

HOUSE BILL REPORT

E2SSB 5299

As Reported by House Committee On:

Public Safety
Appropriations

Title: An act relating to impaired driving.

Brief Description: Concerning impaired driving.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Padden, Frockt, Kuderer and Wagoner).

Brief History:

Committee Activity:

Public Safety: 2/24/20, 2/27/20 [DP];

Appropriations: 3/2/20 [DP].

Brief Summary of Engrossed Second Substitute Bill

- Increases the classification for an impaired driving offense from a gross misdemeanor to a felony when the person has three or more prior impaired driving offenses within 15 years, rather than within 10 years.
- Requires the Washington Association of Sheriffs and Police Chiefs to review and report to the Governor and the Legislature on the current laws and regulations regarding the sentencing structure for impaired driving offenses.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Minority Report: Do not pass. Signed by 2 members: Representatives Davis, Vice Chair; Appleton, 2nd Vice Chair.

Staff: Omeara Harrington (786-7136).

Background:

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 person may be convicted of impaired driving under either the Driving Under the Influence (DUI) statute or the Actual 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 generally a gross misdemeanor. However, a DUI or PC offense becomes a felony offense if the defendant has three or more prior impaired driving offenses within the previous 10 years, or has previously been convicted of felony DUI or PC, or of Vehicular Homicide or Vehicular Assault while under the influence of intoxicating liquor or any drug. Prior impaired driving offenses include convictions of DUI, PC, Vehicular Homicide, and Vehicular Assault, as well as other impaired driving-related offenses and offenses involving impaired operation of commercial vehicles, vessels, aircraft, snowmobiles, and nonhighway vehicles.

Felony DUI is classified as a class B felony. Felony PC is classified as a class C felony. 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 standard range sentence for a DUI or PC offense for a person with three prior impaired driving offenses is 13 to 17 months of incarceration, followed by one year of community custody.

Summary of Bill:

Three or more prior impaired driving offenses within 15 years, rather than 10 years, elevates the classification of a DUI or PC offense from a gross misdemeanor to a felony.

When funded, the Washington Association of Sheriffs and Police Chiefs must review current laws and regulations regarding the sentencing structure for impaired driving offenses in an effort to reduce fatalities from individuals driving under the influence. The review must include an examination of lookback periods, number of previous offenses, and other possible recommendations to reduce fatalities. The Washington Association of Sheriffs and Police Chiefs must provide its recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2020.

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) Extending the lookback period for felony classification is the most effective next step in fighting the scourge of impaired driving. Felony prosecutors think this approach is more effective than lowering the number of prior offenses toward establishing a felony. Impaired driving is dangerous, it causes fatalities, and it impacts everyone. It is also entirely preventable. Last year, a person was killed on a local highway by a drunk driver while the person was trying to change a tire. People have a right to travel freely without having to dodge a drunk person who made a selfish decision to drive, and DUIs that are more than 10 years old should not be forgiven. It is very concerning that there are people with four convictions for these offenses; they are extremely dangerous to the community. Statistically, a person who is caught for impaired driving has driven in this condition many times before. Also, repeat offenders are much more likely to commit a Vehicular Homicide or Vehicular Assault offense. This bill will prevent those Vehicular Homicides and Vehicular Assaults from happening. The extension from 10 to 15 years for the lookback period makes sense because it captures people who have a long-term, repeated problem with impaired driving. People with long-term offense histories are a greater threat to public safety because it is not necessarily temporary life circumstances compelling the behavior. The possibility of a felony for repeat offenders is appropriate. Consideration should be given to adding a DUI Drug Offender Sentencing Alternative to the bill.

(Opposed) None.

Persons Testifying: Senator Padden, prime sponsor; Russell Brown, Washington Association of Prosecuting Attorneys; Adam Cornell, Snohomish County Prosecutor's Office; Ken Thomas and James McMahan, Washington Association of Sheriffs and Police Chiefs; and Yasmin Trudeau, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 26 members: Representatives Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dye, Hansen, Hoff, Kilduff, Kraft, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Springer, Steele, Sullivan, Sutherland, Tarleton and Ybarra.

Minority Report: Do not pass. Signed by 7 members: Representatives Ormsby, Chair; Dolan, Fitzgibbon, Hudgins, Macri, Senn and Tharinger.

Staff: Yvonne Walker (786-7841).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Public Safety:

No new changes were recommended.

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) The violence that people are concerned about includes hit and run collision, vehicular assault, and vehicular homicide. The preference is to deal with these issues in a proactive way but there is no well-funded prevention system in this state. In the meantime, there is a need for legislation such as this.

This is a bill that would consider someone's fourth driving under the influence (DUI) conviction in 15 years as a felony. Every DUI conviction currently comes with mandatory treatment requirements. In addition, people with second or third arrests enter deferred prosecution which is an even more intense option. By the time a person makes it to his or her fourth DUI conviction, the person has had multiple opportunities to get treatment. The 15-year lookback is important because it helps to look at a longer period where a person continues to drive while intoxicated and not just a single period in a person's life.

This bill will increase community safety by increasing accountability for habitual DUI offenders. Individuals who continue to drive after three or four convictions are a danger to everyone on our roadways.

(Opposed) None.

Persons Testifying: Seth Dawson, Washington Association for Substance Abuse & Violence Prevention; Russell Brown, Washington Association of Prosecuting Attorneys; and David Pham, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.