

# SENATE BILL REPORT

## ESHB 2302

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As of February 21, 2012

**Title:** An act relating to being under the influence with a child in the vehicle.

**Brief Description:** Concerning being under the influence with a child in the vehicle.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Goodman, Warnick, Kenney, Kagi, Lias, Orwall, Billig, Hasegawa, Finn, Kelley, Rodne, Moeller, Dammeier, Reykdal, Van De Wege, Maxwell, Tharinger, Sells, Jenkins, Hurst, Green, McCoy, Smith, Pearson, Appleton, Darneille, Hunt, Fitzgibbon, Miloscia, Zeiger, Ryu, Stanford, Johnson and Seaquist; by request of Washington State Patrol).

**Brief History:** Passed House: 2/13/12, 98-0.

**Committee Activity:** Judiciary: 2/21/12.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Katherine Taylor (786-7434)

**Background:** The state's drunk driving law has a number of penalty enhancements for individuals convicted of Driving Under the Influence of Drugs or Alcohol (DUI) under certain conditions. Two enhancements apply to individuals arrested and convicted of driving under the influence of alcohol or drugs with a minor passenger in the vehicle.

First, law enforcement officers must notify Child Protective Services if arresting an individual for DUI with a child under age 13 in the vehicle.

Second, courts must add to the already required time or set a minimum period of time that an individual must have an ignition interlock installed in a vehicle when the individual is convicted of DUI with a child under age 16 in the vehicle. The court must add 60 days to the mandatory term for any individual convicted of DUI with a minor child in the vehicle, or require that an ignition interlock be installed for a minimum of 60 days when an ignition interlock is not otherwise mandatory.

**Summary of Bill:** The following enhancements apply when an individual is arrested or convicted of DUI with a child under age 16 in the vehicle:

Gross Misdemeanor and DUI-related Felonies.

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- At the time of arrest, law enforcement must note that a child under age 16 was present in the vehicle.
- At the time of arrest, law enforcement must notify Child Protective Services when there was a child under age 16, rather than age 13, in the vehicle and the person arrested for the DUI-related offense is the child's parent, guardian, or legal custodian.
- The amount of additional time that an individual must have an ignition interlock installed is increased from 60 days to six months.

Gross Misdemeanor DUI Only. If an individual is convicted of a gross misdemeanor DUI with a child under age 16 in the car, additional monetary penalties are assessed based on the individual's prior convictions as follows:

- no prior offenses – minimum of \$1,000 and the maximum is \$5,000;
- one prior offense – minimum of \$2,000 and the maximum is \$5,000; and
- three or more prior offenses – minimum of \$3,000 and the maximum is \$10,000.

DUI-related Felonies Only. If an individual is convicted of a felony DUI, Vehicular Assault DUI, or Vehicular Homicide DUI and had a child under age 16 in the car at the time of the offense, an enhanced sentence of 12 months for each child in the vehicle is added to the individual's standard sentence. If the sentence exceeds the statutory maximum, the portion of the sentence that is related to having a minor child in the vehicle is not reduced.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: We are trying to be precise to fix shortcomings of current law on this subject. The people convicted only pay if they are not indigent. The bill changes the age of the minor in the car from 13 to 16 years old. These are the most vulnerable citizens because they are forced to get into the car with their parents. The drivers know they are endangering the child. This will help to decrease recidivism. This is about changing community norms.

OTHER: Most of the issues have been resolved regarding indigent drunk drivers paying fines.

**Persons Testifying:** PRO: Linda Thompson, Mothers Against Drunk Driving, WA Assn. for Substance Abuse and Violence Prevention; Jason Berry, WA State Patrol; Amy Freedheim, King County Prosecutors Office.

OTHER: Michael Hanby, WA Defense Assn., WA Assn. of Criminal Defense Lawyers.