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**Community Safety Committee**

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**HB 1315**

**Brief Description:** Concerning impaired driving.

**Sponsors:** Representatives Donaghy, Berry, Goodman, Pollet, Nance and Doglio.

**Brief Summary of Bill**

- Reduces the breath or blood alcohol concentration limit for driving or having physical control of a motor vehicle from 0.08 to 0.05 percent.
- Increases the statute of limitations for Driving While Under the Influence (DUI) and Actual Physical Control of a Motor Vehicle While Under the Influence (PC) from two to three years.
- Provides for judicial discretion to convert the mandatory minimum sentence for a second DUI or PC offense in seven years to an alternative sentence without finding that the mandatory minimum sentence would impose a substantial risk to the person's physical or mental well-being.
- Requires the court to order a substance use disorder assessment and treatment, if deemed appropriate, for a person convicted of Driving or Being in Physical Control of a Motor Vehicle After Consuming Alcohol or Cannabis, Reckless Driving, or Negligent Driving in the first degree when the conviction of the latter two offenses results from a charge that was originally filed as a violation of DUI or PC.
- Eliminates the witness fee to subpoena a law enforcement officer for a Department of Licensing suspension hearing following arrest for DUI or PC.

**Hearing Date:** 1/21/25

**Staff:** Lena Langer (786-7192).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Driving While Under the Influence.

A person commits the crime of Driving While Under the Influence (DUI) if the person drives a motor vehicle:

- with a breath or blood alcohol concentration of 0.08 percent or higher;
- with a tetrahydrocannabinol (THC) concentration of 5.0 or higher in their blood; or
- under the influence or a combined influence of intoxicating liquor, cannabis, and any drug.

### Actual Physical Control of a Vehicle While Under the Influence.

A person commits the crime of Actual Physical Control of a Motor Vehicle While Under the Influence (PC) if the person has actual physical control:

- with a breath or blood alcohol concentration of 0.08 percent or higher;
- with a THC concentration of 5.0 or higher in their blood; or
- while under the influence or a combined influence of intoxicating liquor, cannabis, and any drug.

State law prescribes when and how the Department of Licensing may suspend, revoke, or deny a person's driver's license based on the foregoing offenses.

A DUI or PC offense is punishable as a gross misdemeanor, except that such offense is elevated to a class B felony if the defendant has three or more convictions for qualifying prior offenses within 15 years, or has previously been convicted of Vehicular Homicide or Vehicular Assault while under the influence.

### Statute of Limitations.

A statute of limitations provides an authorized period of time for initiating a prosecution after a crime is committed. Once the applicable statute of limitations has expired, a prosecutor is barred from bringing charges against the alleged perpetrator. Statutes of limitation vary according to the crime. Generally, misdemeanors must be prosecuted within one year, gross misdemeanors must be prosecuted within two years, and felonies must be prosecuted within three years of the commission of the crime. The statute of limitations for DUI and PC is two years if the person who commits the offense is not a juvenile, has not had three or more prior offenses within 15 years, or has not been convicted of Vehicular Homicide or Vehicular Assault while under the influence.

### Penalties for Nonfelony Driving While Under the Influence and Actual Physical Control of a Motor Vehicle While Under the Influence.

The criminal penalties associated with a DUI or PC conviction vary according to how many prior impaired driving offenses the person has and the person's breath or blood alcohol concentration at the time of testing. A second or third offense within seven years carries both a mandatory minimum term of incarceration as well as a mandatory minimum term of electronic home monitoring (EHM), which vary depending on the person's breath or blood alcohol concentration.

If the breath or blood alcohol concentration was less than 0.15 percent, or there is no test result indicating concentration for reasons other than the person's refusal to take a test, the mandatory minimum for a second offense is 30 days of incarceration and 60 days of EHM. If the breath or blood alcohol concentration was at least 0.15 percent, or there is no test result indicating concentration because the person refused to take a test, the mandatory minimum for a second offense is 45 days of incarceration and 90 days of EHM.

The court may replace the standard sentence of 30 or 45 days of incarceration and 60 or 90 days of EHM with a minimum of 180 days of EHM or 120 days of 24/7 Sobriety Program monitoring if the court makes a written finding that the mandatory minimum sentence would impose a substantial risk to the person's physical or mental well-being.

#### Substance Use Disorder Assessment and Treatment.

Under the direction of the court, a substance use disorder treatment program or a qualified probation department must prepare a diagnostic evaluation and treatment recommendation for a person with a DUI or PC conviction. Based on the diagnostic evaluation, the court determines whether the person will be required to complete a course in an alcohol and drug information school or more intensive treatment in an approved substance use disorder treatment program.

#### Department of Licensing Hearing Witness Fee.

When a person is arrested for a DUI or PC violation, the arresting officer must take certain steps, including serving notice to the driver that his or her license has become a temporary driver's license. The temporary license is valid for 30 days from the date of arrest or from the date notice is given, or until the suspension or revocation of the person's license is sustained at a Department of Licensing (DOL) hearing, whichever occurs first. Within seven days of receiving notice, the person may request a DOL hearing to contest the license suspension.

The hearing must be held within 30 days of receipt of the request unless otherwise agreed to by the DOL and the person. The hearing officer that conducts the hearing may issue subpoenas for the attendance of witnesses and the production of documents. The hearing officer may not issue a subpoena for a witness at the request of the person unless the request is accompanied by the required fee.

#### **Summary of Bill:**

##### Impaired Driving Breath or Blood Alcohol Concentration Limit.

The breath or blood alcohol concentration limit of 0.08 percent or higher is reduced to 0.05 percent or higher for the offenses of:

- Driving While Under the Influence; or
- Actual Physical Control of a Motor Vehicle While Under the Influence.

##### Statute of Limitations.

The statute of limitations for DUI and PC is increased from two to three years.

### Penalties for Nonfelony Driving While Under the Influence and Actual Physical Control of a Motor Vehicle While Under the Influence.

For a second offense in seven years when the person's breath or blood alcohol concentration was less than 0.15 percent, the court may replace the standard sentence of 30 days of incarceration and 60 days of EHM with four days of incarceration and either 180 days of EHM or 120 days of 24/7 Sobriety Program monitoring. If the person's breath or blood alcohol concentration was at least 0.15 percent, the court may replace the standard sentence of 45 days of incarceration and 90 days of EHM with six days of incarceration and 180 days of EHM or 120 days of 24/7 Sobriety Program monitoring.

The court may suspend or convert the mandatory minimum sentence in its discretion and is no longer required to make a finding that the mandatory minimum sentence would impose a substantial risk to the person's physical or mental well-being before imposing the alternative sentence.

### Substance Use Disorder Assessment and Treatment.

The court must order an expanded substance use disorder assessment and treatment, if deemed appropriate by the assessment, for a person convicted of:

- Driving or Being in Physical Control of a Motor Vehicle After Consuming Alcohol or Cannabis;
- Reckless Driving when the conviction is a result of a charge that was originally filed as a violation of DUI, PC, or an equivalent local ordinance; or
- Negligent Driving in the first degree when the conviction is a result of a charge that was originally filed as a violation of DUI, PC, or an equivalent local ordinance.

### Department of Licensing Hearing Witness Fee.

A witness fee is not required to subpoena the law enforcement officer who wrote the report that is the basis for a license suspension and subsequent DOL hearing.

### Public Information Campaign.

The Washington Traffic Safety Commission (WTSC) must develop and implement a public information campaign related to the adjustments to the breath or blood alcohol concentration threshold for impaired driving act established in the act. In developing and implementing the public information campaign, the WTSC must:

- ensure television, radio, and online advertisements are provided in all areas of the state;
- include multiple print advertisements in the largest newspapers in each county;
- provide content of the public information campaign in the top nine most significant languages spoken in the state other than English;
- consider equity outcomes on overburdened communities; and
- ensure that at least 10 percent of the advertisements are developed in conjunction with in-state hospitality stakeholders and educate drivers about safe alternatives to driving while patronizing hospitality businesses.

### Civil Liability.

Legislative findings are added to the Alcoholic Beverage Control Title, including that:

- current civil law relating to civil liability provides that a licensed commercial vendor, or quasi-commercial vendor, owes a duty to third persons not to sell, serve, or furnish alcohol to someone who is apparently under the influence of alcohol, or obviously intoxicated;
- current civil law is both statutory and also developed in case law;
- civil liability to third persons under civil law does not depend upon a finding of the blood or breath alcohol concentration; and
- nothing in this act may be construed to change current civil law for civil liability of a licensed commercial vendor or quasi-commercial vendor.

Evaluation of the Act.

The Washington State Institute for Public Policy must conduct an evaluation of the impacts of this act during the first two years of implementation. By October 1, 2027, the institute must submit a report to the Legislature detailing the results of its evaluation. The evaluation must include, but is not limited to, the impact of the act on:

- the number of serious and fatal traffic accidents;
- DUI arrests and adjudications for DUI offenses;
- equity outcomes on overburdened communities;
- sales and other business effects on the hospitality industry in the state; and
- sales and other business effects on breweries, wineries, and distilleries in the state.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2025.

**Effective Date:** The bill takes effect on July 1, 2026.