

HOUSE BILL REPORT

SSB 6014

As Reported by House Committee On: Public Safety

Title: An act relating to operation of a vessel under the influence of an intoxicant.

Brief Description: Concerning the operation of a vessel under the influence of an intoxicant.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach and Fain).

Brief History:

Committee Activity:

Public Safety: 2/21/14, 2/25/14 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Prohibits officers from drawing blood from a person suspected of operating a vessel under the influence of cannabis or any other drug without consent, a warrant, or exigent circumstances.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Jenna Zwang (786-7290) and Sarah Koster (786-7303).

Background:

A vessel is defined as every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

It is unlawful for a person to operate a vessel while intoxicated. Any person who operates a vessel in Washington is deemed to have given consent to tests of the person's breath or blood for the purpose of determining the alcohol concentration, cannabis concentration, or presence

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of any drug, if under arrest and if an officer has reasonable grounds to believe that the person was operating a vessel while under the influence of alcohol, marijuana, or any drug.

Refusal to take a blood or breath test is grounds for a class 1 civil infraction. Operating a vessel while under the influence of an intoxicant is a gross misdemeanor.

A blood draw is a search under the federal and state Constitutions. As such, a blood draw is only constitutional when it is consensual, pursuant to a search warrant, or in exigent circumstances. The recent United States Supreme Court decision in *Missouri v. McNeely* states that the metabolization of alcohol in the body does not by itself create an exigent circumstance. As a result, routine blood draws from a person suspected of driving under the influence without consent or a warrant are unconstitutional, unless there is some special complicating factor to justify exigency. The *McNeely* decision has created some questions about the constitutionality of blood draws based on implied consent, the practice of deeming drivers or vessel operators to have consented to blood draws, based on their operation of a vehicle within the state.

Summary of Amended Bill:

Any person who operates a vessel is deemed to have given consent to tests of the person's breath for the purposes of determining alcohol concentration.

A blood test may be administered to a vessel operator in two situations: (1) when an arrest results from an accident in which there has been serious bodily injury to another person; or (2) when the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of a drug. The blood test may only be administered in these situations when:

- the arrested person has given consent and waived the warrant requirement;
- the arrested person has not given consent, but a search warrant has been procured; or
- when exigent circumstances exist.

Amended Bill Compared to Substitute Bill:

The substitute bill allows for a blood test to be administered when arrest results from an accident where there has been serious bodily injury to another person or death, provided that the arrested person has given consent, a search warrant has been issued, or exigent circumstances exist.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The amount of water in Washington provides for a lot of boating opportunities. Many people avail themselves of the incredible recreational activities throughout the year. Last year, legislation was passed to take care of the issue of drunk boating. This legislation works to clean up the Boating Under the Influence laws. This bill is a basic technical fix that brings Washington in line with the recent *Missouri v. McNeely*, United States Supreme Court decision. This bill aligns Washington with the *McNeely* decision through altering the permissible implied consent blood draws.

(Opposed) None.

Persons Testifying: Senator Roach, prime sponsor; Wade Alonzo, Washington State Parks; and Steve Crown, Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying: None.