

HOUSE BILL REPORT

ESSB 6280

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to crimes against pharmacies.

Brief Description: Concerning crimes against pharmacies.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Carrell, Swecker, Conway, Holmquist Newbry and Parlette).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/21/12 [DP].

Brief Summary of Engrossed Substitute Bill

- Creates a one year sentencing enhancement for a person convicted of a robbery offense committed against a pharmacy.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 11 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Yvonne Walker (786-7841).

Background:

Robbery is unlawfully taking personal property from or in the presence of another person against his or her will by use or threatened use of immediate force, violence, or fear of injury to a person or property. A person is guilty of Robbery in the first degree if:

- the person is armed with a deadly weapon, displays an apparent firearm or deadly weapon, or inflicts bodily injury during the robbery or immediate flight from the robbery; or
- the person commits robbery within and against a financial institution.

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.

Robbery in the first degree is a seriousness level IX, class A felony offense. Robbery in the second degree is a seriousness level IV, class B felony offense.

A "pharmacy" is defined as every place licensed by the Board of Pharmacy where the practice of pharmacy is conducted, including dispensing drugs, monitoring drug therapy and use, and providing information on legend drugs.

Under the Sentencing Reform Act, the court must impose imprisonment in addition to the standard sentencing range if specific conditions for sentencing enhancements are met. Sentencing enhancements generally apply in such circumstances as where the offender: (1) was armed with a firearm while committing certain felonies; (2) was armed with a deadly weapon while committing certain felonies; (3) committed certain felonies while incarcerated; (4) committed certain drug offenses; (5) committed Vehicular Homicide while under the influence of alcohol or drugs; or (6) committed a felony crime that was committed with sexual motivation.

The United States Supreme Court, in *Blakely v. Washington*, ruled that any factor that increases a defendant's sentence above the standard range, other than the fact of a prior conviction, must be proven to a jury beyond a reasonable doubt. To do otherwise, would violate the defendant's right to a jury trial under the Sixth Amendment.

Summary of Bill:

A procedure is established for determining whether a Robbery offense in the first or second degree was committed against a pharmacy and a new sentencing enhancement penalty is created for such offenses.

In a criminal case where a special allegation has been made, if a court makes a finding of fact, or in a jury trial if the jury finds a special verdict, that: (1) an offender committed Robbery in the first degree or second degree; and (2) the underlying offense was committed of a pharmacy, then the court must impose a sentence enhancement. The sentence enhancement must include a sentence of 12 months of imprisonment that is added to the offender's presumptive sentence.

Appropriation: None.

Fiscal Note: Requested on February 17, 2012.

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 original bill moved these types of pharmacy robberies from a Robbery II offense to Robbery I offense but there were some concerns with that version of the bill. The Senate decided to change the penalty to an enhancement. Generally, a person convicted of a crime would receive a sentence based upon a range. The enhancement in this bill will add 12 months on top of the offender's sentence.

This is similar to what is done when an offender is convicted of a crime that involves a firearm. Deadly weapon and firearm enhancements have sent out a message to the community that they are going to get more time if they use a firearm. In addition, several years ago, the Legislature did something similar with note-only bank robberies. Bank robberies in the state decreased substantially after enactment of that bill.

Under this bill, if the factors of the offense are pled and proven then an enhancement is included. This bill sends a message to the criminal community that if you do the crime, you will be doing some mandatory time.

(Opposed) None.

Persons Testifying: Senator Carrell, prime sponsor; Dedi Hitchens, Washington State Pharmacy Association; Stu Halsan, Rite Aid Corporation; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.