

# FINAL BILL REPORT

## E2SHB 1789

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Synopsis as Enacted

**Brief Description:** Addressing accountability for persons driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Roberts and Miloscia).

**House Committee on Judiciary**  
**House Committee on General Government Appropriations & Oversight**  
**House Committee on Transportation**  
**Senate Committee on Judiciary**  
**Senate Committee on Transportation**

### **Background:**

#### Gross Misdemeanor Driving Under the Influence.

The misdemeanor driving under the influence (DUI) law contains a complex system of mandatory minimum penalties that escalate based on the number of "prior offenses" the offender has within seven years and the offender's blood or breath alcohol concentration (BAC) for the current offense. "Prior offenses" is defined to include DUI-related convictions and convictions for certain offenses, such as reckless driving, when the charge was originally filed as DUI.

There are criminal and administrative consequences for DUI. Criminal penalties include jail time, driver's license suspension, monetary fines, alcohol assessment and treatment, and ignition interlock requirements. Administrative consequences include license suspension and ignition interlock requirements, whether or not the person is ever charged or convicted.

#### Felony DUI.

A conviction for DUI is a class C felony if the driver has: (a) four or more prior offenses within 10 years; or (b) any prior conviction of a DUI-related vehicular homicide or vehicular assault, or a comparable out-of-state conviction.

#### License Suspension and Ignition Interlock Requirements.

Regardless of whether a driver is convicted of DUI, the Department of Licensing (DOL) will suspend a person's driver's license if the person's BAC is .08 or higher or if the person

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refused to take the BAC. Depending on the circumstances, the administrative license suspension may range from 90 days to two years. Therefore, it is possible for a person to first have his or her license suspended administratively and then have his or her license suspended based on a criminal conviction for the same incident.

After the suspension period expires and the person is eligible to reinstate his or her regular license, the person must drive with an ignition interlock device (IID) for either one year, five years, or 10 years, depending on whether the person was previously restricted.

#### Fees Imposed on Offenders.

In addition to other monetary penalties, a fee of \$125 is imposed on persons convicted, sentenced to a lesser charge, or given a deferred prosecution as a result of an arrest for DUI, vehicular homicide, or vehicular assault. The stated purpose of the fee is to fund the state toxicology laboratory and the Washington State Patrol for grants and activities to increase the conviction rate and decrease the number of DUIs. The court may suspend all or part of the fee if it finds that the offender is not able to pay. The clerk of the court collects the fee and distributes it as follows:

- 40 percent is distributed between the state and local government, based on existing statutes dividing the noninterest portion of fees collected by the courts;
- 60 percent is forwarded to the State Treasurer to be deposited in the following ways:
  - (a) 15 percent in the Death Investigations Account to fund the state's BAC testing programs; and
  - (b) 85 percent in the State Patrol Highway Account to fund activities to increase the conviction rate and decrease the incidences of DUI.

#### DUI Victim Impact Panels.

The court may order a person convicted of DUI to attend a victim impact panel (VIP). There is nothing in statute that requires a VIP to be conducted by certain entities or organizations. Some courts, such as King County District Court, have adopted minimum standards for VIPs.

#### Specialty Courts.

A specialty or therapeutic court, which may be created within superior court, often requires the offender to undergo treatment, counseling, and educational programs. Some superior courts have established drug courts and mental health courts. At least five counties have specialty courts for offenders convicted of DUI.

#### **Summary:**

##### Prior Offenses.

The definition of prior offenses is expanded to include a conviction for vehicular assault or vehicular homicide, based on driving in a reckless manner or driving with the disregard for the safety of others, if the original charge was filed as a vehicular assault or vehicular homicide, based on DUI.

##### Felony DUI.

The offense of DUI becomes a felony DUI if the person has ever previously been convicted of felony DUI in Washington.

Ignition Interlock Requirements.

When calculating the time a person is required to have an IID installed, the DOL must give a person day-for-day credit for the time period, starting from the date of the incident, during which the person kept an IID installed.

A person convicted of negligent driving in the first degree must install an ignition interlock device for six months on all vehicles operated by the person if the person has any prior offense within seven years. A person convicted of reckless driving who has any prior offense within seven years must install an ignition interlock device for six months if the original charge was filed as a DUI. A person convicted of reckless driving, whether or not the person has any prior offenses, must install an ignition interlock device for six months if the original charge was filed as vehicular assault based on DUI or vehicular homicide based on DUI.

Fees Imposed on Offenders.

The \$125 fee imposed on offenders is increased to \$200. Of the total amount, \$175 must be distributed in the same manner as the current fee is distributed, and \$25 of the fee must be deposited into the Highway Safety Account to be used solely for funding Washington Traffic Safety Commission (WTSC) grants to reduce statewide collisions caused by DUI. Grant recipients may include DUI courts and jurisdictions implementing victim impact panel registries.

DUI Courts.

Counties may establish and operate DUI courts. A jurisdiction seeking state funds for a DUI court must first exhaust all federal funding available to support a DUI court and provide a dollar-for-dollar match of state moneys. State money must be used to supplement, not supplant, other funds. The DUI courts already in existence as of January 1, 2011, are not required to match state funds until June 30, 2014. Minimum requirements are created for DUI courts established under the act.

Victim Impact Panels.

The WTSC may develop and maintain a registry of qualified VIPs. When a court requires an offender to attend a VIP, the court may refer the offender to a VIP listed on the registry. To be listed on the registry, the VIP must meet certain minimum standards created by the act.

Other Provisions.

When a court imposes alcohol monitoring on a person under the ignition interlock license law, the monitoring must be for the period of time of the mandatory license suspension.

Language is added to the sentencing enhancement statute applicable to vehicular homicide convictions to make it explicit that the enhancement is mandatory, must be served in total confinement, and must run consecutively to all other sentencing provisions.

**Votes on Final Passage:**

House	96	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

**Effective:** July 22, 2011  
September 1, 2011 (Sections 1 through 9)