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**Public Safety Committee**

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**HB 1388**

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

**Sponsors:** Representatives Orcutt, Hawkins, Hayes, Pike, Vick, O'Ban and Buys.

**Brief Summary of Bill**

- Provides for consecutive sentences for multiple counts of vehicular homicide.
- Elevates the seriousness levels, and the sentence ranges, for vehicular homicide and assault.

**Hearing Date:** 2/7/13

**Staff:** Sarah Koster (786-7303).

**Background:**

Generally, current offenses sentenced together are served concurrently, rather than consecutively, with the exceptions being: (a) two or more serious violent offenses arising from separate and distinct criminal conduct; and (b) current convictions for theft of a firearm and unlawful possession of a firearm. Under those exceptions, the sentences are served consecutively.

Both the seriousness level of an offense, which is assigned by statute, and the defendant's individual offender score, based on his or her criminal history, are used in the calculation of a standard sentence range for a specific conviction. In calculating the sentences imposed under the exceptions described above, an offender's offender score, which is based on his or her criminal history, will, for the first count, exclude the other offenses within the exception and for the second or any subsequent court, will be set at zero.

<b>Offense</b>	<b>Seriousness Level</b>	<b>Sentence Range (depending on offender score)</b>
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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.*

Vehicular Homicide, by being under the influence of intoxicating liquor or any drug	XI	78 to 280 months
Vehicular Homicide, by the operation of any vehicle in a reckless manner	VIII	21 to 144 months
Vehicular Homicide, by disregard for the safety of others	VII	15 to 116 months
Vehicular Assault, by being under the influence of intoxicating liquor or any drug	IV	3 to 84 months
Vehicular Assault, by the operation of any vehicle in a reckless manner	IV	3 to 84 months
Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others	III	1 to 68 months

Vehicular Homicide.

When the death of any person ensues within three years as a proximate result of injury proximately caused by the driving of any vehicle by any person, the driver is guilty of vehicular homicide if the driver was operating a motor vehicle:

- (a) while under the influence of intoxicating liquor or any drug; or
- (b) in a reckless manner; or
- (c) with disregard for the safety of others.

Vehicular Homicide is a class A felony except that, for a conviction under subsection (a) an additional two years shall be added to the sentence for each prior offense.

Vehicular Assault.

A person is guilty of Vehicular Assault if he or she operates or drives any vehicle:

- (a) in a reckless manner and causes substantial bodily harm to another; or
- (b) while under the influence of intoxicating liquor or any drug, and causes substantial bodily harm to another; or
- (c) with disregard for the safety of others and causes substantial bodily harm to another.

Vehicular Assault is a class B felony.

"Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part.

**Summary of Bill:**

Consecutive Sentences.

There are three exceptions to the general rule that current offenses sentenced together are served concurrently, rather than consecutively:

1. two or more serious violent offenses arising from separate and distinct criminal conduct;

2. current convictions for theft of a firearm and unlawful possession of a firearm; and
3. current convictions for two or more counts of vehicular homicide.

Under these exceptions, sentences are served consecutively. In calculating the sentences imposed under these exceptions, an offender's offender score, which is based on his or her criminal history, will, for the first count, exclude the other offenses within the exception and for the second or any subsequent count, will be set at zero.

<b>Offense</b>	<b>Seriousness Level</b>	<b>Sentence Range (depending on offender score)</b>
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug.	XI	78 to 280 months
Vehicular Homicide, by the operation of any vehicle in a reckless manner.	XI	78 to 280 months
Vehicular Homicide by disregard for the safety of others.	VIII	21 to 144 months
Vehicular Assault, by being under the influence of intoxicating liquor or any drug.	VI	12 to 102 months
Vehicular Assault, by the operation of any vehicle in a reckless manner.	VI	12 to 102 months
Vehicular Assault by the operation or driving of a vehicle with disregard for the safety of others.	IV	3 to 84 months

**Appropriation:** None.

**Fiscal Note:** Available.

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