

Joint Committee on Ways and Means

Carrier – House: Rep. Barker
Carrier – Senate: Sen. Burdick

Revenue: No revenue impact

Fiscal: Fiscal statement issued

Action: Do Pass the A-Engrossed Measure as Amended and Be Printed B-Engrossed

Vote: 20 – 0 – 2

House – Yeas: D. Edwards, Galizio, Garrard, Hanna, Jenson, Morgan, Nathanson, Nolan, Shields
– Nays:
– Exc:

Senate – Yeas: Bates, Brown, Courtney, Devlin, Johnson, Morse, Nelson, Schrader, Verger, Westlund, Whitsett
– Nays:
– Exc: Gordly, Winters

Prepared By: Doug Wilson, Legislative Fiscal Office

Meeting Date: 6/22/07

WHAT THE MEASURE DOES: Creates a Class A felony of aggravated vehicular homicide (240 month sentence). Expands first degree manslaughter (120 months) to include persons who drive under the influence of intoxicants (DUII) and kill another and who have certain criminal record. Expands first degree assault (90 months) to include serious physical injury caused by person driving under the influence of intoxicants if person has certain prior criminal record. Specifies that 15, 16 or 17 year old defendants who commit aggravated vehicular homicide are tried in adult criminal court and not juvenile court. Sets mandatory minimum sentence for aggravated vehicular homicide at 240 months.

ISSUES DISCUSSED:

- Similar bill introduced last session
- Fiscal impact of the bill

EFFECT OF COMMITTEE AMENDMENT: Narrows the new crime of aggravated vehicular homicide (with 240 month sentence) to apply only to situations when person kills someone through driving under the influence and person has previously killed someone through driving under the influence. Expands manslaughter in the first degree (120 month sentence) to include situations when person kills someone through driving under the influence and person has previously seriously injured (but not killed) someone through driving under the influence. Adds an affirmative defense for defendant if defendant can prove that prior conviction did not involve use of intoxicants.

BACKGROUND: HB 2740 creates a new crime (aggravated vehicular homicide) and expands two others (first degree manslaughter and first degree assault) to apply to situations involving persons who drive under the influence of intoxicants and who kill or seriously injury someone and such persons have previously done the same thing. The new crime of “aggravated vehicular homicide,” a Class A felony, occurs when a person operates a vehicle while under the influence of intoxicants and that results in the death of another person and the driver has a prior conviction for first or second degree manslaughter or criminally negligent homicide involving a death and driving under the influence. Stated differently, a person who has already killed someone through driving under the influence does it again. There is a 240 month mandatory minimum sentence. HB 2740 also expands the existing manslaughter in the first degree statute (which has a mandatory minimum sentence of 120 months) to include situations where a person drive under the influence of intoxicants and kills someone and the person has either (1) a prior conviction for assault in the first, second or third degrees involving driving a vehicle under the influence or (2) the person has three previous convictions for DUII in Oregon or elsewhere within the past 10 years. Finally, HB 2740 expands first degree assault to include circumstances when a person drives under the influence of intoxicants and seriously injures someone and the person has either (1) three previous DUIIs in Oregon or the statutory counterpart in other states within the prior 10 years; or (2) a prior conviction for manslaughter (first or second degree), criminally negligent homicide, or assault (first, second or third degree) and the victim’s death or serious physical injury in the prior case resulted from the defendant’s driving a vehicle. In all cases, the defendant has an affirmative defense if the prior conviction did not involve the defendant being under the influence of intoxicants.