

# SENATE BILL REPORT

## SB 5413

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As Passed Senate, March 6, 2009

**Title:** An act relating to assault of a law enforcement officer or other employee of a law enforcement agency.

**Brief Description:** Concerning the assault of a law enforcement officer or other employee of a law enforcement agency.

**Sponsors:** Senators Eide, Kline, Swecker, Roach, Rockefeller, Shin and Marr.

**Brief History:**

**Committee Activity:** Judiciary: 2/10/09, 2/13/09 [DP].

Passed Senate: 3/06/09, 45-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Kohl-Welles, Roach and Tom.

**Staff:** Lidia Mori (786-7755)

**Background:** A person is guilty of assault in the third degree if the person, under circumstances not amounting to assault in the first or second degree, assaults a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault. Commission of assault in the third degree is a class C felony. Assault in the third degree is ranked at seriousness level III for purposes of the sentencing grid.

**Summary of Bill:** An additional 12 months is added to the standard sentence range for offenses in which the defendant is convicted of assaulting a law enforcement officer, or other law enforcement agency employee, who was performing official duties at the time of the assault and there has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant intentionally committed the assault with what appears to be a firearm. The court will make a finding of fact of the special allegation. If a jury trial occurs, the jury must find a special verdict as to the special allegation if it finds the defendant guilty.

**Appropriation:** None.

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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.*

**Fiscal Note:** Requested on February 8, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill is designed to address the growing use of look-alike guns that are used to threaten or assault police officers at crime scenes. Sometimes it's impossible to distinguish a look-alike gun from a real one. There was an incident in Federal Way where a man pulled an air soft pistol from his waistband and pointed it at an officer. The officer fired his service weapon and missed. No one was hurt but that was pure luck. When the case got to the prosecutor's office, it became apparent that there is no charge to fit the facts. The only possible charge was assault III which is akin to an officer being kicked or punched. It's a class C felony and it takes four of them to get within prison range. The impact of fake guns used in robberies has been realized in statute but this change has not occurred with respect to assault. This bill does not impact the Three Strikes law.

**Persons Testifying:** PRO: Brian Wilson, Federal Way Police; Daniel Clark, King County Prosecutor's Office.