

# SENATE BILL REPORT

## SB 6413

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As Amended by House, March 7, 2014

**Title:** An act relating to prior offenses for driving under the influence or physical control of a vehicle under the influence.

**Brief Description:** Clarifying prior offenses for driving under the influence or physical control of a vehicle under the influence.

**Sponsors:** Senators Fain, Eide, Padden, Pearson, Hobbs, Angel, King, Becker, Tom, Sheldon, Dammeier, Honeyford, Hill, O'Ban, Litzow, Brown, Schoesler and Rolfes.

**Brief History:**

**Committee Activity:** Law & Justice: 2/05/14, 2/06/14 [DP-WM].

Ways & Means: 2/10/14, 2/11/14 [DP].

Passed Senate: 2/14/14, 48-0.

Passed House: 3/07/14, 96-1.

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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; Kline, Ranking Member; Darneille, Pearson, Pedersen and Roach.

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

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

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

**Background:** A person can commit driving under the influence (DUI) or being in physical control of a motor vehicle under the influence (PC) of intoxicating liquor or any drug if the

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person drives with a blood or breath alcohol concentration of 0.08 percent or higher, or is under the influence of or affected by liquor or any drug. A DUI or PC offense is punishable as a gross misdemeanor offense with progressively serious penalties depending upon whether the person has a criminal history that includes prior 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.

For charging purposes, a prior offense includes the following:

- a conviction for DUI or PC;
- vehicular homicide committed while under the influence of intoxicating liquor or any drug, or committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation committed while under the influence of intoxicating liquor or any drug;
- a conviction for vehicular assault committed while under the influence of intoxicating liquor or any drug, or a committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation committed while under the influence of intoxicating liquor or any drug;
- a conviction for negligent driving in the first degree, reckless driving, or reckless endangerment, if the conviction is the result of a charge that was originally filed as a violation of DUI, PC, vehicular homicide, or vehicular assault;
- an out-of-state conviction for an equivalent offense;
- a deferred prosecution granted in a prosecution for a violation of DUI or PC;
- a deferred prosecution granted in a prosecution for negligent driving, if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI, PC, vehicular homicide, or vehicular assault;
- a deferred prosecution granted in another state for DUI or PC if the out-of-state deferred prosecution is equivalent to the deferred prosecution in Washington, including a requirement that the defendant participate in a chemical dependency treatment program; or
- a deferred sentence imposed in a prosecution for negligent driving in the first degree, reckless driving, or reckless endangerment, if the charge under which the deferred sentence was imposed was originally filed as a DUI, PC, vehicular homicide, or vehicular assault offense.

**Summary of Bill:** Five new offenses are added to the list of those that count as prior offenses when a person is charged with a DUI or PC offense. The additional offenses are the following:

- a conviction for driving or being in physical control of a commercial motor vehicle with alcohol in the offender's system;
- a conviction for operation of a vessel under the influence of alcohol or any drug;
- a conviction for operation of an aircraft under the influence of alcohol or any drug;
- a conviction for operation of a non-highway vehicle in a manner likely to endanger the property of another; and
- a conviction for operation of a snowmobile under the influence of alcohol or any drug.

**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: This will help hold people accountable for their past history of operating boats and other conveyances while impaired. The biggest volume of new prior offenses will likely be boating under the influence. Most of these offenses are fairly low volume crimes, but they are all impairment related.

**Persons Testifying (Law & Justice):** PRO: Senator Fain, prime sponsor; Tom McBride, WA Assn. of Prosecuting Attorneys.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This bill focuses on repeat offenders and should have a small fiscal impact bringing in offenses for things like flying airplanes under the influence, which I believe there were no convictions for in the last year.

**Persons Testifying (Ways & Means):** PRO: Tom McBride, WA Assn. of Prosecuting Attorneys.

**House Amendment(s):** It is clarified that when a person is arrested and taken into custody for a DUI offense and the officer has knowledge that the person has had prior DUI convictions, that the person can only be released from custody by a judge. In localities where 24/7 monitoring is available and verified by the Washington Association of Sheriffs and Police Chiefs, the court must sentence a person to either (1) the use of an ignition interlock device as a substitution to participating in 24/7 monitoring; (2) 24/7 monitoring as mandated in current statute; or (3) both ignition interlock requirements and 24/7 monitoring.

It is clarified to provide that only those offenders convicted of a DUI-related offense, where the offense involved intoxicating liquor, must use an ignition interlock device. Other technical amendments, clarifications, and subtitles are added to the Impaired Driving statute.