

HOUSE BILL REPORT

SSB 5582

As Reported By House Committee On:

Law & Justice

Title: An act relating to liquor purchases by persons apparently under the influence of liquor.

Brief Description: Prohibiting the purchase of liquor by intoxicated persons.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Goings, Schow, Stevens, Oke and Kline).

Brief History:

Committee Activity:

Law & Justice: 2/20/98, 2/26/98 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 11 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Carrell; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Minority Report: Do not pass. Signed by 2 members: Representatives Constantine, Assistant Ranking Minority Member; and Cody.

Staff: Bill Perry (786-7123).

Background: It is unlawful for any person to sell liquor to a person "apparently under the influence of liquor."

A violation of this provision carries criminal penalties. A first offense is punishable by a fine of up to \$500 and by imprisonment for up to two months. A second offense is punishable by imprisonment for up to six months, and a third offense by imprisonment for up to one year.

If a corporation violates this provision, it is subject to a fine of up to \$5,000 for a first offense, and a fine of up to \$10,000 and loss of its corporate license for a second or subsequent offense.

In addition, persons or businesses that are licensed by the Liquor Control Board to sell liquor may have their licenses suspended or revoked for violating this law.

Although it is a crime for a person to *sell* liquor to a person who is under the influence, it is not a crime for the person who is under the influence to *buy* liquor. It has been the declared statutory policy of the state since 1972 that "alcoholics and intoxicated persons may not be subject to criminal prosecution solely because of their consumption of alcoholic beverages."

Summary of Amended Bill: It is a civil infraction for a person apparently under the influence of liquor to purchase or consume liquor on a licensed premises. The maximum penalty for the infraction is a fine of \$500.

A defendant may not use his or her own intoxication as a defense against the infraction.

Amended Bill Compared to Substitute Bill: The amended bill removes reference to being under the influence to the extent of intoxication, and removes a definition of intoxication. The amended bill also removes a requirement that establishments conspicuously post notice of the provisions of the bill.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 19, 1998.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Servers are now being held responsible for the behavior of their customers. It's time that the customers are made responsible as well.

Testimony Against: The definition of "intoxicated" is confusing and ambiguous. The "apparently under the influence" standard of the current law as it applies to servers is well understood.

Testified: Dolores Chiechi Whitmore and Pat Conner, Washington State License Beverage Association (pro); and Gary Gilbert, Liquor Control Board (con on the substitute bill).