

HOUSE BILL REPORT

ESB 5053

As Passed House - Amended:
April 11, 2013

Title: An act relating to vehicle prowling.

Brief Description: Modifying vehicle prowling provisions.

Sponsors: Senators Harper, Tom, Roach, Murray, Kohl-Welles, Eide, Carrell and Shin.

Brief History:

Committee Activity:

Public Safety: 3/5/13, 3/12/13 [DPA].

Floor Activity:

Passed House - Amended: 4/11/13, 96-1.

Brief Summary of Engrossed Bill
(As Amended by House)

- Increases the penalty for the crime of Vehicle Prowling in the second degree from a gross misdemeanor to a class C felony on the offender's third or subsequent offense.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Ross and Takko.

Staff: Yvonne Walker (786-7841).

Background:

A person is guilty of Vehicle Prowling in the second degree if, with intent to commit a crime against a person or property, he or she enters or remains unlawfully in a vehicle, other than a motor home or a vessel. Vehicle Prowling in the second degree is a gross misdemeanor offense. A gross misdemeanor offense is punishable by a sentence of up to 364 days in jail or a maximum fine of \$5,000, or both imprisonment and a fine.

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.

Generally, gross misdemeanor offenses do not count as part of an offender's score when calculating his or her standard sentence range. However, in the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for an offense involving Theft of a Motor Vehicle, Possession of a Stolen Motor Vehicle, or Taking a Motor Vehicle without Permission, an offender receives:

- one point for each prior conviction involving Vehicle Prowling in the second degree; and
- three points for each prior conviction involving Theft of a Motor Vehicle, Possession of a Stolen Motor Vehicle, or Taking a Motor Vehicle without Permission.

The statutory maximum sentence for a class C felony offense is five years in prison and a \$10,000 fine.

Summary of Amended Bill:

On the third and subsequent convictions, the crime of Vehicle Prowling in the second degree is increased to a seriousness level IV, class C felony offense. A third or subsequent conviction means that a person has been previously convicted on at least two separate occasions of Vehicle Prowling in the second degree. Multiple counts of a Vehicle Prowling offense do not count as separate offenses for the purposes of charging as a felony offense if: (1) the multiple counts of the Vehicle Prowling offenses are charged in the same charging document; or (2) the multiple counts of Vehicle Prowling offenses are based on the same date of occurrence.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) Six years ago the Legislature enacted a bill which was designed to crack down on auto thieves. Since that time, there has been a 60 percent decrease in auto thefts and the reason for that is repeat offenders are now sitting in prison. However, now there has been a sharp spike in vehicle prowls. Criminals realized that they were going to get a stiffer penalty for taking a vehicle so now they are breaking into cars and stealing valuable contents.

Vehicle prowls are not a simple "smash and grab" crime. Car prowlers have groups of their friends scout for certain items in cars for the purpose of reselling. The Internet has provided a new and convenient venue for offenders to sell stolen items.

Between 2010 and 2013, over 2,000 car prowls were reported in the City of Everett. This crime has a disproportionate impact on students and low-income persons. This bill has an indeterminate low cost and its passage will help reduce insurance claims. It will also put

those repeat offenders on notice and let them know that vehicle prowling will be taken seriously. This bill will be great for law enforcement and the community as a whole.

(With concerns) The seriousness level V for the crime of Vehicle Prowling is too high for this bill. A seriousness level V includes such crimes as: Unlawful Imprisonment, Vehicular Assault in the second degree (which is a three strike offense), Unlawful Possession of a Firearm in the second degree, and Theft of a Motor Vehicle. A seriousness IV offense includes such crimes as: Arson II, Hit and Run, Vehicular Assault, and Reckless Disregard. The crime of Vehicle Prowling does not fit within a seriousness level IV category.

A question came up to as what happens if you suppress the population of people who commit Vehicle Prowling. Since Vehicle Theft is a level II offense, why would a person commit a smash and grab crime that is a level V when they can just take the whole car? The problem is just pushed back and forth. The seriousness level in this bill should be lowered to a seriousness level II offense.

(Opposed) None.

Persons Testifying: (In support) Senator Harper, prime sponsor; John Lovick, Snohomish County Sheriff's Department; and Kathy Atwood and Doug Levy, City of Everett.

(With concerns) Bob Cooper, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.