
SENATE BILL 5071

State of Washington

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By Senators Nelson, Rasmussen, Oke, Roach, Bailey, Craswell, Thorsness, McCaslin, Johnson, Barr, Anderson and Conner.

Read first time January 17, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to sobriety checkpoints; and adding a new chapter
2 to Title 46 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This chapter shall be known and may be
5 cited as the Washington Sobriety Checkpoint Program Act.

6 NEW SECTION. **Sec. 2.** The Washington state legislature
7 recognizes and declares that, in accordance with statistical data
8 maintained by the national highway traffic safety administration and
9 the Washington traffic safety commission:

10 (1) There were in excess of forty-six thousand traffic fatalities
11 nation-wide in 1984, at an average of one fatality every eleven and
12 four-tenth minutes, of which approximately fifty percent involved
13 alcohol use;

1 (2) That every intoxicated driver charged by police departments
2 nation-wide represents only one out of every two thousand intoxicated
3 drivers actually on the highways of this nation;

4 (3) Of all intoxicated drivers charged with violating drunk driving
5 laws nation-wide, approximately eighty-three percent have breath levels
6 of alcohol in excess of 0.10 percent;

7 (4) The greater percentage of motor vehicle accidents involving
8 alcohol use occur between the hours of nine p.m. and three a.m., with
9 a greater percentage of accidents during that time period occurring on
10 weekends;

11 (5) Washington's experience is consistent with the nation-wide
12 statistics developed in subsections (1) through (4) of this section;

13 (6) In 1986 in Washington there were six hundred fifty-eight
14 reported traffic deaths, of which three hundred fifty-seven, or over
15 fifty-four percent, involved drivers under the influence, and thirteen
16 thousand thirty investigated accidents that involved drivers under the
17 influence, of which six thousand nine hundred eight involved injury;

18 (7) In excess of twenty-five billion dollars per year is spent or
19 lost nation-wide because of the abuse and misuse of alcohol relating to
20 lost production, medical expenses, motor vehicle accidents, alcohol
21 abuse treatment, and social welfare programs;

22 (8) The full and effective use of resources available to state and
23 local governments must be brought to bear to solve the serious problem
24 caused by the misuse and abuse of alcohol and drugs in situations
25 involving the operation of motor vehicles; and

26 (9) At fixed, publicized-in-advance traffic checkpoints, the
27 motorist can see that other vehicles are being stopped, can see visible
28 signs of a police officer's authority, and is much less likely to be
29 frightened or annoyed by the intrusion.

1 NEW SECTION. **Sec. 3.** It is the policy of this state to take
2 all reasonable actions to protect the public safety and welfare from
3 the extremely grave menace posed by drivers of motor vehicles who are
4 intoxicated either by alcoholic beverages, drugs, or any combination of
5 them. The state has a vital interest in promoting public safety upon
6 the highways by detecting and prosecuting these intoxicated drivers.
7 The establishment of sobriety checkpoints is viewed as a reasonable
8 means of protecting this vital public interest. Given the importance
9 of the governmental interest at stake, there is deemed to be a minimal
10 intrusion in a brief stop required by such a checkpoint, especially in
11 the absence of effective alternatives for policing intoxicated drivers.
12 It is accepted that a person's expectation of privacy in an automobile
13 and of freedom in its operation are significantly different from the
14 traditional expectation of privacy and freedom in a person's residence.
15 A program based on sobriety checkpoints, designed so as to impose
16 standards of reasonableness upon the exercise of discretion by
17 government officials in order to safeguard the privacy and security of
18 individuals against arbitrary invasions, is established as the public
19 policy of the state of Washington. The nature of alcohol or drug
20 intoxication and the evidence of accidents involving intoxicated
21 drivers referenced in section 2 of this act were considered when
22 balancing the need of society against minimal intrusion to the right of
23 the person as granted by the Fourth Amendment of the United States
24 Constitution or Article I, section 7 of the state Constitution in
25 allowing government an adequate means of guarding the public safety and
26 welfare. For these reasons, the state of Washington adopts a policy of
27 encouraging the use of sobriety checkpoints established under this
28 chapter.

1 NEW SECTION. **Sec. 4.** A program of sobriety checkpoints is
2 established for the purpose of detecting and prosecuting drivers
3 influenced by the use of alcohol, drugs, or any combination of them.
4 The chief of the Washington state patrol and local law enforcement
5 agencies are authorized to establish a program of checkpoints in
6 accordance with the minimum standards and guidelines set forth in
7 section 5 of this act. Any such program is deemed to be in response to
8 the legislative findings and public policy referenced in sections 2 and
9 3 of this act. The chief of the Washington state patrol and local law
10 enforcement agencies that establish such a sobriety checkpoint program
11 shall implement the program by written procedures in conformity with
12 and not more intrusive upon the privacy and security of drivers than
13 the standards and guidelines of section 5 of this act.

14 NEW SECTION. **Sec. 5.** (1) Any program of sobriety checkpoints
15 established by the chief of the Washington state patrol or local law
16 enforcement agencies under section 4 of this act shall meet the
17 standards and guidelines of this section, which shall be deemed to be
18 minimum requirements. Nothing contained in this section may be
19 construed as preventing the chief of the Washington state patrol or
20 local law enforcement agencies from following additional standards and
21 guidelines, especially those that may be established by the judiciary,
22 if those standards and guidelines are not more intrusive upon the
23 privacy and security of drivers than those imposed by this section.

24 (2) Every agency using sobriety checkpoints shall meet the
25 following criteria:

26 (a) All officers engaged in the operation of sobriety checkpoints
27 shall meet the training standards for field sobriety testing as
28 established by the Washington state patrol.

1 (b) Each sobriety checkpoint location and time shall be selected at
2 least two weeks in advance by agency management personnel other than
3 those manning the checkpoints. Locations shall be selected by
4 analyzing objective data, including, but not limited to, accident and
5 arrest statistics for driving while under the influence, in order to
6 maximize contact with offenders of laws against driving while under the
7 influence of intoxicants.

8 (c) They may be conducted only between the hours of nine p.m. and
9 three a.m. on any given day.

10 (d) They shall provide for a sufficient quantity and visibility of
11 uniformed officers and marked patrol vehicles to assure timely
12 processing of intoxicated drivers, as well as to move traffic with a
13 minimum of inconvenience.

14 (e) They shall be supervised by an officer with the rank of
15 sergeant or above.

16 (f) All officers involved in any sobriety checkpoint stop shall be
17 in uniform, shall carry proper identification, and shall use marked
18 patrol vehicles.

19 (g) The sobriety checkpoint location shall provide adequate
20 illumination and a safe place to stop off the roadway. The location
21 shall also contain an off-road holding area for vehicles involved in
22 the sobriety checkpoint.

23 (h) Adequate warning of the checkpoint shall be provided through
24 the use of signs and flares. Signs stating "Sobriety Checkpoint
25 Ahead--Prepare to Stop" shall be placed an adequate distance before the
26 location, in the direction of the traffic flow. Signs shall be at
27 least thirty-six inches square, with the letters "Sobriety Checkpoint
28 Ahead--Prepare to Stop" being at least six inches high.

29 (i) Sobriety checks shall be made on a completely random basis
30 without discrimination. No more vehicles may be stopped at any one

1 time than can be inspected effectively by the available officers. When
2 an officer is available, the first vehicle approaching the sobriety
3 checkpoint location shall be signaled to stop for a sobriety check.

4 (j) All sobriety checkpoints shall be located at a fixed location
5 and shall not be conducted as random or roving patrols.

6 (k) The supervisor may terminate the sobriety checkpoint when
7 staffing levels decrease because of processing intoxicated drivers,
8 other emergency needs, or when traffic congestion would otherwise
9 result.

10 (l) An officer may use a prearrest breath test instrument at the
11 discretion of the supervisor in charge of the sobriety checkpoint.

12 (m) Each agency conducting sobriety checkpoints shall establish
13 operational procedures, including, but not limited to:

14 (i) Sobriety checkpoints configurations;

15 (ii) Placement of signing;

16 (iii) Placement of flares;

17 (iv) Method of processing alcohol-affected drivers; and

18 (n) The agency conducting sobriety checkpoints shall publicize the
19 fact and location of the planned checkpoints beginning a minimum of
20 four days before the checkpoint is to be carried out using means
21 calculated to reach the largest number of people.

22 Each agency shall make these procedures a matter of public notice.

23 NEW SECTION. **Sec. 6.** A superior court presiding judge or the
24 judge's designee shall review the establishment of a program of
25 sobriety checkpoints and issue an area-wide search warrant upon a
26 showing that:

27 (1) The program complies with section 5 of this act;

1 (2) The program will not be operated close to checkpoints operated
2 by other law enforcement agencies so that the public is unreasonably
3 inconvenienced; and

4 (3) No sobriety checkpoints are to be conducted by local or state
5 jurisdictions on federal interstate highways.

6 NEW SECTION. **Sec. 7.** If any provision of this chapter, or the
7 application thereof to any person or circumstances, is held invalid,
8 such invalidity shall not affect other provisions or applications of
9 the chapter which can be given effect without the invalid provision or
10 application, and to this end the provisions of this chapter are
11 declared to be severable.

12 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall
13 constitute a new chapter in Title 46 RCW.