

HOUSE BILL REPORT

SSB 5119

As Reported by House Committee On:
Public Safety

Title: An act relating to body armor.

Brief Description: Creating a sentence enhancement for body armor.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Carrell, Pearson, Hewitt, Sheldon, Becker, Holmquist Newbry, Litzow, Roach, Honeyford and Dammeier).

Brief History:

Committee Activity:

Public Safety: 3/20/13, 3/21/13 [DP].

Brief Summary of Substitute Bill

- Provides that all firearm and deadly weapon sentencing enhancements are doubled if an offender or an accomplice was wearing body armor at the time of the offense.

HOUSE COMMITTEE ON PUBLIC SAFETY

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

Minority Report: Without recommendation. Signed by 1 member: Representative Appleton.

Staff: Yvonne Walker (786-7841).

Background:

The Sentencing Reform Act provides for adjustments of sentences based on certain factors. For instance, a sentence will be enhanced if the offender or accomplice was armed with a firearm or with another deadly weapon while committing certain felonies. A sentence

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enhancement for being armed is mandatory, must be served consecutively to the underlying sentence and to any other enhancement, and it must be served in total confinement. The portion of a sentence represented by a weapons enhancement is not eligible for earned release reduction (good time credit). The enhancements for being armed with a firearm are longer than the enhancements for being armed with another deadly weapon. In either case, the length of the enhancement increases with the classification of the crime of conviction. Also in either case, the length of any enhancement is doubled if the offender has previously had a sentence enhanced for being armed. If the standard sentence range exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

For being armed with a firearm, the enhancements are as follows:

- five years for a class A felony;
- three years for a class B felony; and
- 18 months for a class C felony.

For being armed with a deadly weapon other than a firearm, the enhancements are as follows:

- two years for a class A felony;
- one year for a class B felony; and
- six months for a class C felony.

The firearm and deadly weapon enhancements apply to all felony crimes except the following: Possession of a Machine Gun, Possessing a Stolen Firearm, Drive-by Shooting, Theft of a Firearm, Unlawful Possession of a Firearm in the first and second degree, and Use of a Machine Gun in a felony.

Summary of Bill:

Firearm and deadly weapon sentence enhancements are doubled if an offender or an accomplice was wearing body armor at the time of the offense. Such an offender is not eligible for good-time credits or earned release time for the portion of his or her sentence resulting from body armor enhancements.

"Body armor" is defined as any clothing or devices designed primarily to prevent penetration by a projectile fired from a firearm or by a knife, sword, or other cutting or stabbing instrument, which is worn by an individual for that specific purpose in the commission of a crime.

A procedure is established for determining whether the accused or accomplice was armed with a firearm or deadly weapon at the time of the offense while wearing body armor. In a criminal case where a special allegation has been made, a court must make a finding of fact, or in a jury trial, the jury must find a special verdict, that: (1) an offender was armed with a firearm or deadly weapon at the time of the offense; and (2) the underlying offense was committed while the offender while wearing body armor.

This act takes effect August 1, 2013.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2013.

Staff Summary of Public Testimony:

(In support) This officer safety-based legislation is a thank you to honor fellow police officers. Body armor crimes are on the rise. Two of the most publicized instances were the 1997 north Hollywood bank robbery and the recent movie theater shooting in Colorado. Also, here in the State of Washington, an offender that recently murdered a federal park ranger was in possession of body armor at the time of the crime. Many states have already enacted body armor statutes. Criminals who wear body armor during the commission of a crime clearly show the intent to engage in that crime. This bill provides a sensible and meaningful tool for dealing with offenders that are a threat to society and law enforcement. This legislation targets violent criminals and their acts of extreme violence. There is no justifiable reason for a violent criminal to have the protection of bullet proof armor while committing a felony crime. Passing this bill will send a clear message that Washington is serious about public safety and protecting its officers.

(Opposed) None.

Persons Testifying: Victoria Shilley; and Chris Tracy, Tacoma Police Department and Washington Council of Police and Sheriffs.

Persons Signed In To Testify But Not Testifying: None.