

HOUSE BILL REPORT

HB 2216

As Reported by House Committee On:

Judiciary
Ways & Means

Title: An act relating to vehicular homicide and vehicular assault sentences.

Brief Description: Increasing penalties for vehicular homicide and vehicular assault.

Sponsors: Representatives Hurst, Pearson, Van De Wege, Dahlquist, Tharinger, Goodman, Johnson, Dammeier, Sells, Kelley, McCune and Kristiansen.

Brief History:

Committee Activity:

Judiciary: 1/18/12, 1/30/12 [DPS];

Ways & Means: 2/6/12, 2/7/12 [DP2S(w/o sub JUDI)].

Brief Summary of Second Substitute Bill

- Raises the seriousness level for the crime of Vehicular Homicide by driving under the influence of alcohol or drugs.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Edie Adams (786-7180).

Background:

An adult who is convicted of a felony crime is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA contains a sentencing grid that provides a standard sentence range based on the seriousness level of the current offense and the offender's prior criminal history score, which is calculated based on rules relating to the number and type of past convictions and the current conviction. The sentencing judge will sentence the offender

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to a period of confinement within that standard range. Under certain circumstances a sentencing judge may impose an exceptional sentence that falls outside the standard range.

A person commits the crime of Vehicular Homicide if the person's driving of a vehicle proximately causes the death of another person and if the person was driving the vehicle: (1) while under the influence of alcohol or drugs; (2) in a reckless manner; or (3) with disregard for the safety of others. Vehicular Homicide is a class A felony. Vehicular Homicide while driving under the influence is ranked at a seriousness level of IX (31-41 months in prison for a first offense). Vehicular Homicide by driving recklessly is ranked at a seriousness level of VIII (21-27 months in prison for a first offense). Vehicular Homicide by driving with disregard for the safety of others is ranked at a seriousness level of VII (15-20 months in prison).

A person commits the crime of Vehicular Assault if the person drives any vehicle and causes substantial bodily injury to another person while: (1) driving under the influence of alcohol or drugs; (2) driving in a reckless manner; or (3) driving with disregard for the safety of others. Vehicular Assault is a class B felony. Vehicular Assault while driving under the influence is ranked at a seriousness level of IV (3-9 months in jail for a first offense).

Revenues received by the Liquor Control Board (Board) from liquor operations are deposited into the Liquor Revolving Fund. Revenue in the Liquor Revolving Fund is used for the administrative costs of the Board and for distributions to various state accounts for specific purposes. Excess funds in the Liquor Revolving Fund are distributed according to a formula to border areas, the General Fund, and cities and counties.

Summary of Substitute Bill:

The seriousness level rankings for the crimes of Vehicular Homicide and Vehicular Assault are increased, resulting in an increase in the standard sentence range for a first offense, as indicated in the following table:

	SERIOUSNESS LEVEL		STANDARD SENTENCE FOR A FIRST OFFENSE	
	Current Law	HB 2216	Current Law	HB 2216
Vehicular Homicide (DUI)	IX	XI	31-41 months	78-102 months
Vehicular Homicide (Reckless)	VIII	X	21-27 months	51-68 months
Vehicular Homicide (Disregard)	VII	VIII	15-20 months	21-27 months
Vehicular Assault (DUI)	IV	V	3-9 months	6-12 months

The Vehicular Homicide Enforcement Account (Account) is created. A portion of the excess revenues in the Liquor Revolving Fund that are distributed to the General Fund will instead be distributed to the Account as follows: \$800,000 during the 2013-15 biennium; \$2 million during the 2015-17 biennium; and \$3 million in the 2017-19 biennium and all future biennia. Moneys in the account may be spent only after appropriation for costs to the Department of Corrections (DOC) resulting from implementation of the act.

Substitute Bill Compared to Original Bill:

The original bill did not dedicate a portion of excess funds in the Liquor Revolving Fund into the Account to be used for the costs to the DOC as a result of implementing the increased penalties.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is incredible trauma that happens when a family discovers that a loved one has been killed by a reckless or drunk driver. These are not accidents. The person makes the decision to drink and then drive knowing that there is a risk that he or she will hurt or kill someone. For 20 years prosecutors have been hearing complaints about the inadequacy of Vehicular Homicide sentencing. The number one most difficult thing for a prosecutor is sitting down with the family members of a victim and having to tell them what the offender's sentence will be. This bill provides proportionality in our sentencing laws by ranking Vehicular Homicide similarly to Manslaughter. These cases should be treated the same as cases where a death is recklessly caused by a club or other instrumentality, rather than a car.

The fiscal impact of the bill will not be realized until out in the future. There should not be an impact on the local courts. There will be fewer trials because the larger sentencing range will create a much higher risk for an offender choosing to go to trial. Although this is not a good year to have a fiscal impact on the DOC, we have reached the point where this issue finally needs to be addressed. Any fiscal impact is offset by the important savings to society. You cannot put a value on our children, families, and friends.

(Opposed) None.

Persons Testifying: Representative Hurst, prime sponsor; Keri-Anne Jetzer, Sentencing Guidelines Committee; Tom McBride, Washington Association of Prosecuting Attorneys; and Amy Freedheim, King County Prosecutor's Office.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 26 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Minority Report: Do not pass. Signed by 1 member: Representative Dickerson.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Judiciary:

The Ways and Means Committee recommended removal of the distribution of a portion of excess funds from the Liquor Revolving Fund into the newly created Vehicular Homicide Enforcement Account. The Ways and Means Committee recommended elimination of the increased penalties for Vehicular Homicide by driving recklessly; Vehicular Homicide by driving with disregard for the safety of others; and Vehicular Assault by driving under the influence of alcohol and drugs.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: 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 has the endorsement of the Sentencing Guidelines Commission because it makes the crime of Vehicular Homicide proportional to other crimes with a loss of life such as Manslaughter. This bill is not a reaction to a particular case, but rather is a measured response to something that has been a problem for years because of the impact that this crime has on families.

(Opposed) None.

Persons Testifying: Tom McBride, Washington Associations of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.