Overview

This bill provides a seven-year felony penalty for DWI offenders who are convicted of a fourth or subsequent DWI offense. The bill requires the court to impose a five-year prison sentence on such offenders but permits the court to stay execution of the sentence on condition that the offender serve six months in the local jail or workhouse and, thereafter, participate in a probation supervision program and in chemical dependency treatment, where treatment has been recommended. The bill authorizes the offender's probation period to last for up to ten years and permits the court to impose strict limits and severe sanctions on the offender's use of alcohol or drugs during probation, including ordering the offender to serve an additional year in the local correctional facility each time the offender violates the abstinence requirement. The bill requires the commissioner of corrections to plan for placement of felony DWI offenders and study the bill's impact on community corrections.

Section

1 Criminal penalties. Provides a felony penalty for any person who is convicted of a DWI offense within ten years of three or more prior impaired driving convictions. Also imposes a felony penalty on any person convicted of a DWI offense who has previously been convicted of a felony-level DWI offense. Provides a mandatory sentence of not less than five years nor more than seven years imprisonment and a fine of not more than $14,000. Requires the court to impose and execute the mandatory minimum sentence unless the court stays the sentence on condition that the offender:

- serve 180 consecutive days of incarceration in a local correctional facility; and
- enter a program of probation supervision, following incarceration, that includes electronic monitoring and, if recommended by the chemical assessment, chemical dependency treatment and aftercare.

Provides that hearings on whether the offender has violated the conditions of the stayed sentence are governed by section 8.
-424  Technical conforming amendments.
5  **Limitations on forfeiture of motor vehicle.** Limits the "innocent owner" defense in the DWI forfeiture law. Makes this defense available only if the vehicle owner: (1) knew or should have known that the offender did not have a valid license at the time the offender used the vehicle; and (2) gave the offender explicit or implicit permission to use the vehicle. Under current law, the "innocent owner" defense is available if the owner knew or should have known of the offender's unlawful use or intended use of the vehicle.
6,7  **Aggravated DWI crime.** Provide an identical felony penalty to the one contained in section 1 when a person commits an aggravated DWI crime within ten years of three or more prior impaired driving convictions or after having been previously convicted of a felony-level DWI crime. An "aggravated DWI crime" is committed when a person commits a DWI crime while the person's license is revoked for an alcohol-related driving offense.
8  **Felony-level DWI offender; alcohol or drug use.** Provides that if a person convicted of a felony-level DWI offense is ordered to refrain from the use of alcohol or drugs as a condition of a stayed sentence, the offender's probation agent must immediately report to the court any information that the offender has violated this condition. Requires the court to hold a probation review hearing as soon as practicable after receiving the probation agent's report. If the court determines at the hearing that the offender has violated this condition, the court may continue the stayed sentence only on the further condition that the offender serve 365 consecutive days of incarceration in a local correctional facility. The court may waive this additional condition only if it makes written findings regarding the mitigating factors justifying nonimposition of the condition.
9  **Stay of sentence maximum periods.** Authorizes a maximum probation period of ten years for felony-level DWI offenders. The usual maximum period of probation for such offenders would be seven years: a period of time equal to the statutory maximum sentence.
10  **Sentencing guideline ranking of DWI felony.** Requests the sentencing guidelines commission to leave felony-level DWI violations unranked on the sentencing guidelines grid. This means that there would be no presumptive sentence for the offense under the sentencing guidelines. Also requests the commission to provide that each felony DWI violation constitutes one criminal history point.
11  **Plan for placement.** Requires the commissioner of corrections, in consultation with the commissioner of human services, to develop a plan for placement of felony DWI offenders and to submit the plan to the house and senate by November 1, 2000.
12  **Study of community corrections impact.** Requires the commissioner of corrections to study the impact of felony DWI on community corrections and report to the legislature by November 1, 2000.
13  **Effective date.** Makes sections 1 to 10 effective July 1, 2001.