

SENATE BILL REPORT

SSB 5119

As Passed Senate, March 5, 2013

Title: An act relating to body armor.

Brief Description: Creating a sentence enhancement for body armor.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Carrell, Pearson, Hewitt, Sheldon, Becker, Holmquist Newbry, Litzow, Roach, Honeyford and Dammeier).

Brief History:

Committee Activity: Law & Justice: 2/01/13, 2/11/13 [DPS].

Passed Senate: 3/05/13, 46-2.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5119 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Aldo Melchiori (786-7439)

Background: If an offender or an accomplice was armed with a firearm and the offender is being sentenced for a felony other than possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun in a felony, the offender is eligible for a firearm enhancement. If the offender or an accomplice was armed with a firearm during the offense, the following additional times are added to the standard sentence range:

- five years for any felony defined under any law as a class A felony, or with a statutory maximum sentence of at least 20 years, or both;
- three years for any felony defined under any law as a class B felony, or with a statutory maximum sentence of ten years, or both;
- 18 months for any felony defined under any law as a class C felony, or with a statutory maximum sentence of five years, or both.

An offender is eligible for a deadly weapon enhancement if the offender or an accomplice was armed with a deadly weapon other than a firearm and the offender is being sentenced for

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any felony except possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun in a felony. If the offender or an accomplice was armed with a deadly weapon other than a firearm, the following additional times must be added to the standard sentence range:

- two years for any felony defined under any law as a class A felony, or with a statutory maximum sentence of at least 20 years, or both;
- one year for any felony defined under any law as a class B felony, or with a statutory maximum sentence of ten years, or both;
- six months for any felony defined under any law as a class C felony, or with a statutory maximum sentence of five years, or both.

If the offender is being sentenced for any firearm or deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements, all firearm or deadly weapon enhancements are double the listed length. All firearm and deadly weapon enhancements are mandatory, served in total confinement, and run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements. If the standard sentence range exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

Summary of Substitute Bill: Body armor is defined as any clothing or devices designed primary to prevent penetration by a projectile fired from a firearm or by a knife, sword, or other cutting or stabbing instrument, and which is worn by an individual for that specific purpose in the commission of a crime. Firearm and deadly weapon enhancements double if the offender or an accomplice was wearing body armor at the time of the offense. Offenders sentenced under this provision are not eligible for good-time credits or earned release time for the portion of their sentences resulting from body armor enhancements.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2013.

Staff Summary of Public Testimony on Original Bill: PRO: These types of incidents are increasing in frequency. When criminals wear this type of equipment, others are less likely to be able to defend themselves and it is more difficult for the police to successfully intervene. This is not an attempt to prohibit body armor. Current sentencing guidelines provide inadequate penalties.

CON: The language of the bill is too broad. The definition of body armor needs to be more narrow. The bill should require purposeful use of body armor for a prohibited act.

Persons Testifying: PRO: Senator Carrell, prime sponsor; Victoria Shilley, citizen.

CON: Robert Quillian, WA Defender Assn., WA Assn. of Criminal Defense Attorneys.