

HOUSE BILL REPORT

SB 5570

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to vehicular assault.

Brief Description: Expanding the definition of vehicular assault.

Sponsors: Senators Costa, Johnson, Kline, Honeyford, Kohl-Welles, Patterson, Gardner, Winsley and Oke; by request of Washington State Patrol.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/23/00 [DP].

Brief Summary of Bill

- Expands the definition of vehicular assault to include operating a motor vehicle with disregard for the safety of others when serious bodily injury results.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

A person commits the crime of vehicular assault if the person operates a motor vehicle in a reckless manner or while under the influence of drugs or alcohol, and this conduct causes serious bodily injury to another person. "Serious bodily injury" is defined to mean bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body. Vehicular assault is a class B, seriousness level IV felony.

The statute does not define "reckless manner." However, the courts have defined it as meaning a "heedless, careless, or rash manner or in a manner showing indifference to the consequences." *State v. Patridge*, 47 Wash. 2d 640 (1955).

The crime of vehicular homicide can be committed by driving in a reckless manner, while under the influence of drugs or alcohol, or with disregard for the safety of others.

Summary of Bill:

The crime of vehicular assault is also committed if a person operates a motor vehicle with disregard for the safety of others, and this conduct causes serious bodily injury to another person. This change makes the vehicular assault statute parallel with the vehicular homicide statute.

The statutory element "with disregard for the safety of others" has been interpreted by the courts in the context of vehicular homicide as "implying an aggravated kind of negligence, falling short of recklessness, but more serious than ordinary negligence." *State v. Brooks*, 73 Wash. 2d 653 (1968).

Appropriation: None.

Fiscal Note: Requested on February 17, 2000.

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

Testimony For: The goal of the bill is to have the vehicular homicide and vehicular assault statutes parallel. Under current law, if someone operates a motor vehicle with disregard for the safety of others and they kill someone, they are guilty of vehicular homicide. But if the same conduct causes serious bodily injury, it falls into this little loophole and can't be prosecuted except perhaps as negligent driving. There may not be very many cases where this applies, but we need to close the gap to make sure justice is served in all cases.

Testimony Against: None.

Testified: Captain Eric Robertson, Washington State Patrol.