

# SENATE BILL REPORT

## SB 5054

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As of February 9, 2021

**Title:** An act relating to impaired driving.

**Brief Description:** Concerning impaired driving.

**Sponsors:** Senators Padden, Frockt, Conway, McCune and Short.

**Brief History:**

**Committee Activity:** Law & Justice: 1/21/21, 1/28/21 [DP-WM].

Ways & Means: 2/09/21.

**Brief Summary of Bill**

- Changes the period for reviewing prior convictions of impaired driving from a 10 year period to a 15 year period for the purpose of determining whether the current offense of impaired driving is a felony.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

**Staff:** Tim Ford (786-7423)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Kayla Hammer (786-7305)

**Background:** Impaired Driving. A person commits the crime of driving while under the influence (DUI) of intoxicating liquor, marijuana, or any drug if the person drives a motor

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vehicle:

- with a blood or breath alcohol concentration of 0.08 percent or higher;
- with a THC concentration of five or higher in their blood; or
- under the influence or a combined influence of intoxicating liquor, marijuana, and any drug.

The same factors apply for the crime of being in physical control (PC) of a motor vehicle while under the influence of intoxicating liquor, marijuana, or any drug if the person has actual physical control of a vehicle.

A DUI or PC criminal offense is punishable as a gross misdemeanor if the person has fewer than three prior DUI or PC convictions within seven years. It becomes a class B felony for a DUI offense, and a class C felony for a PC offense if a person has three or more prior convictions within ten years.

Prior offenses include convictions for:

- DUI or PC;
- vehicular homicide and vehicular assault if either was committed while under the influence; and
- an equivalent local DUI or PC ordinance or out-of-state DUI law.

**Summary of Bill:** The 10 year look back period for a person with three or more prior DUI or PC offenses is changed to a 15 year look-back, increasing the penalty from a gross misdemeanor to a felony offense for any person who has three or more prior DUI or PC offenses within that time.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony (Law & Justice):** PRO: During the pandemic traffic is down 10 percent or more and yet impaired driving is up substantially. The need for this legislation is stronger than ever. King County, being the most populous county, has a lot of DUI cases. There is no one more dangerous to our community than a repeat DUI offender. This is not about their addiction, this is about their getting behind the wheel of a car. Traffic deaths rose during the pandemic. Washington prosecutors first duty is to the safety of the community. It is a shame when we can not prosecute a felony because it is outside the time limit. We want to hold these repeat DUI drivers accountable. The inevitable result of them continuing to drive impaired is death or injury.

CON: A fundamental aspect of a 10 versus 15 year look-back is fairness. Many DUI drivers have an addiction disorder. A misstep after 12 plus years after clean sober living puts an unfair burden on persons suffering from an addiction. The current 10 year look-back has the appropriate balance because it favors the rehabilitative aspect of the law.

**Persons Testifying (Law & Justice):** PRO: Senator Mike Padden, Prime Sponsor; John Snaza, Sheriff, Washington Association of Sheriffs and Police Chiefs; Amy Freedheim, King County Prosecutor's Office; Rich Weyrich, Skagit County Prosecuting Attorney; Miriam Norman, City of Seattle and Washington Traffic Safety Commission.

CON: Kristen Lange, Washington Defenders Association and the Washington Association of Criminal Defense Attorneys.

**Persons Signed In To Testify But Not Testifying (Law & Justice):** No one.