

HOUSE BILL REPORT

ESB 5695

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to crimes involving firearms.

Brief Description: Increasing sentences for crimes involving firearms.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Long, Oke, Schow, Morton, Benton, and Hochstatter).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/20/98, 2/25/98 [DP].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 11 members: Representatives Ballasiotes, Chair; Benson, Vice Chair; Koster, Vice Chair; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Hickel; McCune; Mitchell; Radcliff; and Sullivan.

Minority Report: Do not pass. Signed by 1 member: Representative Dickerson.

Staff: Mark Hamilton (786-7310).

Background: *Mandatory Sentencing Enhancements for Deadly Weapons.* The state's sentencing guidelines provide a standard range of imprisonment to which courts must sentence criminals convicted of felonies, based on the seriousness of the current crime, as well as other factors, such as prior criminal convictions. The Hard Time for Armed Crime Act (Initiative Measure No. 159) requires mandatory sentencing increases of up to five years which must be added to the sentence of a person convicted of a committing felony while using a firearm or deadly weapon.

However, the underlying sentence, combined with the enhancement, cannot exceed the maximum presumptive sentence under the guidelines, unless the offender is classified as a persistent offender.

The law is unclear, with regard to multiple concurrent convictions, whether a weapon enhancement must be applied to the underlying crime (*i.e.*, the crime in which the

weapon was used) or may be applied separately at the end of the total term for all the offenses combined. This may affect the length of the sentence imposed. The Washington Court of Appeals has held that a firearms enhancement must run consecutively to the sentence imposed on the underlying crime and to any other mandatory sentences imposed under the statute; *i.e.*, each firearm enhancement for multiple current offenses must run consecutively.

Summary of Bill: *Enhancement Added to End of Total Sentence.* If an offender is convicted of more than one offense, and there is a firearm or deadly weapon enhancement for at least one of those offenses, then the enhancement must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to the firearm or deadly weapon enhancement.

Mandatory Confinement and Consecutive Terms. The firearm and deadly weapon enhancements are mandatory, must be served in total confinement, and must be served consecutively to all other sentencing provisions, including other weapon enhancements.

No Reduction of Enhancement. If the firearm or deadly weapon enhancement, when added to the sentence for the underlying crime, would exceed the statutory maximum allowed for the offense, the enhancement may not be reduced.

Multiple Firearm Offenses. If a person is convicted of two or more current offenses, and also is convicted of : (1) unlawful possession of a firearm in the first or second degree; and (2) theft of a firearm or possession of a stolen firearm, then the person must serve consecutive sentences for each other felony offense and for each firearm unlawfully possessed.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill clarifies the intent of the Hard Time for Armed Crime Initiative, and gives the people what they thought they had voted for in the first place.

Testimony Against: None.

Testified: Senator Pam Roach, prime sponsor.