person drives and has, within two hours of driving, a blood or breath alcohol concentration of .08 or higher (a per se violation); or a 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 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: (1) DUI; (2) vehicular homicide and vehicular assault if either was committed while under the influence; (3) negligent driving after having consumed alcohol ("wet neg"), reckless driving, and reckless endangerment, if the original charge was

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DUI, vehicular homicide, or vehicular assault; and (4) 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 a 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."

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 ten years of the arrest for the current offense.

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.

Staff Summary of Public Testimony: PRO: The new felony DUI law goes into effect this July, 2007. The current definition of "prior offense" doesn't conform. For a misdemeanor, the period of time pertaining to the definition of "prior offense" is from arrest to arrest but for a felony, it's from the date of release from confinement to the commission of a new offense. This bill just defines the time period to 10 years.

Persons Testifying: PRO: Representative Roger Goodman; Tom McBride, Washington Association of Prosecuting Attorneys.