

SENATE BILL REPORT

SB 6025

As of January 17, 2014

Title: An act relating to body armor.

Brief Description: Creating a sentence enhancement for body armor.

Sponsors: Senators O'Ban and Roach.

Brief History:

Committee Activity: Law & Justice: 1/17/14.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Kelly Walsh (786-7755)

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; or
- 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 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;

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- 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; or
- 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 was previously 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 Bill: Body armor is defined as any clothing or devices designed primarily 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: Requested on January 13, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2014.

Staff Summary of Public Testimony: PRO: Certain criminals expect to provoke a violent struggle while committing crimes and prepare accordingly. The existence of body armor shows that the criminal intends to create a violent encounter. Body armor shows a degree of callousness and preparation to engage violently with police officers. We need to protect our police officers. These are situations in which the instigator arms him or herself for a gun fight with officers. Wearing body armor during the commission of a crime shows intent to attack our heroes. The current sentencing guidelines are not serving as a deterrent. This will be a tool to put those who choose to harm our heroes in prison for the appropriate amount of time. This is common sense. This will also honor the courage and memory of fallen officers.

Persons Testifying: PRO: Senator O'Ban, prime sponsor; Victoria Shilley, citizen.