

SENATE BILL REPORT

SB 6163

As Reported by Senate Committee On:
Law & Justice, January 30, 2020

Title: An act relating to unlawful possession of firearms for persons free on bond or personal recognizance pending trial, appeal, or sentencing for felony charges under RCW 46.61.502(6) and 46.61.504(6).

Brief Description: Concerning unlawful possession of firearms for persons free on bond or personal recognizance pending trial, appeal, or sentencing for felony charges under RCW 46.61.502(6) and 46.61.504(6).

Sponsors: Senators Dhingra, Kuderer, Wellman, Pedersen, Darneille, Frockt, Rolfes, Stanford and Wilson, C.

Brief History:

Committee Activity: Law & Justice: 1/21/20, 1/30/20 [DP, DNP].

Brief Summary of Bill

- Prohibits a person from possessing a firearm if the person has been charged with driving or physical control of a vehicle while under the influence of alcohol or drugs, and the person has a history of three or more prior offenses within ten years, vehicular homicide, or vehicular assault.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer and Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; Holy and Wilson, L..

Staff: Shani Bauer (786-7468)

Background: Unless the person's rights have been restored, a person may not possess a firearm:

- if the person has been convicted of a felony;

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.

- if the person has been convicted of any one of several misdemeanor domestic violence offenses;
- during the period of time the person is subject to any protection order, no-contact order, or restraining order and which finds the person represents a credible threat to the physical safety of the partner or child;
- after having been involuntarily committed for mental health treatment, unless the person's right has been restored;
- after dismissal of criminal charges based on incompetence to stand trial when the court has made a finding the defendant has a history of violent acts;
- if the person is under 18 years of age; or
- if the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

A serious offense is defined as:

- any crime of violence;
- any felony violation of the uniform controlled substance act classified as a Class B felony or has a maximum term of imprisonment of at least ten years;
- child molestation in the 2nd degree, incest, or indecent liberties;
- leading organized crime;
- promoting prostitution in the first degree;
- rape in the third degree;
- drive-by shooting;
- sexual exploitation;
- vehicular assault when caused by operation or driving of a vehicle while under the influence;
- vehicular homicide, when proximately caused by operation or driving of a vehicle while under the influence;
- any other class B felony with a finding of sexual motivation;
- any other felony with a deadly weapon verdict; and
- felony transfer of a firearm without complying with a background check.

The crime of driving under the influence of intoxicating liquor, marijuana, or drug is elevated to a class B felony, and the crime of physical control of a vehicle under the influence of intoxicating liquor, marijuana, or drug is elevated to a class C felony if:

- the person has three or more prior offenses within ten years; or
- the person has previously been convicted of (1) vehicular homicide while under the influence, (2) vehicular assault while under the influence, or (3) an out of state offense comparable to either vehicular homicide or vehicular assault while under the influence.

Summary of Bill: A person may not possess a firearm if they have been charged with driving or physical control of a vehicle while under the influence of alcohol or drugs, and have a history of three or more prior offenses within ten years, vehicular homicide, or vehicular assault.

Appropriation: None.

Fiscal Note: Not requested.

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: PRO: Studies show that a prior DUI conviction is related to an increased risk for suicide, domestic violence, or other crimes. This bill addresses felony DUI, vehicular homicide, or vehicular assault. In order to get a felony DUI, a person must have had three DUI convictions within the past ten years. This bill gives the prosecutor the ability to request a person not be given access to a firearm. Discretion would be with the judge whether to limit the person's access to firearms as a condition of release.

This bill only addresses a person's access to firearms while pending trial or sentencing. If the person is convicted, the person would be prohibited as a result of their felony conviction. If not convicted, the prohibition goes away. There is a strong nexus between DUI offenses and firearm violence. Anecdotally, in the past year, two persons in my caseload awaiting trial for felony DUI shot themselves. A study of the data shows that nearly 30 percent of those convicted of alcohol related offense are also arrested for a firearm related offense. Twenty-three percent of firearm offenses had a prior DUI. The Legislature can constitutionally add any crimes that it wants under the firearm prohibitions.

This bill is a strong response to suicide prevention. Suicide risk is increased during periods of personal crisis. Firearm owners report problems with alcohol abuse at a greater rate than other individuals. People awaiting trial are in a vulnerable position. Washington has taken smart steps to keep guns out of the hands of those who are at risk of gun violence. This bill would continue that progress.

CON: There are due process concerns with this law. We certainly support felons losing their firearm rights when they are convicted of a felony. However, it is a due process concern to take a person's firearm rights before they are convicted and when there is no direct link between the crime and a firearm. There is a much more direct link between a car and vehicular homicide, yet no one is suggesting that the person's car should be taken away.

Persons Testifying: PRO: Senator Manka Dhingra, Prime Sponsor; Karyn Brownson, King County Public Health; Cheryl Berenson, citizen; Amy Freedheim, King County Prosecuting Attorney's Office.

CON: Tom Kwieciak, National Rifle Association.

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