

HOUSE BILL ANALYSIS

E2SSB 6293

Title: An act relating to drunk driving.

Brief Description: Establishing penalties for drunk driving.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Benton, Roach, T. Sheldon, Rossi, McDonald and Oke).

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Bill Perry (786-7123).

Background: The drunk driving law contains a variety of penalties. Generally, mandatory fines, periods of jail time, and driver's license suspensions escalate with successive convictions for driving while under the influence (DUI). There is a five-year "washout" period for purposes of counting prior convictions. That is, a second DUI conviction only enhances penalties if it occurs within five years of a prior offense.

Penalties also vary depending on the breath or blood alcohol concentration (BAC) of the offender. BACs of 0.15 or more result in enhanced penalties. If there is no BAC reading available, penalties are also enhanced if the reason for the absence of a BAC reading was the offender's refusal to submit to a BAC test.

DUI is a gross misdemeanor with a maximum penalty of one year in jail and a \$5,000 fine. Mandatory minimum penalties begin with 24 hours in jail and a \$350 fine for an offender with no priors and a BAC below 0.15. The nominal amount of the mandatory minimum fine represents only a portion of the actual minimum fine imposed. Every fine is subject to a 60 percent public safety and education account assessment and a \$125 toxicology lab assessment. Thus, the \$350 fine for a first-time offender becomes in effect \$685 [\$350 + (\$350 x .6) + \$125].

Periods of license loss range from 90 days for a first-time offender with a BAC below 0.15, to four years for a third-time offender with a BAC of 0.15 or more.

Summary of Bill: Various penalties for DUI are increased. For first- and second-time offenders, the five-year washout period for counting prior offenses is increased to a seven-year period. For third and subsequent offenses, there is no washout period. Mandatory minimum periods of electronic home monitoring are provided.

Electronic home monitoring may include restrictions on the consumption of alcohol and the use of an alcohol detection device. The offender is to pay the cost of home monitoring as determined by the local jurisdiction in which the penalty is imposed.

For third-time offenders, loss of driving privileges is "permanent." However, seven years after a conviction that has resulted in permanent revocation, the offender may, for good cause, petition the Department of Licensing for restoration of driving privileges. In order to establish good cause, the offender must show by clear and convincing evidence that he or she has spent the previous seven years in a state of sobriety.

The new crime of driving while a license has been permanently revoked is created. A first offense is a gross misdemeanor with a mandatory minimum penalty of one year in jail. A second offense is a class C felony with a mandatory minimum penalty of seven years in prison.

The following table displays the DUI penalty changes made by the act:

	Current Minimums	E2SSB 6293
1. No Priors		
<i>a. BAC < .15 or No Test</i> Jail/Monitor	24 hours jail	24 hours jail + 30 days monitor
Fine	\$685 (\$350)	\$925 (\$500)
License	90 days	no change
<i>b. BAC = >.15 or Refusal</i> Jail/Monitor	2 days jail	2 days + 60 days monitor
Fine	\$925 (\$500)	\$1,325 (\$750)
License	1 year	no change
2. One Prior		
<i>a. BAC < .15 or No Test</i> Jail/Monitor	30 days jail	30 days + 60 days monitor
Fine	\$925 (\$500)	\$1,725 (\$1,000)
License	2 years	no change
<i>b. BAC = >.15 or Refusal</i> Jail/Monitor	45 days jail	45 days + 90 days monitor
Fine	\$1,325 (\$750)	\$2,525 (\$1,500)

License	900 days	no change
3. Two or more Priors		
<i>a. BAC < .15 or No Test</i> Jail/Monitor	90 days jail	90 days + 120 days monitor
Fine	\$1,725 (\$1,000)	\$3,325 (\$2,000)
License	3 years	Permanent (reapply in 7 years)
<i>b. BAC = >.15 or Refusal</i> Jail/Monitor	120 days jail	90 days + 120 days monitor
Fine	\$2,525 (\$1,500)	\$3,325 (\$2,000)
License	4 years	Permanent (reapply in 7 years)

The Traffic Safety Commission is directed to publicize the contents of the act. However, this requirement is null and void if there is not funding for it in the budget.

A local government may submit a claim to the state for reimbursement for costs incurred as the result of mandated increased levels of service under the act.

Fiscal Note: Available. New fiscal note requested for engrossed second substitute bill February 19, 1998.

Effective Date: Section 4, dealing with the publicity by the Traffic Safety Commission, takes effect immediately. Section 5, dealing with reimbursement to local governments, takes effect 90 days after adjournment of the session in which the bill is passed. The remainder of the act takes effect November 1, 1998.