

HOUSE BILL REPORT

SB 5037

As Reported by House Committee On:
Public Safety

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, Darneille, Miloscia, Kuderer, Zeiger, Carlyle, Pearson, Conway, Rolfes, Palumbo, Angel and Wellman.

Brief History:

Committee Activity:

Public Safety: 3/20/17, 3/28/17 [DP].

Brief Summary of Bill

- Raises the classification of Driving Under the Influence (DUI) and Physical Control of a Vehicle While Under the Influence (PC) from a gross misdemeanor to felony upon the fourth, rather than fifth, offense.
- Reduces the seriousness level ranking for felony level DUI and PC offenses from a seriousness level V to a seriousness level IV.
- Imposes an additional \$50 fee for all DUI, PC, Vehicular Homicide, and Vehicular Assault convictions to fund grants for organizations that operate programs to reduce driving under the influence of alcohol or drugs.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Minority Report: Without recommendation. Signed by 1 member: Representative Appleton.

Staff: Omeara Harrington (786-7136).

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.

Background:

A person may be convicted of impaired driving under either the Driving Under the Influence (DUI) statute or the Physical Control of a Vehicle While Under the Influence (PC) statute. A person is guilty of DUI if he or she drives while under the influence of intoxicating liquor, marijuana, or any drug, and is guilty of PC if he or she has actual physical control of a vehicle while under the influence of intoxicating liquor, marijuana, or any drug.

A DUI or PC offense is punishable as a gross misdemeanor if the person has three or fewer prior impaired driving offenses within seven years. However, a DUI offense becomes a seriousness level V, class B felony offense, and a PC offense becomes a seriousness level V, class C felony offense, if a person has four or more prior impaired driving offenses within 10 years, or has previously been convicted of Vehicular Homicide or Vehicular Assault while under the influence of intoxicating liquor or any drug.

The statutory maximum sentence for a class B felony is 10 years in prison, a fine of \$20,000, or both imprisonment and a fine; and for a class C felony is five years in prison, a fine of \$10,000, or both imprisonment and a fine. The presumptive sentence range for a person convicted of a felony level DUI or PC offense, with four prior DUI or PC convictions, is 22 to 29 months in prison.

In addition to a period of incarceration, there are also mandatory fines and fees associated with a conviction for a DUI or PC offense. These fines and fees include, but are not limited to, court costs, criminal conviction fines, fees for funding the Washington State Toxicology Laboratory and fees for funding the Washington State Patrol for grants and activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

Summary of Bill:

A DUI offense becomes punishable as a class B felony, and a PC offense becomes punishable as a class C felony, if a person has three (instead of four) or more prior impaired driving convictions within 10 years. A felony level DUI or PC offense is ranked at a seriousness level IV (instead of a seriousness level V). The presumptive sentence range for a person convicted of a felony level DUI or PC offense, with three prior offense convictions, is 13 to 17 months in prison.

In addition to other existing penalties, a \$50 fee must be assessed to any person convicted, sentenced to a lesser charge, or given a deferred prosecution as a result of an arrest for a DUI, PC, Vehicular Homicide, or Vehicular Assault offense. Revenue from the \$50 fee must be used to fund Washington Traffic Safety Commission grants to organizations within counties to reduce driving under the influence of alcohol or drugs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill was a primary recommendation of the 2013 DUI task force, and has been proposed numerous times. This is a modest step that includes measures to reduce the impact to the prison system, including lowering the seriousness level. Felony DUI offenders are supervised once released from prison, which is important, and something that is not available in gross misdemeanor DUI cases.

Washington has the weakest felony DUI laws in the country, and many states make the third conviction a felony. It is deplorable that someone can have five impaired driving offenses before it becomes a felony. The laws need to change to reflect changing attitudes toward drinking and driving. A DUI driver can kill on the first incident. One offense is a mistake, twice is a pattern, and the third offense should be a felony. Currently, a fourth offense has no greater punishment than a third offense. It is time to move the fourth DUI out of courts of limited jurisdiction and into superior court. Most of these cases take six to nine months to come to a conviction, so with time served, they spend very little time in a Department of Corrections facility.

This bill targets repeat offenders, not cases of people making mistakes. Four mistakes within 10 years basically equates to a DUI every other year for a decade. Research indicates that people drive impaired 80 times before being caught, and vehicular assault and vehicular homicide offenders are often multiple DUI offenders. There should be a more proactive approach when it comes to repeat offenders.

Alcohol is becoming more and more accessible, and now a recreational drug is available. The number of marijuana and drug and alcohol combination driving incidents has increased, as have impaired driving fatalities. The argument has been made that these people are not making a choice to drink when they get to this point, but, even so, they are making a choice to drive. This is a nonaccidental and avoidable crime, because people choose to drive impaired. Some of the revenue from the bill could go toward inpatient treatment.

Families have been greatly impacted by losing loved ones to impaired driving accidents. In the past, this bill has not passed due to the associated costs. However, the cost to society and families is greater than the cost of this bill. Crashes related to DUI cost the country \$132 billion per year. The National Highway Safety Commission says that each fatality costs society \$10 million. Society pays for these incidents through higher taxes, higher insurance rates, loss in productivity, and loss of human life. Losing a family member to an impaired driver could happen to anyone. Impaired driving kills more people than firearms.

(Opposed) None.

Persons Testifying: Senator Padden, prime sponsor; Dale Panattoni; Karen Bartlett; Kathy Kester; James McMahan, Washington Association of Sheriffs and Police Chiefs; Larry

Shannon, Washington State Association for Justice; Larry Haskell, Spokane County Prosecutor's Office; Amy Freedheim, King County Prosecutor's Office; and Andrew Logerwell, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.