

SENATE BILL REPORT

ESSB 6204

As Passed Senate, February 10, 1996

Title: An act relating to penalties for driving without a driver's license and negligent driving.

Brief Description: Redefining negligent driving.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Haugen, Smith, Winsley, Hale and Schow).

Brief History:

Committee Activity: Law & Justice: 1/22/96, 1/29/96 [DPS].
Passed Senate, 2/10/96, 47-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6204 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Hargrove, Haugen, Johnson, Long, McCaslin and Roach.

Staff: Martin Lovinger (786-7443)

Background: Negligent driving is a misdemeanor punishable by a maximum fine of \$250. This maximum fine applies even if the person who has driven negligently has also been drinking or using drugs, if there is insufficient evidence to charge the driver with driving under the influence. Negligent driving is defined as operating a motor vehicle in a manner so as to endanger or be likely to endanger any persons or property. A person charged with negligent driving is entitled to a jury trial, because it is a crime. However, because negligent driving is not punishable by jail, an indigent defendant is not entitled to a public defender, nor may courts issue bench warrants when a defendant fails to appear in court on this charge. Negligent driving is a lesser included crime of reckless driving.

Driving without a valid license is a misdemeanor punishable by up to 90 days in jail and a \$1,000 fine. A person charged with this crime is entitled to a jury trial, if he or she requests one, and to a public defender, if indigent. The Office of the Administrator for the Courts has estimated that 20 percent of all misdemeanors filed in limited jurisdiction courts are for violations of this statute. Courts routinely allow defendants to forfeit bail and serve no jail time.

Summary of Bill: The crime of negligent driving in the first degree is created. It is defined as operating a motor vehicle in a negligent manner and exhibiting the effects of having consumed liquor or illegal drugs. It is a misdemeanor punishable by up to 90 days in jail and a \$1,000 fine. Exhibiting the effects is defined to show recent consumption. An affirmative defense is created for anyone who has a valid prescription for the drugs consumed, if the charge is based on consumption of illegal drugs.

The current crime of negligent driving is renamed negligent driving in the second degree and is made a traffic infraction. Driving on private property with the permission of the owner is made an affirmative defense to this charge. Negligent driving is no longer a lesser included crime of reckless driving.

The crime of driving without a valid license is reduced to an infraction if the driver produces acceptable identification or an expired license at the time of arrest and if the driver is not in violation of the suspended or revoked license laws. The fine for this infraction is \$250, except the fine will be reduced to \$50 if the driver obtains a valid license.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The time and money spent on providing jury trials for the current negligent driving and no driving without a valid license laws could be better spent elsewhere. The new crime of negligent driving and alcohol or drugs will allow courts to more appropriately deal with driving that does not constitute DUI but is more serious than the current maximum fine of \$250 implies. With jail as a possible sanction, courts will be able to order treatment for alcohol and drug related negligent driving. The current state of law for negligent driving is the worst of all worlds since the right to a jury trial is absurd when negligent driving is only punishable by a fine, but the current maximum \$250 fine is insufficient if alcohol or drugs are involved. The proposed changes will reduce the caseload for many courts and save a great deal of money and time.

Testimony Against: The current law makes negligent driving a lesser included of reckless driving and that is an important tool if a charge of reckless driving needs to be reduced. The no driving without a valid license law is an important means of identifying criminals with bench warrants pending. The threat of a jail is strong encouragement for people to obtain valid licenses.

Testified: John McCarthy, WA State District and Municipal Court Judges Assn. (pro); Robert McBeth, King County District Court (pro); Mark Sidran, Seattle City Attorney (pro); Bill Hayden, Seattle (pro); Tom McBride, WA Assn. of Prosecuting Attorneys (pro); Paul Beighle, Seattle Municipal Court (pro); Pat Brock, Tumwater City Attorney (con); Jim Mattheis, WA State Council of Police Officers (con); Roger Lawrence, Tacoma Police Union (con).

House Amendment(s): The fine for the infraction of second degree negligent driving is set at \$250, instead of being left up to the Supreme Court to determine.

The definition of "exhibiting the effects" of liquor is elaborated to explicitly include the same indicia that the bill uses with respect to the effects of drugs.

The Office of the Administrator for the Courts is to report to the Legislature in two years on the number of charges and reduced charges under the new law.

A conviction, or deferred prosecution for first degree negligent driving is a "prior" for purposes of DUI sentencing, but only if it is the result of a plea down from a DUI, vehicular homicide, or vehicular assault.

A conviction for first degree negligent driving will not appear on the driving record available to insurance companies. A second conviction within five years will result in both convictions being available.