

SENATE BILL REPORT

SB 6236

As Reported by Senate Committee On:
Law & Justice, February 3, 2016
Transportation, February 8, 2016

Title: An act relating to the 24/7 sobriety program.

Brief Description: Concerning the 24/7 sobriety program.

Sponsors: Senator Padden.

Brief History:

Committee Activity: Law & Justice: 1/19/16, 2/03/16 [DPS-WM].
Transportation: 2/08/16, 2/08/2016 [DP2S].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6236 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; Frockt, Pearson and Roach.

Staff: Lindsay Erickson (786-7465)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Second Substitute Senate Bill No. 6236 be substituted therefor, and the second substitute bill do pass.

Signed by Senators King, Chair; Fain, Vice Chair, Budget; Hobbs, Ranking Minority Member; Liias, Assistant Ranking Minority Member; Carlyle, Cleveland, Ericksen, Miloscia, Rivers, Sheldon and Takko.

Staff: Kellee Keegan (786-7429)

Background: The 24/7 Sobriety Program. The pilot 24/7 Sobriety Program (Program) was established in 2014 and is administered by the Washington Association of Sheriffs and Police Chiefs (WASPC). The Program is a 24-hour and seven-day per week sobriety program in which a participant submits to the testing of the participant's blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled

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substance in the participant's body. Participants who violate the terms of the Program are subject to sanctions ranging from a written warning to serving the participant's entire remaining sentence.

Summary of Bill (Recommended Second Substitute): The 24/7 Sobriety Program is permanent and is no longer a pilot program.

24/7 Sobriety Program Participation. Clarifies that when any person is charged with a violation of RCW 46.61.502 - DUI, 46.61.504 - Physical control, 46.61.520 - Vehicular homicide, or 46.61.522 - Vehicular assault, in which the person has a prior offense as defined in RCW 46.61.5055 and the current offense involves alcohol, is released from custody at arraignment or trial on bail or personal recognizance, the court authorizing the release may order compliance with the 24/7 Sobriety Program as a condition of release.

People with no prior offenses may participate in the 24/7 Sobriety Program, in lieu of the mandatory minimum term of imprisonment.

Violations. A participant who violates the terms of participation in the 24/7 Sobriety Program or does not pay the required fees or associated costs pre-trial or post-trial must serve the following sanctions:

- first violation: receive written warning notice;
- second violation: minimum 1 day in jail;
- third violation: minimum 3 days in jail;
- fourth violation: minimum 5 days in jail; and
- fifth or subsequent violation: minimum 7 days in jail.

Department of Licensing (DOL). If a person has no prior offenses within seven years, he or she may be partially relieved of a DOL license suspension, revocation, or denial if they comply with the following criteria:

- If the person's blood-alcohol concentration was less than 0.15 or if there is no test - but not a refusal - the person must be evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and must show enrollment in or completion of a 90 day period of 24/7 sobriety program monitoring.
 - In no circumstances will the license suspension be for fewer than two days.
- If the person's blood-alcohol concentration was at least 0.15, the person must be evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and must show enrollment in or completion of a 120 day period of 24/7 sobriety program monitoring.
 - In no circumstances will the license suspension be for fewer than four days.

If a participant is removed from the 24/7 sobriety program, the court must send written notice to DOL within five business days.

Upon receipt of a notice from the court that a participant has been removed from a 24/7 sobriety program, DOL must resume any suspension, revocation, or denial that had been terminated early due to participation in the 24/7 program, granting credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served, arising out of the same incident.

Pre-trial License Suspension. If the person had a blood-alcohol concentration of 0.08 or more, or a THC concentration of blood that was 5.00 or more, and this is the person's first incident within seven years, the person's license will not be suspended for 90 days so long as the person successfully completes or is enrolled in a pre-trial 24/7 Sobriety Program.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Second Substitute): Restores original statutory language regarding electronic home monitoring. Clarifies a minimum license suspension for first-time offenders participating in the 24/7 Sobriety Program based on blood alcohol concentration.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): Changes a heading from “Ignition interlock device substituted for 24/7 sobriety program monitoring” to “24/7 sobriety program monitoring.”

Previous amendments to the ignition interlock provision - RCW 46.61.5505(5)(c) - are reverted back to the original statutory language.

Specifies that prior to receiving relief from a license suspension for a 24/7 participant, the participant must be evaluated by an alcoholism agency or probation department - for first time offenders - and also show participation or enrollment in the 24/7 program. Also sets minimum term of license suspension at either two or four days, depending on BAC reading.

Specifies that upon participant removal from 24/7 program, DOL resumes any license suspension, revocation, or denial that may have been terminated early under the provisions of the 24/7 program. Day for day credit for previous denial, revocation, or suspension is granted, if arising out of the same incident.

Requires the court to notify DOL within five business days if a participant is removed from the 24/7 program.

Makes technical changes relating to DOL licensing language and internal references.

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: This program offers a good alternative to deal with a first offense DUI. People who give "hot" portable breath test readings in this program are immediately incarcerated, and this has been effective. This program helps people to take responsibility for their actions and gives them opportunities to stay sober. This draft addresses a previous issue related to violations, which required lengthy jail sentences for people with a fifth violation. This draft gives more

judicial discretion in that circumstance but still allows judges to impose greater sentences for people who need it.

OTHER: The concern is regarding federal funding. The bill as currently written may disqualify the state for some federal funding it has been receiving, because it allows for a participant to substitute an ignition interlock penalty for 24/program participation. To keep the federal funding, ignition interlock and license suspension would need to be applied to all individuals convicted of DUI.

Persons Testifying on Original Bill (Law & Justice): PRO: Bruce Bjork, Retired WA State Patrol Deputy Chief; Commander Stacy Denham, Centralia Police Department; James McMahan, WA Assoc. of Sheriffs and Police Chiefs.

OTHER: Shelly Baldwin, WA Traffic Safety Commission.

Persons Signed In to Testify But Not Testifying on Original Bill: No one.

Staff Summary of Public Testimony on Second Substitute (Transportation): This is in eight or nine states and has been very successful. Someone may be tested twice a day and if they are successful at remaining sober they will avoid prison time. This takes advantage of the FAST Act to qualify for federal grant money. It will save jail time, enhance treatment, and enhance public safety. The 24/7 program is a valuable tool to help those who struggle with drinking and driving. There were some struggles in the pilot program because of previous language regarding sanctions it was expensive to run the program. The first draft was going to impact federal funding. That will not be the case with this substitute.

Persons Testifying on Second Substitute (Transportation): PRO: Senator Mike Padden, sponsor; James McMahan, WA Assoc Sheriffs and Police Chiefs; Shelly Baldwin, Washington Traffic Safety Commission.

Persons Signed In To Testify But Not Testifying: No one.