

HOUSE BILL REPORT

SSB 6051

As Reported By House Committee On:
Judiciary

Title: An act relating to speed measuring device expert testimony in court.

Brief Description: Providing for speed measuring device expert testimony.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Quigley, Ludwig and A. Smith).

Brief History:

Reported by House Committee on:
Judiciary, February 25, 1994, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Chappell; Eide; Forner; J. Kohl; Long; Morris; H. Myers; Riley; Schmidt; Scott; Tate and Wineberry.

Minority Report: Without recommendation. Signed by 1 member: Representative Campbell.

Staff: Bill Perry (786-7123).

Background: Under Washington State law and court rules, a traffic infraction may be contested. At the hearing, sworn affidavits may be used in lieu of live testimony. Speed measuring device (SMD) experts prepare affidavits regarding the testing and accuracy of the devices they maintain on a regular basis as required by law. These certificates may be introduced as evidence in lieu of the testimony of the expert absent a request to have the expert actually appear.

An increasing number of traffic infraction defendants have been requesting that the SMD experts appear in person. There are a limited number of these experts, usually only one for larger police agencies, and only four experts are employed by the Washington State Patrol to cover the entire state. Because of the limited number of experts and the short notice they are given to appear in court, the experts

are often not able to appear when required. This results in a continuance of the traffic hearing which further bogs down overcrowded court dockets or results in dismissal of the citation.

A court rule requires a defendant to give at least seven days' notice of his or her intent to call an SMD expert, although the judge may reduce this notice period. The State Patrol is requesting an extension on this notice period.

Summary of Amended Bill: A defendant who intends to request a SMD expert's appearance at a hearing is required to give at least 10 days' notice to the expert's supervisor prior to the issuance of the subpoena.

A defendant who requests the SMD expert's appearance is responsible for the expert's witness fee if the defendant does not prevail at the hearing, and the prosecutor is responsible if the defendant does prevail.

Amended Bill Compared to Substitute Bill: The amendment adds the requirement that the prosecutor pay the witness fee if the defendant prevails.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will encourage only those defendants with legitimate issues to request the personal appearance of the expert instead of requesting the expert's presence based only on the hope that the expert will be unable to appear.

Testimony Against: None.

Witnesses: Tim Erickson, Washington State Patrol (pro); Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (pro); Michael Piccolo, City of Spokane (pro); and Jackie White, Washington Association of Cities (pro).