

# FINAL BILL REPORT

## SSB 5141

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C 332 L 95

Synopsis as Enacted

**Brief Description:** Revising provisions relating to offenses involving alcohol or drugs.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Smith, Rasmussen, Quigley, C. Anderson and Bauer).

**Senate Committee on Law & Justice**

**House Committee on Law & Justice**

**Background:** Significant changes were made to the laws governing driving under the influence (DUI) during the 1994 legislative session. Concern has since been expressed that the laws are complicated and onerous to enforce. Recent court rulings have provided direction and impetus to revise the statutes.

The blood or breath alcohol concentration (BAC) at which a person is guilty of driving while under the influence of liquor or drugs is .10 in Washington. Eleven states and 21 Washington cities have reduced this standard to .08.

Last year Washington adopted administrative license suspension or revocation procedures that apply to second or subsequent DUI arrests and to minors with a blood or breath alcohol concentration of .02 or higher. Thirty-seven states and the District of Columbia have adopted administrative license suspension or revocation procedures.

**Summary:** Criminal Penalties. A person convicted of DUI is punished by imprisonment, a fine, and suspension of the person's driver's license for 90 days. The period of license suspension may not be suspended. A person who is convicted of a second DUI with an alcohol concentration of less than .15 is punished by imprisonment for 30 days, a fine of not less than \$500 and revocation of the driver's license for one year. In the case of a second DUI where the alcohol concentration was at least .15, the punishment includes 45 days of imprisonment, a fine of not less than \$750, and revocation of the driver's license for 450 days. Conviction of a third DUI with an alcohol concentration of less than .15 results in imprisonment for not less than 90 days, a fine of not less than \$1,000 and revocation of the driver's license for two years. If the alcohol concentration for a third DUI is at least .15, the punishment is imprisonment for not less than 120 days, a fine of not less than \$1,500 and revocation of the driver's license for three years.

Administrative Action. The officer who arrests a person for DUI must mark the person's driver's license so that it will serve as a 60-day temporary license. A person has 30 days from arrest to request a hearing before the Department of Licensing. The hearing must be held 60 days from the date of the arrest unless otherwise agreed to by the department and person. The officer's sworn report or report under declaration is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or in physical control of a motor vehicle while under the influence of alcohol or drugs or the person was

driving or in physical control of a motor vehicle while having alcohol in his or her system in a concentration of .02 or more and was under 21 years.

Except in the case of a refusal to take a BAC test, a person's temporary driving privileges may be extended up to 90 days if the person petitions for a deferred prosecution of criminal charges arising out of the same incident. Except for refusal cases, obtaining a deferred prosecution stays the administrative suspension or revocation.

A person who is under 21 years of age, drives a motor vehicle and has, within two hours of operating the vehicle, an alcohol concentration of .02 or more is guilty of driving after consumption of alcohol which is a misdemeanor.

The first DUI incident in which the driver has a BAC of .10 or more results in placement of the person's driver's license in probationary status. The first refusal to submit to a breathalyzer test results in revocation for one year. The second or subsequent DUI incident within five years in which the BAC is .10 or more results in revocation for two years. For the second or subsequent breathalyzer refusal in five years, the revocation period is two years or until the person reaches age 21, whichever is longer. The suspension or revocation imposed by the department is stayed if the person is accepted for deferred prosecution unless the revocation is for refusal to submit to a breathalyzer test. A person under the age of 21 who has an alcohol concentration of .02 or more receives a 90-day suspension of his or her driver's license. The driver's license is revoked for one year or until the person reaches 21 years, whichever is longer, for a second or subsequent incident.

A person must complete alcohol information school or any recommended treatment in order to have his or her driving privilege reinstated after it is suspended or revoked due to a conviction of DUI.

The \$125 fee that is assessed to people that are convicted, sentenced to a lesser charge, or given deferred prosecution as a result of an arrest for DUI, vehicular homicide or vehicular assault is reauthorized.

**Votes on Final Passage:**

Senate	46	1	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	94	0	(House amended)
Senate	44	0	(Senate concurred)

**Effective:** May 11, 1995 (Sections 13 and 22)  
September 1, 1995