

SENATE BILL REPORT

SB 5711

As Passed Senate, March 10, 2007

Title: An act relating to the offender score for offenses concerning the influence of intoxicating liquor or any drug.

Brief Description: Expanding the offender score to include offenses concerning the influence of intoxicating liquor or any drug.

Sponsors: Senators Parlette, Delvin and Shin.

Brief History:

Committee Activity: Judiciary: 2/09/07, 2/28/07 [DP].

Passed Senate: 3/10/07, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Murray and Weinstein.

Staff: Lidia Mori (786-7755)

Background: An offender's criminal history includes his or her prior adult convictions and juvenile court felony dispositions. Felony dispositions in juvenile court are counted as criminal history for purposes of adult sentencing, except under general "wash-out" provisions. The criminal history portion of an offender score may be calculated once prior convictions are determined. The rules for scoring prior convictions are contained in RCW 9.94A.525.

A serious traffic offense includes driving or actual physical control while under the influence of intoxicating liquor or any drug, reckless driving, or hit-and-run attended vehicle. In order to calculate the offender score of a person whose present conviction is for a felony traffic offense, one point is counted for each prior adult serious traffic conviction and a 1/2 point for each juvenile prior serious traffic conviction. Felony traffic offenses include vehicular homicide, vehicular assault, hit and run injury accident, and attempting to elude a pursuing police vehicle.

The crime of homicide by watercraft occurs when the death of any person ensues within three years as a proximate result of injury proximately caused by the operating of any vessel by any person. The operator of the vessel is guilty of homicide by watercraft if he or she was operating the vessel while under the influence of intoxicating liquor or any drug, in a reckless

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manner, or with disregard for the safety of others. If the homicide by watercraft occurs while the operator is under the influence of liquor or any drug, it is a class A felony, ranked at seriousness level IX.

Assault by watercraft occurs when a person operates any vessel in a reckless manner or while under the influence of intoxicating liquor or any drug and this conduct is the proximate cause of serious bodily injury to another. It is a class B felony and is ranked at seriousness level IV.

Summary of Bill: The criminal history portion of a person's offender score, if the present conviction is for a felony traffic offense, requires counting one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug. If the present conviction is for homicide by watercraft or assault by watercraft, the criminal history portion of the offender's score includes two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft. If the present conviction is for homicide by watercraft or assault by watercraft, one point is counted for each adult and 1/2 point for each juvenile prior felony offense. A present conviction of homicide by watercraft or assault by watercraft necessitates counting one point for each adult and 1/2 point for each juvenile prior conviction for driving or actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: This bill contains an emergency clause and takes effect July 1, 2007.

Staff Summary of Public Testimony: PRO: Last June, 2006, an accident happened on Lake Chelan. A young woman was sunbathing on a boat that was moored and another boat came and tied up to that boat. The second boat left in a hurry and ran onto the first boat, nearly severing the arm of the young woman. The arm had to be amputated. The young man who was driving the second boat had two prior DUI charges and, three hours after the accident, had a breathalyzer reading of 0.18. He got the maximum time in jail, which was nine months, and he will be out in six months. He was uninsured and the injured woman's bills are over \$300,000. Washington State is number seven in the nation for alcohol-related boating accidents and fatalities.

Persons Testifying: PRO: Senator Parlette, prime sponsor; Kathleen Morehead, citizen.