

# SENATE BILL REPORT

## SB 6090

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As of February 11, 2014

**Title:** An act relating to driving under the influence.

**Brief Description:** Modifying driving under the influence and physical control of a vehicle under the influence provisions.

**Sponsors:** Senators Padden, Pearson, Fain, Bailey, Dansel, Honeyford, Becker, Tom, Roach, Benton, Sheldon, Dammeier, O'Ban, Baumgartner, Brown and Parlette.

**Brief History:**

**Committee Activity:** Law & Justice: 1/20/14, 1/27/14 [DP-WM, DNP].  
**Ways & Means:** 2/10/14.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.  
Signed by Senators Padden, Chair; O'Ban, Vice Chair; Darneille, Pearson and Roach.

**Minority Report:** Do not pass.  
Signed by Senators Kline, Ranking Member; Pedersen.

**Staff:** Aldo Melchiori (786-7439)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Travis Sugarman (786-7446)

**Background:** Engrossed Second Substitute Senate Bill 5912 was passed during the 2013 Second Special Session of the Legislature. A provision in the bill created an Impaired Driving Workgroup that worked over the 2013 interim to develop ideas and strategies to address vehicle deaths and serious injuries resulting from impaired driving. One of the strategies reviewed and supported by the committee members is to lower the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense.

A driving under the influence (DUI) or being in physical control of a motor vehicle while under the influence (PC) offense is punishable as a gross misdemeanor offense if the person

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has fewer than four prior DUI or PC offenses within seven years. It becomes a class C felony, ranked at level V on the sentencing grid, if a person has four or more prior offenses within ten years.

A prior offense is within seven years if the arrest for a prior offense occurred within seven years before or after the arrest for the current offense. Similarly, a prior offense is within ten years if the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

Prior offenses include convictions for (1) DUI or PC; (2) vehicular homicide and vehicular assault if either was committed while under the influence; (3) negligent driving after having consumed alcohol (wet neg), and reckless endangerment, if the original charge was DUI, PC, vehicular homicide, or vehicular assault; and (4) an equivalent local DUI or PC ordinance or out-of-state DUI law. In addition, a deferred prosecution for DUI or wet neg is a prior offense even if the charges are dropped after successful completion of the deferred prosecution program.

**Summary of Bill:** A person may be charged with felony DUI or PC, if the person's criminal record includes three or more, instead of four or more, prior offenses within the applicable time periods.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Law & Justice):** PRO: Stronger felony DUI penalties can help prevent vehicle crashes and save lives. Elected prosecuting attorneys support this change because it would send a strong message that repeat offenders are a serious problem and it would get dangerous drivers off the street for a longer period of time. The Legislature needs to consider the human and economic cost of not making this change. This is good policy that is worth paying for. DUI crashes kill more people than firearms. This will allow increased supervision as well. If the 24/7 pilot project is successful, it may help lessen the fiscal impact. Families suffer serious physical and emotional damage as a result of these preventable crimes. We need to save lives, not save dollars.

**Persons Testifying (Law & Justice):** PRO: Senator Padden, prime sponsor; Linda Thompson, Greater Spokane Substance Abuse Council; Amy Freedheim, King County Prosecuting Attorney's Office; Mark Lindquist, Pierce County Prosecuting Attorney; Don Pierce, WA Assn. of Sheriffs and Police Chiefs; Steve Lind, WA Traffic Safety Commission; Dan Schulte, citizen.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The estimates are higher than the actual impact will show to be if this bill goes through based on the estimated impact and the real impact of the changes from previous DUI-related bills. There is a difference

between someone that has been shown to be driving intoxicated weekly vs. a person that has been dry for five years until the current offense. The Committee is reminded that a 24/7 program was created during last session that focuses on reducing recidivism for multiple offenders. If it is as successful as it has been in the other states that have implemented the program, we will be making progress in this state to reduce DUI-related issues. This bill is a priority and we would hope it becomes a priority for this committee. Since we had a daughter that died in a DUI-related car accident, my wife and I have become very involved in the issue. Under current statutes a person can commit a DUI offense every two and one-half years and never be convicted of a felony. Currently there are 107 people incarcerated for DUIs and another 97 on community supervision, equaling the number of people killed by DUI drivers in a year.

CON: Being tougher on DUIs is not the answer to the problem. In addition, alcohol offenses and tetrahydrocannabinol (THC) offenses should be pulled apart as there is not evidence that THC impairs one's ability to drive.

OTHER: Out of 348 people killed in auto accidents, 242 or 46 percent were the result of impaired driving. From 2011 data, each fatality from a DUI-related incident costs \$6.2 million. Using current fatality numbers this would be \$1.2 billion in costs for fatalities from impaired driving in a year.

**Persons Testifying (Ways & Means):** PRO: Tom McBride, WA Assn. of Prosecuting Attorneys; Don Pierce, WA Assn. of Sheriffs and Police Chiefs; James McMahan, WA Assn. County Officials; Frank Blair, citizen.

CON: Arthur West, citizen.

OTHER: Steve Lind, WA Traffic Safety Commission.