

HOUSE BILL REPORT

HB 1556

As Reported by House Committee On: Judiciary

Title: An act relating to increasing the penalties for first-time offenders of driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug.

Brief Description: Increasing the penalties for first-time offenders of driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug.

Sponsors: Representatives Kirby, Orwall, Miloscia, Stanford, Kelley, Blake and Smith.

Brief History:

Committee Activity:

Judiciary: 2/14/11, 2/17/11 [DPS].

Brief Summary of Substitute Bill

- Increases the mandatory minimum jail terms for first-time driving under the influence (DUI) offenders and requires the offender to pay for the cost of incarceration.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Trudes Tango (786-7384).

Background:

There are both criminal and administrative consequences for driving under the influence (DUI). The misdemeanor DUI law contains a complex system of mandatory minimum penalties that escalate based on the number of prior offenses the offender has within seven years and the offender's breath or blood alcohol concentration (BAC) for the current offense. The minimum penalties for gross misdemeanor DUI are as follows:

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

First offense:

- BAC under 0.15 or no BAC for reasons other than refusal – one day in jail or 15 days of electronic monitoring; \$350 fine; and 90 days license loss.
- BAC of 0.15 or higher or person refused BAC test – two days in jail or 30 days of electronic monitoring; \$500 fine; and one year license loss (or two years if refused BAC test).

One prior offense within seven years:

- BAC under 0.15 or no BAC for reasons other than refusal – 30 days in jail and 60 days of electronic monitoring; \$500 fine; and two years license loss.
- BAC of 0.15 or more or person refused BAC test – 45 days in jail and 90 days of electronic monitoring; \$750 fine; and 900 days license loss (or three years if refused BAC test).

Two or three prior offenses within seven years:

- BAC under 0.15 or no BAC for reasons other than refusal – 90 days in jail and 120 days of electronic monitoring; \$1,000 fine; and three years license loss.
- BAC of 0.15 or more or person refused BAC test – 120 days in jail and 150 days of electronic monitoring; \$1,500 fine; and four years license loss.

The DUI statute requires the offender to pay the costs of electronic home monitoring. Another statute that applies to criminal procedures in general, allows the court to impose costs on a convicted defendant. Costs can include the cost of incarceration, capped at \$100 per day for incarceration. The statute provides that other court-ordered legal financial obligations take precedence over the payment of costs of incarceration.

Summary of Substitute Bill:

The mandatory minimum jail sentence for a first-time DUI offender is increased. For an offender with a BAC of less than 0.15 (or if there was no BAC for reasons other than the offender's refusal to take the BAC test), the mandatory minimum jail term is three days, rather than one day. For an offender with a BAC of 0.15 or higher (or if the offender refused to take the BAC test), the mandatory minimum jail term is one week, rather than two days.

The offender must pay the cost of incarceration.

Substitute Bill Compared to Original Bill:

The substitute bill requires the offender to reimburse the "prosecuting jurisdiction," which can include cities and counties.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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 attacks the problem at the beginning for first-time offenders. One day in jail is not enough. The current penalties are just a slap on the hand. This bill lets people know there are more serious consequences. Increasing the penalty will discourage a certain percentage of the population from drinking and driving. This bill gives prosecutors the tools to do their job. It should have a minimum budget impact on local jurisdictions. It is a good first step in changing the culture of how people think of DUI. It makes DUI more unattractive.

(Opposed) Increasing the mandatory minimum sentences will not solve the problem and will not decrease the number of fatalities. Many courts in small jurisdictions cannot afford to jail the offenders. The local jurisdictions only expect to recover 30 percent of the costs from the offenders. Increased enforcement, ignition interlock devices, and treatment and education programs are what works to decrease drunk driving.

Persons Testifying: (In support) Representative Kirby, prime sponsor; Frank and Carol Jones-Blair; and Karla Wayman.

(Opposed) Patricia Fulton, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.