

# HOUSE BILL ANALYSIS

## ESSB 6475

---

---

**Title:** An act relating to driving under the influence of intoxicating liquor or any drug.

**Brief Description:** Revising provisions relating to driving while under the influence.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Roach, Fairley, Patterson, Kline, Haugen, McAuliffe, Goings, Kohl, Rasmussen and Oke; by request of Governor Locke).

---

### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Bill Perry (786-7123).

**Background:** The laws relating to driving while under the influence of alcohol (DUI) contain a variety of criminal and administrative sanctions and procedural provisions.

A person is guilty of DUI if the person drives a vehicle in this state and has, within two hours after driving, a breath or blood alcohol concentration (BAC) of 0.10 or higher.

The administrative sanction for a first DUI is placement by the Department of Licensing of the person's driver's license in probationary status for five years. For second and subsequent violations, increasing periods of license loss are provided.

A person arrested for DUI may have his or vehicle impounded. Such a person is prohibited from selling, transferring, or encumbering the vehicle pending acquittal, or dismissal of the charges, or until 60 days after conviction for the DUI. If the person is convicted of the DUI and has had a prior DUI within five years, the vehicle is subject to forfeiture.

A person is not eligible for a deferred prosecution program in connection with a charge of driving under the influence of alcohol or drugs more than once in any five-year period. The court is required to dismiss the DUI charges pending against the person after receipt of proof of successful completion of the two-year treatment program under the deferred prosecution.

A DUI conviction does not count as a "prior" offense for purposes of increasing the penalties for a subsequent offense after the passage of five years.

**Summary of Bill:** The DUI per se BAC standard is lowered to 0.08.

The driver's license of a person arrested for a first-time DUI is administratively suspended for 90 days by the Department of Licensing. Probationary license provisions are eliminated.

A DUI conviction counts permanently as a "prior" for purposes of enhancing the penalties for subsequent convictions.

A person is not eligible for a deferred prosecution program in connection with a charge of driving under the influence of alcohol or drugs if he or she has committed a prior DUI offense in his or her lifetime. The court will dismiss the charges pending against a person who successfully completes the two-year treatment program and does not commit another DUI or related offense, but not before five years following entry of the order of deferred prosecution.

The court and prosecutor are required to verify a defendant's criminal history and driving record immediately before the court imposes a sentence or orders a deferred prosecution in cases involving the following offenses: DUI, vehicular homicide committed while under the influence of liquor or any drug, vehicular assault committed while under the influence of liquor or any drug, negligent driving in the first degree, and reckless endangerment in the second degree if the latter two convictions are the result of charges that were originally filed as DUIs or vehicular homicide or vehicular assault.

A deferred prosecution in connection with a charge of DUI may not be dismissed until the court and prosecutor review and verify the defendant's criminal history and driving record. If the defendant has been arrested for DUI for a related offense since entry of the order of deferred prosecution and there has been no disposition of the charge, the court is directed to maintain the case in deferred prosecution status until a disposition has occurred. If the defendant has not been arrested or convicted of a DUI or related offense since entry of the deferred prosecution order, the court dismisses the charges pending against the defendant.

Reckless endangerment and reckless driving when originally filed as DUIs are counted as prior DUI offenses.

The offense of driving a motor vehicle after consuming alcohol is clarified to apply only to minors who have a BAC of at least 0.02, but less than the DUI per se BAC standard of 0.08.

Local governments may submit claims for reimbursement by the Legislature if this act results in additional local government costs.

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

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

Office of Program Research