

SB 5002: Alcohol concentration

This change would nearly create a zero-tolerance level for Washington drivers. Washington has a zero-tolerance limit for citizens under 21 with a limit of .02 or higher which is called minor driving after consuming alcohol. With the new proposed limit, a driver could be convicted for the very serious crime of DUI when not actually under the influence of intoxicating liquor. If passed, the law should no longer be titled “driving under the influence” but instead “driving after consuming alcohol” (like the current law for minors).

Consider the many citizens who drink responsibly every day and then drive. They may choose to have a glass of wine or a single beer at a business meeting with dinner. In order for an officer to arrest a person for a crime, a police officer has to have probable cause to believe that the person is guilty of a crime. Under the current law for adults, there has to be evidence of something more than just an odor of alcohol and an admission of drinking. For example, the officer may offer field sobriety tests which the person fails. However, for minors, an odor of alcohol and admission of drinking is all the officer needs to arrest for minor driving after consuming alcohol because of zero-tolerance. Under the .05 limit, every citizen with an odor of alcohol on their breath from a single drink should be prepared for an arrest if stopped for even a minor infraction.

Under the current law, a prosecutor can still charge a person based on evidence that a person under the .08 limit is still under the influence or affected by alcohol. The proposed change would cause convictions of people who have a BAC of .05 but where the evidence shows the person is not under the influence of alcohol.

Perhaps the committee could consider a solution like in Colorado where there are separate offenses for driving under the influence (DUI) and driving while ability impaired (DWAI). CRS 42-4-1301(1)(g) and (6)(a)(II). In Colorado, a DUI is more serious and has a per se limit of .08 and DWAI is less serious (similar to our negligent driving first degree) and has BAC of .05. Please find the attached relevant sections of Colorado DUI and DWAI law.

For more information, contact:

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