

# SENATE BILL REPORT

## SB 5105

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As of February 26, 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, 2/03/15 [DPS-WM].  
Ways & Means: 2/26/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5105 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Kohl-Welles, Pearson and Roach.

**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 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.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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 (Recommended Substitute):** 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. A fourth DUI or PC offense is a class C felony ranked at level IV on the felony sentence grid. A person with three prior DUI or PC offenses and no other criminal history is subject to a standard sentencing range of 13 to 17 months' incarceration.

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute):** DUI and PC are ranked at level IV on the felony sentencing grid instead of at level V.

**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 on Original Bill (Law & Justice):** 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 (Law & Justice):** 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 Pannatoni, Karen Bartlett, Chris Bartlett, Matt Bartlett, Margaret Pommert, citizens.

CON: Arthur West, Cannabis Action Coalition.

**Staff Summary of Public Testimony (Ways & Means):** PRO: Fifty percent of all traffic deaths are related to impaired driving. Intensive treatment and supervision is an important aspect of reducing impaired driving. This bill provides for 12 months of supervision which is important. The reduction in seriousness level reduces the amount of time they spend with the Department of Corrections, but the supervision allows their usage of drugs and alcohol to be monitored. While this bill costs money, the Association of Sheriffs and Police Chiefs believe it should be a priority.

**Persons Testifying (Ways & Means):** PRO: Shelly Baldwin, Legislative Liaison; James McMahan, WA Assn. of Sheriffs and Police Chiefs.