

SENATE BILL REPORT

SSB 5644

As Passed Senate, March 16, 2005

Title: An act relating to driver's license suspensions.

Brief Description: Extending the stay on driver's license suspensions pending entry of a deferred prosecution.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Roach, Benton, Esser, Prentice, Shin, McAuliffe, Haugen, Fairley, Hargrove and Rasmussen).

Brief History:

Committee Activity: Judiciary: 2/16/05, 2/23/05 [DPS].

Passed Senate: 3/16/05, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5644 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: Any person who operates a motor vehicle within this state is deemed to have given consent to a test of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood. This provision is applicable if the person is arrested for any offense where the arresting officer has reasonable grounds to believe the person had been driving while under the influence of liquor or any drug (DUI). The provision is referred to as "implied consent". If the test is administered and the alcohol concentration of the driver's breath or blood is .08 or more, the driver's license of the person will be suspended or revoked.

If a person whose driver's license has been or will be suspended or revoked due to an implied consent violation, petitions a court for a deferred prosecution on criminal charges arising out of a DUI arrest, the court may direct the Department of Licensing (DOL) to stay any actual or proposed suspension or revocation for at least 45 days but not more than 90 days. There is concern that, in some counties, criminal charges are not filed for a long period of time. Consequently, there is no court to which a defendant can provide notice of a deferred prosecution and no court to direct the DOL to stay the license suspension action.

Summary of Bill: When license suspension is required due to an implied consent violation, the DOL will stay the suspension of a person's driver's license if he or she notifies the department of the intent to seek a deferred prosecution. The duration of the stay is not longer than 150 days after the date charges are filed or two years after the date of the arrest for driving under the influence of alcohol or any drug, whichever time period is shorter.

Substitute Bill Compared to Second Substitute Bill: When license suspension is required due to an implied consent violation, the DOL will stay the suspension or revocation of a person's driver's license if he or she notifies the department of the intent to seek a deferred prosecution. It is clarified that the stay would be applicable to a suspension or a revocation.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: In King county, it takes a very long time for driving under the influence charges to be filed. Because of this delay, if a person wishes to seek a deferred prosecution, he or she does not know which court to petition for the deferred prosecution. Most people agree that deferred prosecution is a good thing. One of the benefits of deferred prosecution is that the person does not have to face license suspension or revocation. Deferred prosecution encourages treatment. The providers, probation, and the department of alcohol and substance abuse believe it is a good idea too.

Testimony Against: None.

Who Testified: PRO: Geoffrey Burg, WA Assn of Criminal Defense Lawyers, WA Defender Assn.