

HOUSE BILL REPORT

SB 5054

As Reported by House Committee On:
Public Safety

Title: An act relating to impaired driving.

Brief Description: Concerning impaired driving.

Sponsors: Senators Padden, Frockt, Conway, McCune and Short.

Brief History:

Committee Activity:

Public Safety: 3/12/21, 3/23/21 [DP].

Brief Summary of 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.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Graham, Griffey, Hackney, Lovick, Orwall and Young.

Minority Report: Do not pass. Signed by 3 members: Representatives Davis, Ramos and Simmons.

Staff: Omeara Harrington (786-7136).

Background:

A person may be convicted of impaired driving under either the Driving Under the

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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 punishable as 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.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, relating to impaired driving penalties, which due to a delayed effective date in prior legislation takes effect January 1, 2022.

Staff Summary of Public Testimony:

(In support) Impaired driving is not a partisan problem, and it affects people throughout the state. At one point there was no felony DUI, and originally the fifth DUI was a felony before the current law scheme under which the fourth DUI is a felony. The next step to make the law more effective is to move to a 15-year look-back. There is no one more

dangerous to the community than a repeat DUI offender. Recent incidents demonstrate that repeat DUI is a problem. The National Traffic Safety Commission reported that for the first time in years there is a 13.1 percent increase compared to last year in road fatalities; this is despite there being less road traffic. Only a fraction of impaired drivers are detected. A Centers for Disease Control and Prevention study reported that intoxicated drivers drive 80 times before being arrested. Nearly a third of DUIs involve repeat offenders. Repeat offenders are more likely to be involved in vehicular homicide or vehicular assault, and much more likely to be involved in a fatal accident. This bill will help, and will also help get some people into treatment.

Extending the look-back will lead to felony charges being pursued appropriately and is a strong deterrent for repeat offenders. The look-back period should be extended for many reasons. Many defendants have repeat DUIs. For the last year it has not been possible to prosecute or dispose of cases because the courts have been suspended due to the pandemic. The clock starts running from the date of arrest for the first offense, but the law also requires a conviction of a prior offense before it can be a predicate of the current offense, so when people fail to appear or there are delays due to toxicology results, the case cannot be resolved, and the 10 years may have run on the initial offense. Meanwhile, the person may continue to drive impaired and accumulate more offenses. These are complex cases with delays due to toxicology reports and other issues. The toxicology lab is also underfunded. By the time someone is a felony offender they have been offered treatment at least three times. Many offenses will have been plead down to reckless or negligent driving and many will have had a deferred prosecution on one of the predicate offenses. The felony DUI demonstrates the reality that the person is in significant trouble, and may be the only thing that makes a person take the situation seriously. It is only at the felony stage that inpatient treatment can be leveraged as part of plea agreements. People improve when they are forced into treatment.

Strong laws on this issue are necessary and appropriate. Some people are not getting the message, and strengthening the laws can help. This is not just a substance use disorder issue; it is a driving issue. Treatment needs to happen, but the behavior associated with the addiction needs to be separated from the driving. There are economic costs to impaired driving, such as lost work, costs to the state, medical bills, and costs to insurance, but there are also personal costs to the affected individuals and families. The changes in the bill will help mitigate these costs.

(Opposed) The current law recognizes that a person can be rehabilitated. The COVID-19 pandemic has placed stressors on society. People are experiencing incidents like family members dying, job loss, and forced isolation, and there are people getting a DUI after years of sobriety. A person can make a bad decision and drink and drive; that person should be punished, but not subjected to a felony and prison time. A person can be sentenced to up to 364 days in district court, along with other conditions and fines. Resources should be targeted to the district court level to get people the treatment they need. The current law strikes the right balance and is in line with the Sentencing Reform Act in that offenses

should wash out after 10 years.

Persons Testifying: (In support) Senator Padden, prime sponsor; Amy Freedheim, King County Prosecutor's Office; Steve Crown, Washington Association of Sheriffs and Police Chiefs; Larry Shannon, Washington State Association for Justice; Russell Brown, Washington Association of Prosecuting Attorneys; and Robert Colton, Office of the Attorney General.

(Opposed) Kristen Lange, Washington Defenders Association and the Washington Association of Criminal Defense Attorneys.

Persons Signed In To Testify But Not Testifying: None.