

# HOUSE BILL REPORT

## SSB 5069

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*As Reported By House Committee on:  
Judiciary*

**Title:** An act relating to changing the blood and breath alcohol content standards for intoxication for those persons under the age of twenty-one.

**Brief Description:** Changing the blood and breath alcohol content standards for intoxication for those persons under the age of twenty one.

**Sponsor(s):** Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Rasmussen, Talmadge, Oke, Bailey, Craswell, Thorsness, McCaslin, Johnson, Roach, Metcalf, Vognild and Conner).

**Brief History:**

Reported by House Committee on:  
Judiciary, February 28, 1992, DPA.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *Do pass as amended.* Signed by 19 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

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

**Background:**

One of the ways a driver can commit the crime of driving while intoxicated (DWI) is to drive with a certain amount of alcohol in his or her system. This version of DWI is called a "per se" crime because it does not require that the driver be under the influence of alcohol. It only requires that the driver have the specified level of alcohol in his or her system. The per se standard is set both for alcohol in the breath and alcohol in the blood. Those standards are 0.10 grams of alcohol per 210 liters of breath and 0.10 percent by weight of alcohol in the blood. These two standards are considered to be equivalent. That is, on average, a person with 0.10 grams under the breath standard will also be found

to have about 0.10 percent under the blood standard. Although in most DWI cases the breath test is used, there are circumstances in which a blood sample may be taken in lieu of or in addition to a breath standard.

The per se standard represents in part a legislative agreement with scientific evidence that virtually everyone's driving ability is impaired at these levels. There is evidence that in fact most drivers are affected to some degree at considerably lower levels. However, the lack of a lower standard does not necessarily mean that persons cannot be convicted of DWI if their tested alcohol levels are below the 0.10 standard. A person also commits DWI if he or she drives while "under the influence of or affected by intoxicating liquor or any drug." This version of DWI is independent of a per se standard, although a tested reading of below 0.10 could certainly be one piece of evidence to be considered in determining whether a driver was in fact under the influence.

It is generally against the law for persons under the age of 21 to possess or consume alcohol whether or not they are driving. Nonetheless, drivers under the age of 21 are over-represented in DWI related accidents. That is, the percentage of DWI related accidents involving that age group is greater than the percentage of drivers who are in that group. There is also evidence that younger drivers may be impaired at lower alcohol consumption levels than are older drivers.

***Summary of Amended Bill:***

The alcohol concentration standard for DWI per se is lowered from 0.10 to 0.04 for drivers under the age of 21. That is, a person under the age of 21 commits the crime of DWI if he or she drives with 0.04 grams or more of alcohol per 210 liters of breath, or 0.04 percent or more by weight of alcohol in the blood.

***Amended Bill Compared to Substitute Bill:*** The substitute bill also lowers the per se standard for persons over the age of 21.

***Fiscal Note:*** Available.

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

***Testimony For:*** None.

***Testimony Against:*** None.

*Witnesses:* None.