

HOUSE BILL REPORT

HB 2885

As Reported By House Committee On:

Law & Justice

Title: An act relating to drunk driving.

Brief Description: Increasing penalties for drunk driving.

Sponsors: Representatives Mulliken, Sheahan, Costa, McDonald, Backlund, Mielke, Smith, Boldt and Thompson.

Brief History:

Committee Activity:

Law & Justice: 2/3/98, 2/5/98 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Bill Perry (786-7123).

Background: The drunk driving (DUI) law has a variety of criminal penalty provisions, including a number of mandatory minimum penalties. For a first DUI offense within five years, the mandatory minimum jail sentence is one day if the offender's BAC was less than 0.15. For a first-time offender with a BAC of 0.15 or more, the mandatory minimum jail sentence is two days.

DUI trials in which BAC evidence is to be presented may involve testimony from witnesses regarding the calibration and use of the alcohol analyzing equipment used to determine the defendant's BAC. The Legislature has provided for the use of certified copies of analytical lab reports as prima facie evidence of the BAC findings. However, the laboratory personnel themselves may still be subpoenaed and required to attend evidentiary hearings and trials.

Courts have jurisdiction over DUI offenders for two years in order to supervise probationary sentences.

Summary of Substitute Bill: Alternatives to the mandatory minimum jail sentences for a first-time DUI offender are provided.

For a first-time offender with a BAC below 0.15, the court may order that in lieu of one day in jail the offender is subject to not less than 15 days of electronic home monitoring. The home monitoring must be paid for by the offender and may include breathalyzer testing and restrictions on alcohol consumption.

For a first-time offender with a BAC of 0.15 or more, the same electronic home monitoring option is available in lieu of the mandatory two days in jail, but the monitoring is for a minimum of 30 days.

Courts may allow forensic scientists and toxicologists to testify in DUI hearings and trials via live interactive teleconferencing. The court may allow the use of this technology if the court is satisfied it will allow high quality presentation of evidence and will not violate the defendant's right to confront witnesses.

The period of court jurisdiction over DUI offenders on probation is extended from two years to five years.

Substitute Bill Compared to Original Bill: The original bill generally raises all of the mandatory minimum jail sentences by at least 100 percent. The original bill also eliminates the five-year washout period and requires the Department of Licensing to keep DUI records permanently.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Personnel from the State Patrol and from the Office of the State Toxicologist waste a great deal of time traveling to hearings and trials, often when they are ultimately not even called to testify. Technology is now available that can save a great deal of taxpayer money while still affording the defendant a fair trial.

Testimony Against: None.

Testified: Russ Hauge, Washington Association of Prosecuting Attorneys (pro); and Debbie Schmidt, Department of Licensing (neutral).