

HOUSE BILL REPORT

ESHB 2302

As Passed House:
February 13, 2012

Title: An act relating to being under the influence with a child in the vehicle.

Brief Description: Concerning being under the influence with a child in the vehicle.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Warnick, Kenney, Kagi, Lias, Orwall, Billig, Hasegawa, Finn, Kelley, Rodne, Moeller, Dammeier, Reykdal, Van De Wege, Maxwell, Tharinger, Sells, Jinkins, Hurst, Green, McCoy, Smith, Pearson, Appleton, Darneille, Hunt, Fitzgibbon, Miloscia, Zeiger, Ryu, Stanford, Johnson and Seaquist; by request of Washington State Patrol).

Brief History:

Committee Activity:

Judiciary: 1/18/12, 1/19/12 [DPS];

General Government Appropriations & Oversight: 2/2/12 [DPS(JUDI)].

Floor Activity:

Passed House: 2/13/12, 98-0.

Brief Summary of Engrossed Substitute Bill

- Amends existing enhancements and adds new enhancements for individuals arrested or convicted of Driving Under the Influence of Drugs or Alcohol (DUI) with a child under age 16 present in the vehicle.
- For DUI-related arrests, requires law enforcement to note that a child under age 16 was present in the vehicle and increases the passenger age that triggers a Child Protective Services notification from 13 to 16 years old.
- Increases the amount of additional time that an individual convicted of a DUI-related offense with a minor child in the vehicle must have an ignition interlock installed from 60 days to six months.
- Establishes enhanced monetary penalties for individuals convicted of a gross misdemeanor DUI with a child under age 16 in the vehicle, with fines increasing based on the number of prior convictions.
- Establishes an enhanced sentence for individuals convicted of DUI-related felonies with a child under age 16 present in the vehicle.

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.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Shea, Assistant Ranking Minority Member; Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Valerie Rickman (786-7119) and Trudes Tango (786-7384).

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; Moscoso, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Blake, Fitzgibbon, Ladenburg, Pedersen, Van De Wege and Wilcox.

Staff: Alex MacBain (786-7288).

Background:

The state's drunk driving law has a number of penalty enhancements for individuals convicted of Driving Under the Influence of Drugs or Alcohol (DUI) under certain conditions. Two enhancements apply to individuals arrested and convicted of driving under the influence of alcohol or drugs with a minor passenger in the vehicle.

First, law enforcement officers must notify Child Protective Services if arresting an individual for DUI with a child under age 13 in the vehicle.

Second, courts must add to the already required time or set a minimum period of time that an individual is required to have an ignition interlock installed in a vehicle when the individual is convicted of DUI with a child under age 16 in the vehicle. The court must add 60 days to the mandatory term for any individual convicted of DUI with a minor child in the vehicle, or require that an ignition interlock be installed for a minimum of 60 days when an ignition interlock is not otherwise mandatory.

Summary of Engrossed Substitute Bill:

The following enhancements apply when an individual is arrested or convicted of DUI with a child under age 16 in the vehicle:

Gross Misdemeanor and DUI-related Felonies.

At the time of arrest, law enforcement must note that a child under age 16 was present in the vehicle.

At the time of arrest, law enforcement must notify Child Protective Services when there was a child under age 16, rather than age 13, in the vehicle and the person arrested for the DUI-related offense is the child's parent, guardian, or legal custodian.

The amount of additional time that an individual must have an ignition interlock installed is increased from 60 days to six months.

Gross Misdemeanor DUI Only.

If an individual is convicted of a gross misdemeanor DUI with a child under age 16 in the car, additional monetary penalties are assessed based on the individual's prior convictions as follows:

- no prior offenses - minimum of \$1,000 and the maximum is \$5,000;
- one prior offense - minimum of \$2,000 and the maximum is \$5,000; and
- three or more prior offenses - minimum of \$3,000 and the maximum is \$10,000.

DUI-related Felonies Only.

If an individual is convicted of a felony DUI, Vehicular Assault DUI, or Vehicular Homicide DUI and had a child under age 16 in the car at the time of the offense, an enhanced sentence of 12 months for each child in the vehicle is added to the individual's standard sentence. If the sentence exceeds the statutory maximum, the portion of the sentence that is related to having a minor child in the vehicle shall not be reduced.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Judiciary):

(In support) The change to the age of child that triggers notification of Child Protective Services is consistent with other enhancements for DUI-related offenses where a minor child is in the vehicle. Children under age 16 are not able to drive and therefore do not have a readily available alternative form of transportation. Habitual offenders with children in the car are a concern. A new study shows that increased monetary fines do have a deterring effect.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations & Oversight):

(In support) This agency request legislation deals with a very specific problem and should have minimal fiscal impacts to the judicial system and the correctional system. In 2010 we estimate that there were approximately 160 felony DUI arrests. While there is no data on how often children under age 16 are passengers in vehicles involved in DUI-related arrests, collision data from the Washington State Patrol indicates that less than 1 percent of collisions involving a felony DUI have a child under age 16 present in the car. This policy change is a

very appropriate step to control the small proportion of individuals who commit this heinous crime where a child has no choice but to get in the car with a trusted adult who is under the influence.

(Opposed) None.

Persons Testifying (Judiciary): Representative Goodman, prime sponsor; Jason Berry, Washington State Patrol; Steve Lind, Washington Traffic Safety Commission; and Amy Freedheim, King County Prosecutor's Office.

Persons Testifying (General Government Appropriations & Oversight): Jason Berry, Washington State Patrol.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations & Oversight): None.