

HOUSE BILL REPORT

SHB 1387

As Passed Legislature

Title: An act relating to Washington state patrol vehicle accident investigations and corrective action procedures.

Brief Description: Providing investigative and corrective action procedures for state patrol officers involved in vehicle accidents.

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Nixon, Flannigan, Dickerson, Shabro, Wood, Springer, Appleton, Murray, Hudgins, Upthegrove, Schual-Berke, Moeller, Campbell, Hunter, Kagi, Clibborn and Darneille).

Brief History:

Committee Activity:

Transportation: 2/23/05, 3/5/05 [DPS].

Floor Activity:

Passed House: 3/11/05, 95-0.

Passed Senate: 4/6/05, 49-0.

Passed Legislature.

Brief Summary of Substitute Bill

- The Washington State Patrol (WSP) will develop policies and procedures regarding the WSP officers that are involved in vehicle accidents.
- The WSP shall include as part of the terms of their bargaining agreements, a progressive corrective process for officers involved in vehicle accidents.
- The WSP will implement communication procedures for the persons involved in the accident and their families.
- Policies will provide for outside supervision of vehicle accidents involving the WSP officers under certain circumstances.
- Policies and procedures will be reviewed by an outside entity and be presented to the Legislature.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Murray, Chair; Wallace, Vice Chair; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton, Buck, Campbell, Curtis, Dickerson, Ericksen, Hankins, Hudgins, Jarrett, Kilmer, Lovick, Morris, Nixon, Rodne, Sells, Shabro, Simpson, B. Sullivan, Takko, Upthegrove and Wood.

Staff: Jerry Long (786-7306).

Background:

The Washington State Patrol (WSP) has approximately 1,000 commissioned officers that perform various duties, which include but are not limited to the policing of the state's highways and the investigation of vehicle accidents. Under current law, the WSP Chief is responsible for the appointment of WSP officers, may remove them for cause, make promotional appointments, determine their compensation, and define their ranks and duties.

A law enforcement officer investigating the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed a violation of any traffic law or regulation. An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. Accident reports must be filed within four days of an accident resulting in injury, death, or property damage. Any police officer present at the scene of an accident or in possession of any facts concerning an accident, whether by official investigation or otherwise, must make a police report of the accident.

Traffic infractions are sent to the Department of Licensing to update driving records. Law enforcement officer's records are flagged with an "EX" if it is in the line-of-duty. By statute, traffic infractions occurring in the line-of-duty are not disclosed to insurance companies. The infractions are disclosed to courts, law enforcement, employers and maintained in the records at the Department of Licensing.

Summary of Substitute Bill:

- The WSP shall develop agency policies and procedures regarding the WSP officers involved in vehicle accidents.
- The WSP shall include as part of the terms of their collective bargaining agreements, a progressive corrective process for officers involved in vehicle accidents.
- Annually a collision data report shall be produced designating each vehicle accident during the year as minor or severe and be available for review by the Legislature.
- The WSP shall implement communication procedures for the persons involved in the vehicle accident from the time the accident occurs until the investigative process has been included.
- Policies shall also provide for outside supervision of accident investigations under certain circumstances.

- Prior to Legislative Committee Assembly in September 2005, the WSP will have an outside entity with a reputation in law enforcement management and reviews to review the policies and procedures.
- The WSP will present the proposed policies and procedures to the Legislature and finalize the policies and procedures based on input from the Legislature.
- The WSP shall report to the House of Representatives and Senate Transportation Committees by November 30, 2005, on the updates.
- Other law enforcement agencies may adopt the policies and procedures for their agency.
- This act may be known and cited as the "Brock Loshbaugh Act."
- The act takes effect immediately.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: There was a task force over the interim that examined 40 other states. When investigating an accident involving a law enforcement officer, there needs to be objectivity and independence. The key points are that: (1) an independent agency would supervise the accident investigation that involve a law enforcement officer; (2) requires that all motorists be treated the same; and (3) there needs to be objectivity when officers are involved in an accident.

All law enforcement officers should be included in the bill. There should be drug and alcohol testing for officers that are involved in vehicle accidents. There needs to be an independent investigation and there are questions concerning recent cases as far as what has been the disciplinary action for officers that continue to have vehicle accidents and what actions have been taken so far. There should be communications in place for the persons involved in an accident involving an officer and their families. There is a current problem in transparency when an investigation occurs involving a law enforcement officer. There needs to be an early warning and preventive process in place that based on the collection of vehicle accident trends will indicate a problem.

Testimony Against: There have been changes made in the WSP policies and procedures. The reporting of accidents have been raised from the sergeant level to the captain level for review. In many cases the prosecutors review the vehicle accidents that law enforcement officers are involved in. The problem with having officer accidents always investigated by an outside law enforcement agency is the availability and number of qualified agencies to perform the investigations. When the WSP feels that there is a need for independence as a latest case in Seattle, the Washington State Patrol will ask another law enforcement agency to perform the vehicle accident investigation. The WSP would recommend having voluntary drug and alcohol testing for officers involved in vehicle accidents. Policies and procedures should be updated and reformed regarding the WSP officers that are involved in vehicle accidents,

reviewed by an outside entity specialized in law enforcement policies and procedures, and then reviewed by the Legislature.

Persons Testifying: (In support) Representative Nixon, prime sponsor; Melodee and Dan Loshbaugh; Thomas Hogan; Julia Terlinchamp; and Nadine Strauss.

(Opposed) Chief John Batiste, Captain Fred Fakkema, and Captain Jeff Devere, Washington State Patrol; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; and Bob Thurston and Rick Jensen, Washington State Patrol Troopers Association.

Persons Signed In To Testify But Not Testifying: None.