

# SENATE BILL REPORT

## SB 5105

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As of January 22, 2015

**Title:** An act relating to making a fourth driving under the influence offense a felony.

**Brief Description:** Making a fourth driving under the influence offense a felony.

**Sponsors:** Senators Padden, Frockt, O'Ban, Fain, Fraser, Pearson, Roach and Darneille.

**Brief History:**

**Committee Activity:** Law & Justice: 1/22/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

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

**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 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

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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:** Requested on January 19, 2015.

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

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

**Staff Summary of Public Testimony:** PRO: There are many people with long records of driving under the influence who are still driving. This bill sends a clear message that repeat DUI offenders should not be on the road. The law should be that two priors result in felony charges. The immediate impact and hardships on families are beyond measure. It is impossible to be prepared for the results of this crime. Our state should be ashamed that we are the last state to allow four prior offenses before a DUI is a felony. This is murder. This change will help deter people from driving drunk. Saving a human life is worth the cost of this change. This is a preventable crime. By the time an offender has reached this stage, the remedies available in district court have been exhausted.

CON: It is not right to criminalize medical cannabis and driving. People driving vehicles on cannabis are not dangerous. This will particularly affect juveniles using medical cannabis because of the zero tolerance provisions in the driving statutes.

**Persons Testifying:** PRO: Senator Padden, prime sponsor; Linda Thompson, Substance Abuse Council, Spokane; Jon Tunheim, WA Assn. of Prosecuting Attorneys; James McMahon, WA Assn. of Sheriffs and Police Chiefs; Shelly Baldwin, WA Traffic Safety Commission; Dan Schulte, Dale Panattoni, Jackie Panattoni, Karen Bartlett, Chris Bartlett, Matt Bartlett, Margaret Pommert, citizens.

CON: Arthur West, Cannabis Action Coalition.