

# HOUSE BILL REPORT

## ESB 6142

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### As Reported By House Committee On:

Law & Justice

Appropriations

**Title:** An act relating to administrative license suspension for first-time violators of laws against driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug.

**Brief Description:** Imposing administrative license suspensions on first-time DUI offenders.

**Sponsors:** Senators Kline, Roach, Patterson, Fairley, Swecker, T. Sheldon, Goings, Rasmussen, Oke and Benton.

### Brief History:

#### Committee Activity:

Law & Justice: 2/24/98, 2/26/98 [DPA];

Appropriations: 2/28/98 [DPA(LJ & APP)].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended. Signed by 11 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Carrell; Cody; Lambert; Lantz; Mulliken; Robertson and Sherstad.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Constantine, Assistant Ranking Minority Member; and Kenney.

**Staff:** Bill Perry (786-7123).

**Background:** There are three ways in which a person who is arrested for driving while under the influence (DUI) may ultimately receive the sanction of loss of driving privileges.

First, a person arrested for DUI who refuses to submit to a breath alcohol concentration (BAC) test violates the implied consent law, for which the sanction is loss of driving privileges for one year. Sanctions under the implied consent law are done administratively by the Department of Licensing (DOL), and are independent of a criminal charge, conviction, or acquittal arising out of the same arrest.

Second, a person arrested for DUI may be charged with a crime, whether or not he or she has submitted to a BAC test. Conviction for DUI also results in loss of driving privileges.

Third, a person arrested for DUI who submits to a BAC test and registers above the "per se" limit (currently 0.10 for adults and 0.02 for minors) is subject to administrative action by the DOL. Again, this administrative action is independent of any criminal action arising out of the same incident. A person who is subject to this administrative per se action for the first time will have his or her driver's license placed in a "probationary status" for five years. A driver in probationary status is issued a probationary license that allows a police officer who looks at the license to determine that the person is in probationary status. Second or subsequent violations of the administrative per se provision results in loss of driving privileges for two years.

A person who is convicted of DUI may be eligible for an occupational license 30 days after his or her license has been suspended. The person must demonstrate, among other things, that he or she is engaged in an occupation or trade that makes it essential that he or she drives a motor vehicle.

**Summary of Amended Bill:** A person who violates the administrative per se law for the first time will lose his or her driver's license for 90 days. The probationary status provision is eliminated.

A person who violates the administrative per se law for the first time is eligible to apply for an occupational license 30 days after his or her license has been administratively suspended.

**Amended Bill Compared to Engrossed Bill:** The amended bill does not take effect until January 1, 1999.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 19, 1998.

**Effective Date of Amended Bill:** The bill takes effect January 1, 1999.

**Testimony For:** Swift and certain punishment are crucial in reducing DUI, and administrative suspension provides this. The bill removes much of the incentive for defendants in criminal cases to demand expensive jury trials.

**Testimony Against:** Administrative suspension for first-time offenders greatly reduces the chances of getting problem drinkers into treatment.

**Testified:** Senator Roach (pro); Senator Strannigan (pro); Karolyn Nunnallee, President, Mothers Against Drunk Drivers (pro); Don Lennon, President, Mothers Against Drunk Drivers, Washington Chapter (pro); Bill Hanson, Washington State Patrol Troopers Association (pro); Annette Sandberg, Chief, Washington State Patrol (pro); Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (pro); Steve Lind, Washington Traffic Safety Commission (pro); Russ Hauge, Washington Association of Prosecuting Attorneys (pro); Kathy Gerke, Association of Washington Cities (pro, with concerns re fiscal impact); Mark Sidron, Seattle City Attorney (pro); Evan Simpson, Harborview Injury Prevention Center (pro); Pamela Simpson, citizen (pro); Cheryl Fox, citizen (pro); Mark Muenster, Washington Association of Criminal Defense Lawyers (con); and Linda Grant, Association of Alcoholism and Addiction Programs (con).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Law & Justice as further amended by Committee on Appropriations. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

**Staff:** Dave Johnson (786-7154).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Law & Justice:** A new section was added which makes the bill null and void unless specific funding is provided in the Omnibus Appropriations Act by June 30, 1998.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect on January 1, 1999. However, the bill is null and void unless funded in the budget.

**Testimony For:** Administrative license suspension has worked well in other states. This bill removes much of the incentive for defendants in criminal cases to prolong their case. The Governor supports the provisions of this bill. This bill should reduce the cost to local governments when the per se level of intoxication is lowered from .10 to .08.

**Testimony Against:** Deferred prosecution is a proven program which lowers recidivism among drunk drivers. This removes an incentive that offenders currently have to get treatment rather than continuing to offend. Local governments, while not opposed to the policy direction of the bill, are concerned that the state provide adequate resources to implement the entire DUI package.

**Testified:** Mike Shaw, Association of Counties (pro with concerns); Kathy Gerke, Association of Cities (pro with concerns); Dick Van Wagenen, Governor's Policy Office (pro); Steve Lind, Traffic Safety Commission (pro); Linda Grant, Association of Alcoholism & Addiction (con); and Steve Lindstrom, Washington State Association of Independent Outpatient Programs (con).