

HOUSE BILL REPORT

SB 6413

As Reported by House Committee On: Public Safety

Title: An act relating to prior offenses for driving under the influence or physical control of a vehicle under the influence.

Brief Description: Clarifying prior offenses for driving under the influence or physical control of a vehicle under the influence.

Sponsors: Senators Fain, Eide, Padden, Pearson, Hobbs, Angel, King, Becker, Tom, Sheldon, Dammeier, Honeyford, Hill, O'Ban, Litzow, Brown, Schoesler and Rolfes.

Brief History:

Committee Activity:

Public Safety: 2/21/14, 2/26/14 [DPA].

Brief Summary of Bill (As Amended by Committee)

- Adds five new offenses to the list of those offenses that count as a "prior offense" when a person is charged with an impaired driving offense.
- Provides, in localities where 24/7 monitoring is used, that courts must sentence a Driving Under the Influence offender to 24/7 monitoring, ignition interlock requirements, or both.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Yvonne Walker (786-7841).

Background:

A person can commit Driving Under the Influence (DUI) or being in Physical Control (PC) of a motor vehicle under the influence of intoxicating liquor or any drug if the person drives

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with a blood or breath alcohol concentration of 0.08 percent or higher, or is under the influence of or affected by liquor or any drug. A DUI or PC offense is punishable as a gross misdemeanor offense with progressively serious penalties depending upon whether the person has a criminal history that includes prior offenses within seven years. It becomes a class C felony, ranked at level V on the sentencing grid, if a person has four or more prior offenses within 10 years.

Prior Offenses.

A prior offense, for charging purposes, includes the following:

- a conviction for DUI or PC;
- Vehicular Homicide committed while under the influence of intoxicating liquor or any drug, or committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation committed while under the influence of intoxicating liquor or any drug;
- a conviction for Vehicular Assault committed while under the influence of intoxicating liquor or any drug, or committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation committed while under the influence of intoxicating liquor or any drug;
- a conviction for Negligent Driving in the first degree, Reckless Driving, or Reckless Endangerment, if the conviction is the result of a charge that was originally filed as a violation of DUI, PC, Vehicular Homicide, or Vehicular Assault;
- an out-of-state conviction for an equivalent offense;
- a deferred prosecution granted in a prosecution for a violation of DUI or PC;
- a deferred prosecution granted in a prosecution for Negligent Driving, if the charge under which the deferred prosecution was granted was originally filed as a violation of DUI, PC, Vehicular Homicide, or Vehicular Assault;
- a deferred prosecution granted in another state for DUI or PC if the out-of-state deferred prosecution is equivalent to the deferred prosecution in Washington, including a requirement that the defendant participate in a chemical dependency treatment program; or
- a deferred sentence imposed in a prosecution for Negligent Driving in the first degree, Reckless Driving, or Reckless Endangerment, if the charge under which the deferred sentence was imposed (because it was pled down to a lesser charge) was originally filed as a DUI, PC, Vehicular Homicide, or Vehicular Assault offense.

Arrest and Booking.

A law enforcement officer must arrest and take into custody a defendant, pending release on bail, personal recognizance, or a court order, when the officer has probable cause to believe that the defendant has committed a DUI/PC offense and the officer has knowledge that the defendant has had at least one prior DUI offense within the previous 10 years.

Sobriety Program Monitoring.

In addition to serving a mandatory term of incarceration, an offender convicted of a DUI-related offense is often subject to a period of the 24/7 Sobriety Program monitoring and the mandatory use of an ignition interlock device (IID) on any vehicle the offender drives.

The 24/7 Sobriety Program is a 24-hour, seven-day per week sobriety program in which a participant submits to the testing of the participant's blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled substance in the participant's body.

Summary of Amended Bill:

Prior Offenses.

Five new offenses are added to the list of those that count as prior offenses when a person is charged with a DUI or PC offense. The following additional offenses include a conviction for:

- DUI or PC of a Commercial Motor Vehicle with alcohol in the offender's system;
- Operation of a Vessel Under the Influence of alcohol or any drug;
- Operation of an Aircraft Under the Influence of alcohol or any drug;
- Operation of a Non-Highway Vehicle Under the Influence of alcohol or drug; and
- Operation of a Snowmobile Under the Influence of alcohol or any drug.

Arrest and Booking.

The arrest statute is clarified to explicitly provide that when a repeat DUI offender is arrested, taken, and booked into custody for a DUI offense that person must remain in custody until he or she is released on bail, personal recognizance, or court order by a judicial officer.

Sobriety Program Monitoring.

In localities where the 24/7 Sobriety Program is available and verified by the Washington Association of Sheriffs and Police Chiefs, a court must sentence a defendant to either: (1) the use of an IID as a substitution to participating in the 24/7 Sobriety Program; (2) the 24/7 Sobriety Program monitoring as mandated in current statute; or (3) both IID requirements and the 24/7 Sobriety Program monitoring.

Other Technical Corrections.

The Impaired Driving statute is clarified to provide that only those offenders convicted of a DUI-related offense, where the offense involved intoxicating liquor, are required to use an IID. Other technical amendments, clarifications, and subtitles are added to the Impaired Driving statute.

Amended Bill Compared to Original Bill:

The amendment adds a provision to clarify that when a person is arrested and taken into custody for a DUI offense and the officer has knowledge that the person has had prior DUI convictions, that the person can only be released from custody by a judge. In localities where 24/7 monitoring is available and verified by the Washington Association of Sheriffs and Police Chiefs, a provision is added that requires courts to sentence a person to either: (1) the use of an IID as a substitution to participating in 24/7 monitoring; (2) 24/7 monitoring as mandated in current statute; or (3) both IID requirements and 24/7 monitoring.

The Impaired Driving statute is clarified to provide that only those offenders convicted of a DUI-related offense, where the offense involved intoxicating liquor, are required to use an IID. Other technical amendments, clarifications, and subtitles are added to the Impaired Driving statute.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 26, 2014.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill simply adds to the list of offenses that count as priors for graduated sanctions for those convicted of DUI. There are not many of these convictions so the fiscal note is minimal. The most voluminous case or charges that will be added are those relating to Boating Under the Influence and there were only 22 cases last year in King County. Cases relating to commercial motor vehicle DUI offenses are very rare.

(Neutral) It is suggested that this bill should be reviewed by the Sentencing Guidelines Commission.

(Opposed) None.

Persons Testifying: (In support) Ian Goodhew, Washington Association of Prosecuting Attorneys.

(Neutral) Larry Jefferson, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.