



**Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 925**

Hearing Date: January 19, 2006
Committee On: Judiciary

Introducer(s): (Friend, Erdman, Kruse, Burling)
Title: Change penalty provisions relating to motor vehicle homicide and driving under the influence

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

7	Yes	Senators Aguilar, Bourne, Combs, Flood, Foley, Friend, Pedersen
	No	
	Present, not voting	
1	Absent	Senator Chambers

Proponents:

Senator Mike Friend
Corey O'Brien
Simeria Reynolds
Paul Ramirez
Lisa Wanek
Cindy Wanek
Cyndee McCarthy
Bob Schmill
Jerry Stanton
Tim Hoeft

Representing:

Introducer
Nebraska Attorney General's Office
Mothers Against Drunk Driving
Self
Self
Self
Self
Matt's Dream
Ignition Interlock of Iowa & Nebraska Inc.
Nebraska County Attorneys Association

Opponents:

John Jorgensen

Representing:

Lancaster County Public Defender

Neutral:

Diane Riibe

Representing:

self

Summary of purpose and/or changes:

Legislative Bill 925 proposes a number of changes to the statutes relating to drunk driving, motor vehicle homicide and leaving the scene of an accident.

MOTOR VEHICLE HOMICIDE

- Increases the penalty for the offense of motor vehicle homicide when the defendant was driving under the influence (DUI) or driving on a suspended license as a result of a DUI conviction from a class IIIa (0-5) to a class III felony (1-20). The minimum period of license suspension for this offense is increased from 60 days to 1 year.
- The penalty for motor vehicle homicide is increased from a class III (1-20) to a class ID Felony (3-50) when the defendant was driving under the influence (DUI) or driving on a suspended license as a result of a DUI conviction and also has a prior conviction for DUI or driving under suspension. The minimum period of license suspension for this offense is increased from one to fifteen years.
- Allows the use of blood taken from a driver for medical purposes to be introduced as evidence in drunk driving, manslaughter and motor vehicle homicide prosecutions

LEAVING THE SCENE OF AN ACCIDENT

- Increases the penalty for leaving the scene of an accident involving an unattended vehicle from a Class III (0-3 months) to a Class I misdemeanor (0-1 year).
- Increases the penalty leaving the scene of an accident if the person has a prior conviction from a Class II misdemeanor (0-6 months) to a Class IV felony (0-5 years)
- Increases the penalty for leaving the scene of an accident resulting in injury or death from a Class I misdemeanor (0-1 year) to a Class IIIa felony (0-5 years). The mandatory license revocation period is increased from no more than one year to at least one year and not more than fifteen years.
- Extends from 12 to 20 years the time period in which a prior conviction for leaving the scene of an accident can be used to enhance a current offense.
- Imposes a duty on drivers to ascertain the identity of all persons involved in an accident resulting in injury or death to any person.

DRIVING UNDER THE INFLUENCE

- Extends from 12 to 20 years the time period in which a conviction for DUI can be used to enhance a current offense.
- Increases the penalties for driving under the influence if the driver's blood alcohol content (BAC) exceeds .15 percent. The penalty is increased over the current law as indicated in the attached chart.

- Creates new offenses and increases penalties for offenders convicted of three or more DUI offenses over a twenty (20) year period.
- Increases penalties for repeat DUI offenders and offenders convicted of driving with blood alcohol content (B.A.C.) of .15 or above.
- Allows the use of blood taken from a driver for medical purposes to be introduced as evidence in drunk driving, manslaughter and motor vehicle homicide prosecutions
- Specifies that the drug and alcohol assessment currently required for persons convicted of drunk driving must be performed by a licensed alcohol and drug counselor
- Prohibits individuals who commit motor vehicle homicide or driving under the influence while under prosecution for a different DUI charge from receiving probation

Explanation of amendments, if any:

The committee amendment to LB 925 changes the bill in the following ways:

1. Removes the extension in the look back period for enhancing DUI convictions from 12 to 20 years.
2. Adds language to the DUI statutes allowing the use of continuous alcohol monitoring devices in situations where ignition interlock devices are currently allowed.

Scales back the penalty increases for DUI, Motor Vehicle Homicide and Leaving the Scene of an accident involving property damage. The 6th offense DUI penalty was removed from the bill and the penalties for 2nd, 3rd, 4th and 5th offense and the accompanying high BAC enhancements were reduced. The following charts indicate the changes made by the committee amendment, and compares them to current law. (See attached Charts)

Senator Patrick J. Bourne, Chairperson

Non-DUI Penalty Provisions – Current Law v. LB 925 Committee Amendment

Shaded rows represent the provisions of the proposed committee amendment

		Motor Vehicle Homicide	Leaving the Scene - Property Damage	Leaving the Scene - Injury
Criminal Penalty 1st Offense	Current Law	Class IIIa Felony 0-5 years	Class III Misdemeanor 0-90 days in jail and/or \$500 fine	Class I Misdemeanor 0-1 year and/or \$1000 fine
	Committee Amendment	Class III Felony 0-20 years	Class II Misdemeanor 0-180 days in jail and/or \$1000 fine	Class IIIa Felony 0-5 years
Criminal Penalty 2nd offense	Current Law	Class III Felony 0-20 years	Class II Misdemeanor 0-180 days in jail and/or \$1000 fine	-
	Committee Amendment	Class II Felony 1-50 years	Class I Misdemeanor 0-1 year and/or \$1000 fine	-
License Revocation 1st Offense	Current Law	60 days	30 days to 1 year	Not more than 1 year
	Committee Amendment	1 year	1 year	1-15 years
License Revocation 2nd Offense	Current Law	60 days to 15 years	-	-
	Committee Amendment	15 years	-	-

DUI Penalty Chart for LB 925 Committee Amendment

Unshaded rows represent current law and shaded rows contain the provisions of the committee amendment

Offense		First	First High BAC	Second	Second High BAC	Third	Third High BAC	Fourth	Fourth High BAC	Fifth	Fifth High BAC
Blood Alcohol level	Current Law	>.08	-	>.08	>.16	>.08	>.16	>.08	-	-	-
	Comm Am	>.08	>.15	>.08	>.15	>.08	>.15	>.08	>.15	>.08	>.15
Criminal Offense	Current Law	Class W Misdemeanor 7-60 days & \$500 fine	-	Class W Misdemeanor 30-180 days & \$500 fine	Class I Misdemeanor 0-1 year, 30 day minimum & up to \$1000 fine	Class W Misdemeanor 90 days – 1 year & \$500 fine	Class I Misdemeanor 0-1 year, 30 day minimum & up to \$1000 fine	Class IV Felony 0-5 years, 10 day minimum and up to \$10,000 fine	-	-	-
	Comm Am	Class W Misdemeanor 7-60 days & \$500 fine	Class W Misdemeanor 7-60 days & \$500 fine	Class W Misdemeanor 30-180 days & \$500 fine	Class I Misdemeanor 0-1 year, 90 day minimum & up to \$1000 fine	Class W Misdemeanor, 90 days – 1 year & \$500 fine	Class IIIa Felony 0-5 years, 180 day minimum and up to \$10,000 fine	Class IV Felony 0-5 years, 10 day minimum and up to \$10,000 fine	Class III Felony 1-20 years, 1 year minimum and up to \$25,000 fine	Class III Felony 1-20 years, 1 year minimum and up to \$25,000 fine	Class II Felony 1-50 years
License Revocation Period	Current Law	6 Mo.	-	1 Year	1-15 Years	15 Years	1-15 Years	15 Years	-	-	-
	Comm Am	6 Mo.	1 Year	1 Year	1-15 Years	15 Years	15 Years	15 Years	15 years	15 years	15 years
Penalty if given probation or suspended sentence	Current Law	60 day license revocation & \$400	-	1 year license revocation, \$500 & 5 days in jail or 240 hours community service	1-15 year license revocation, \$1000 & 10 days in jail or 240 hours community service	1 year license revocation, \$600 & 10 days in jail or 480 hours community service	1-15 year license revocation, \$1000 & 10 days in jail or 240 hours community service	1 year license revocation, \$1000 & 10 days in jail or 480 hours community service	-	-	-
	Comm Am	60 day license revocation & \$400	1 year license revocation, \$500 & 10 days in jail or 240 hours community service	1 year license revocation, \$500 & 10 days in jail or 240 hours community service	1-15 year license revocation, \$1000 & 30 days in jail	15 year license revocation, \$600 & 30 days in jail	15 year license revocation, \$1000 & 60 days in jail	15 year license revocation, \$1000 & 60 days in jail	15 year license revocation, \$1000 & 90 days in jail	15 year license revocation, \$1000 & 180 days in jail	15 year license revocation, \$1000 & 180 days in jail