

SENATE BILL REPORT

SB 5064

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 6, 1992

Brief Description: Providing for quick resolution of the revocation, suspension, or denial of driving privileges.

SPONSORS: Senators Nelson, Rasmussen, Oke, Johnson, Bailey and Thorsness.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5064 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Madsen, Rasmussen, and A. Smith.

Staff: Lidia Mori (786-7755)

Hearing Dates: February 4, 1992; February 6, 1992

BACKGROUND:

A person who is arrested for DWI and who has a breath/blood alcohol reading of 0.10 or greater can lose his/her driving privilege for various periods of time (depending on prior convictions) if the person is found guilty in a court of law. However, because of court congestion and prosecutor workloads, the cases against some DWI defendants are often delayed, dismissed or pleaded down to lesser offenses.

Studies have shown that swift and certain license suspension is one of the most effective deterrents to drunk driving. To accomplish this goal 29 states and the District of Columbia provide for an "administrative per se" process for the loss of a license. It is estimated that enactment of an administrative per se act will save about 26 lives and prevent over 1,000 alcohol-related traffic injuries in Washington each year.

SUMMARY:

The Department of Licensing (DOL) is authorized to administratively suspend or revoke the driving privileges of any person arrested for DWI who has a breath/blood alcohol reading of 0.10 or greater.

A law enforcement officer must have reasonable grounds to believe the driver was operating a motor vehicle while under the influence of alcohol. The officer must warn the driver that the driving privilege will be revoked or denied if he/she refuses the test or that the driving privilege will be suspended, revoked or denied if the test is administered and the reading is 0.10 or greater.

If the test is refused or failed, the officer must confiscate the driver's license and issue a temporary license that is effective 12 hours after the time of arrest, and is valid for 30 days from the date of the arrest. The officer must provide the driver with information on his/her right to request a hearing to contest the suspension or revocation.

Upon receipt of the report indicating the driver refused the test, DOL is to issue a revocation. The first refusal in five years is a one-year revocation. A second or subsequent refusal in five years is a two-year revocation. The revocation is effective 30 days from the date of the arrest.

Upon receipt of the sworn report indicating the driver submitted to the test and the result of the test was 0.10 or more, DOL shall suspend, revoke or deny the person's driving privilege. The suspension will be for 90 days on a first offense, one year on a second offense, and two years on a third offense, to become effective 30 days from the date of arrest.

If the driver wants to contest the suspension or revocation, the person must submit in writing a request for a hearing within five days of the date of arrest. Upon receipt of the request for the hearing, DOL is to set a hearing date. The hearing is to be held in the county of arrest within 30 days of the date of arrest. If the suspension or revocation is sustained at the hearing, the driver has the right to file an appeal to the superior court in the county of arrest. The driver may seek a stay of the effective date of the suspension or revocation during the appeal.

Each person suspended or revoked under this act shall receive an alcohol evaluation and enroll in any recommended treatment program prior to reinstatement. Proof of financial responsibility is not required after a first suspension or for an occupational license. A person participating in an alcohol or drug program may apply for a provisional driver's license.

The legislation authorizes a study to be conducted by the Washington Traffic Safety Commission to review the effectiveness of the act.

License reinstatement fees are increased from \$50 to \$100 to fund the new license suspension procedure.

EFFECT OF PROPOSED SUBSTITUTE:

The definition of a test of a person's breath is included. The criteria for what constitutes driving while under the influence of intoxicating liquor is controlled by the standard set forth in statute.

A person who has been arrested for a DWI will have ten days to request a hearing from the Department of Licensing.

A person who refused to submit to a test of his or her breath or blood after being arrested for a DWI may not apply for a provisional driver's license.

The temporary license which is issued to a person who has been arrested for a DWI will remain valid for 45 days or until a hearing is held, whichever occurs first.

The section making an appropriation to the Department of Licensing is removed.

Appropriation: none

Revenue: yes

Fiscal Note: requested

Effective Date: Sections 6 and 13 are effective immediately; all other sections are effective July 1, 1992.

TESTIMONY FOR:

Other states have administrative license revocation and it has been shown to be an effective deterrent to drunk driving. Administrative license revocation does not cost much and, in fact, can save money and save lives.

TESTIMONY AGAINST:

Concern exists that this bill will basically destroy deferred prosecution and studies show that deferred prosecution works.

TESTIFIED: Robb Bruns, WA Advocates For Highway and Auto Safety (pro); Kathleen Rusk, DWI Victims Panel, MADD (pro); Rich Aanderud, Puyallup PRIDE (pro); Raymond Mahr (pro); Dr. Cecil Snodgrass, WA State Medical Assn. (pro); Bob Seeber, Restaurant Assn. (con); Kit Hawkins, Restaurant Assn. (con); Steve Lind, WA Traffic Safety Commission (pro); Barry Sweedler, National Transportation Safety Board (pro); Andrew McGuire, Advocates For Highway and Auto Safety (pro); Robert Bale, MADD (pro); John Abolofia, WA State Trial Lawyers Assn. (con); George Bianchi, WA Assn. of Criminal Defense Lawyers (con); Ken Stark, DSHS (pro); Dick Nuse, DOL (pro); Tim Erickson, WA State Patrol (pro); Carol Binder, WA State Assn. of Independent Outpatient Programs (pro); Paula Myers, Clinical Dependency Professionals of WA State (pro); Mike Ryherd, Teamsters (con); Shirley Anderson, DWI Victims Panel (pro)