

SENATE BILL REPORT

SB 5648

As Reported by Senate Committee On:
Law & Justice, January 11, 2018

Title: An act relating to vehicular homicide, barring use of the defense of driving while under fatigue, drowsiness, or sleep, and increasing the time period for license suspension.

Brief Description: Concerning vehicular homicide.

Sponsors: Senator Rolfes.

Brief History:

Committee Activity: Law & Justice: 2/08/17, 1/11/18 [DPS, DNP].

Brief Summary of First Substitute Bill

- Clarifies that a driver may be guilty of vehicular homicide if the driver was operating a motor vehicle while impaired by fatigue.
- Defines impaired by fatigue to include a person who drives while having been without sleep for twenty-four consecutive hours.
- Requires the Department of Licensing to revoke the driver's license of any driver convicted of vehicular homicide for a period of five years.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5648 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Darneille and Frockt.

Minority Report: Do not pass.

Signed by Senators Angel and Wilson.

Staff: Shani Bauer (786-7468)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: There are a variety of crimes for driving a motor vehicle in some manner that puts another person at harm or has the potential to put another person at harm. The penalties for those crimes escalate depending on the degree of behavior and harm caused. A person may be guilty of:

- negligent driving in the second degree if the person operates a motor vehicle in a manner that is negligent and endangers any person or property—traffic infraction;
- negligent driving in the first degree if the person operates a motor vehicle in a manner that is negligent, endangers the lives of any person or property, and the person exhibits the effects of having consumed liquor or marijuana or any drug—misdemeanor;
- driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state with a specified level of drugs or alcohol in their system—1st offense: gross misdemeanor; and
- vehicular assault if the person operates a motor vehicle—Class B felony:
 - in a reckless manner and causes substantial bodily harm to another;
 - while under the influence of drugs or alcohol and causes substantial bodily harm to another; or
 - with disregard for the safety of others and causes substantial bodily harm to another.

A person is guilty of vehicular homicide when the death of a person is proximately caused by a driver operating a motor vehicle:

- while under the influence of drugs or alcohol—seriousness Level XI;
- in a reckless manner—seriousness Level XI; or
- with disregard for the safety of others—seriousness Level V.

Vehicular homicide is a Class A felony. The Department of Licensing (DOL) must revoke the driver's license of any driver convicted of vehicular homicide for a period of two years.

According to the National Highway Traffic Safety Administration, drowsy driving is implicated in 100,000 car crashes each year, which leaves 71,000 people injured and 1500 dead.

Summary of Bill (First Substitute): A driver is guilty of vehicular homicide if the driver was operating a motor vehicle with disregard for the safety of others or while impaired by fatigue. Impaired by fatigue means a person who operates a motor vehicle while having been without sleep for twenty-four consecutive hours, and the person is in the state of sleep, or while the person's ability or alertness is so impaired by fatigue as to make it unsafe to begin or continue to operate a motor vehicle. DOL must revoke the driver's license of any driver convicted of vehicular homicide for a period of five years.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Replaces broad description of driving while impaired with fatigue, drowsiness, or sleep with the term and definition of "impaired by fatigue."
- Updates RCW 9.94A.515 to reflect changes made in the 2017 legislative session.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *Testimony from 2017 Regular Session. The committee recommended a different version of the bill than what was heard.*

PRO: In a recent case, a young woman was driving when her vehicle left the road and crashed into a group of teenagers. One of those teenagers was killed. This person had been in several vehicle related incidents and had her license revoked for driving while on medication. On this occasion she claimed that she was excused because she was not under the influence of any medication, but was simply tired. As a society, we have come to recognize that driving under the influence is not okay. Fatigued driving is a huge problem, yet isn't given nearly the attention it deserves. Unlike driving under the influence, a person has the ability to make a decision when driving while tired. The person can recognize they are fatigued and has the ability to get out of car, have a cup of coffee, or stop and take a nap. Those that take the life of another person while driving should not be excused because they fell asleep.

Persons Testifying: PRO: Senator Christine Rolfes, Prime Sponsor; Tina Robinson, Kitsap County Prosecutor's Office.

Persons Signed In To Testify But Not Testifying: No one.