

SENATE BILL REPORT

SB 6371

As Reported By Senate Committee On:
Judiciary, February 6, 2004

Title: An act relating to driving while under the influence of alcohol or any drug.

Brief Description: Increasing penalties for repeat DUI offenses.

Sponsors: Senators Kline, McCaslin, Haugen, Esser, Johnson, Rasmussen, Oke, Fairley, Keiser, Murray, Roach, Shin and Eide.

Brief History:

Committee Activity: Judiciary: 1/29/04, 2/6/04 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6371 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: Under Washington law, the crimes of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug (DUI) are gross misdemeanors. The maximum penalty for a gross misdemeanor is up to one year in jail and/or up to a \$5,000 fine. The law pertaining to DUI specifies an escalating scale of mandatory minimum penalties, depending upon the alcohol concentration (BAC) involved, whether the person refused a test of his or her breath or blood, and whether the person has had one or more prior offenses within seven years. A prior offense is defined as a conviction for DUI or physical control, vehicular homicide, or vehicular assault committed while under the influence of liquor or any drug, a conviction for negligent driving first degree, reckless driving, or reckless endangerment if the conviction is the result of a charge that was originally filed as a DUI, vehicular homicide or vehicular assault.

Current law provides that if a person is sentenced to confinement for one year or less, the court may impose up to one year of community custody. A requirement of community custody is the completion of a diagnostic evaluation by an alcohol or drug dependency agency approved by the Department of Social and Health Services (DSHS) or a qualified probation department. This report is forwarded to the Department of Licensing. If the person is found to have an alcohol or drug problem that requires treatment, such treatment must be completed in a program approved by DSHS. The convicted person must pay the costs of the evaluation and treatment, unless the person is eligible for an existing program offered or approved by DSHS.

There is concern that no matter how many DUI convictions a person may accumulate, he or she will not be punished by more than one year in jail. To date, 47 states have enacted some sort of felony drunken driving law.

Summary of Substitute Bill: Driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug is a class C felony if the offender has two or more prior convictions for DUI within a five-year period, or the person has had a prior conviction of felony driving or being in physical control while under the influence of liquor or any drug, vehicular assault, or vehicular homicide. For purposes of sentencing, it is listed at seriousness level V.

If a sentence involving community custody is imposed, a person convicted of felony DUI or physical control must, as a condition of community custody, complete a diagnostic evaluation to determine whether an alcohol or drug problem exists. If a problem is found to exist, treatment must be completed in a program approved by DSHS. The convicted person must pay the costs of the evaluation and treatment, unless the person is eligible for an existing program offered or approved by DSHS.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested on January 19, 2004

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

Testimony For: It would be better if the bill said it is a felony if a person is convicted of driving under the influence three times in his or her lifetime. Washington is one of the only states that does not have a felony DUI. A recent case, *State v. Shaffer*, defined a prior DUI as a prior DUI or deferred prosecution only. This bill is a long time in coming. The financial impact on a family when the mother or father is injured or killed in a DUI is tremendous. It is better for the state to absorb the financial impact from this bill than a family to absorb the financial impact of a family member being a DUI victim.

Testimony Against: None.

Testified: PRO: Pete Youngers, Mothers Against Drunk Driving; Karen Minahan, Mothers Against Drunk Driving; Bill Bowman, WA Criminal Defense Lawyers; Larry Erickson, WA Assn. of Sheriffs and Police Chiefs; Steve Lind, WA Traffic Safety Commission.