

HOUSE RESEARCH

Bill Summary

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Overview

This bill authorizes the use of "staggered sentencing," a new judicial approach, as an option under the mandatory minimum sentencing structure for certain multiple repeat DWI offenders. It also contains several "miscellaneous" impaired driving-related provisions that: stipulate that certain "zero tolerance" alcohol-related violations cannot be used to enhance sanctions and penalties for a subsequent DWI violation; clarify the length of the period of license plate impoundment; preclude vehicle forfeiture for any first-time impaired driving violator; lengthen probation periods for persons convicted of criminal vehicular injury; update archaic language; and add a cross reference.

Section

1 Certain violations not to be used for enhancement factor for subsequent incidents.

Amends the definition of "prior impaired driving-related loss of license" to exclude revocations stemming solely from prior violations of any of the following "zero-tolerance" laws: (1) underage driving after drinking ("youth zero-tolerance," §169A.33); (2) the "no-alcohol" condition of a restricted driver's license ("B-card violation," §171.09); and (3) alcohol purchasing or consumption by youth under age 21 (§340A.503).

Under current law, these "zero-tolerance" violations count equally to a prior DWI violation for enhancing sanctions and penalties for a subsequent DWI violation. This section would cause them to be excluded for enhancement purposes.

2 Control analysis. Updates archaic language regarding analysis of breath-alcohol testing

Section

procedures.

- 3 **Cross reference.** Adds a cross reference to implied consent law.
- 4 **Staggered sentencing defined and permitted.** Defines "staggered sentencing" as an executed jail sentence that is ordered by the court to be served in three or more segments spaced one year apart, where the offender may bring a motion before the court for forgiveness of any segment after the first segment. Clarifies that staggered sentencing qualifies as a sentencing choice under the mandatory minimum penalty requirement for multiple repeat offenders who are given a non-prison sentence.
- 5 **See section 0.**
- 6 **See section 0.**
- 7 **Consistency between "custodial arrest" and "conditional release" criteria.** Assures that these two provisions of DWI law are consistent with regard to the targeted group of impaired driving offenders. Under current law, there are some inconsistencies.
- 8 **See section 0.**
- 9 **See section 0.**
- 10 **Criteria for shortened license revocation clarified.** Clarifies that the shortened period of license revocation for a first-time DWI violator, upon conviction, does not apply if the crime involved either of the following aggravating factors: (1) an alcohol concentration of .20 or more; or (2) child endangerment.
- 11 **Plate impoundment; minimum time period simplified.** Clarifies that the minimum period of plate impoundment is one year. Under current law, the minimum is one year "and until the next scheduled renewal date."
- 12 **See section 0.**
- 13 **DWI vehicle forfeiture limited.** Restricts vehicle forfeiture under DWI law by specifying that a vehicle is not subject to forfeiture for a first-time impaired driving violation. Under current law, the vehicle of a first-time violator is subject to forfeiture if the violation involves both the following enhancement factors: (1) an alcohol concentration of .20 or more; and (2) child endangerment.
- 14 **Prohibition against aiding and abetting impaired driving violations.** Corrects an oversight that occurred during the 2000 recodification of DWI law, by bringing over to the new chapter this language from the pre-recodification chapter of DWI law (i.e., this language shift completes the 2000 recodification of DWI law).
- 15 **Probation period for criminal vehicular operation.** Lengthens the stay of an imposed sentence to incarceration from two years to six years following conviction for the crime of criminal vehicular injury involving: great bodily harm, substantial bodily harm, or injury to an unborn child (all felonies), or bodily harm (a gross misdemeanor). Under current law, the maximum stay (and, thus, the maximum period of probation) is 6 years for gross misdemeanor DWI crimes, but ranges from only 2 to 5 years for these other crimes involving criminal vehicular injury. [Most crimes involving criminal vehicular homicide or injury also involve impaired driving.]
- 16 **Maximum bail for misdemeanor and gross misdemeanor crimes.** Clarifies that this provision of current law does not apply to felony DWI crimes.