

HOUSE BILL REPORT

HB 1485

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to auto theft.

Brief Description: Changing provisions relating to auto theft.

Sponsors: Representatives Lovick, O'Brien and Campbell.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/11/03, 2/14/03 [DPS].

Brief Summary of Substitute Bill

- Increases the seriousness level for taking a motor vehicle in the second degree from a seriousness level I to a level II and adds a mandatory minimum sentence for the first violation of the offense.
- Requires the Washington Association of Sheriffs and Police Chiefs (WASPC) to establish a Washington Auto Theft Task Force (Task Force) to award grants to localities interested in establishing a regional auto theft task force.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Lovick and Pearson.

Staff: Yvonne Walker (786-7841).

Background:

Taking a Motor Vehicle Without Permission. A person is guilty of taking a motor vehicle without permission in the first degree; if such person intentionally takes a motor vehicle without permission and he or she:

- 1) Alters the vehicle to change its appearance or identification numbers;
- 2) Removes parts from the vehicle with the intent to sell the parts;

- 3) Exports or attempts to export the vehicle out-of-state or out of the country for profit;
- 4) Intends to sell the vehicle; or
- 5) Is engaged in a conspiracy, the object of which is the theft of motor vehicles for sale to others for profit.

Taking a motor vehicle without permission in the first degree is a class B felony which carries a maximum term of 10 years of incarceration, or a fine of up to \$20,000, or both. It is ranked as a seriousness level V crime under the Sentencing Reform Act (SRA) which, for a first-time offender has a standard sentence range of six to 12 months.

A person who intentionally takes a motor vehicle without permission or voluntarily rides in a vehicle knowing it was taken without permission, is guilty of second degree taking a motor vehicle without permission offense. Taking a motor vehicle without permission in the second degree is a class C felony offense which carries a maximum term of five years of incarceration, or a fine of up to \$10,000, or both. It is ranked as a seriousness level I crime under the SRA which, for a first-time offender has a standard sentence range of zero to 60 days.

Washington Association of Sheriffs and Police Chiefs. The WASPC is considered a combination of units of local government. It is responsible for, upon the request of a particular county, assisting that county in helping to develop and implement its local law and justice plan. The WASPC manages the statewide jail booking and reporting system, maintains a central repository for the collection of all malicious harassment type crimes, and on occasion is responsible for working with other state and local agencies in conducting crime-related studies.

Summary of Substitute Bill:

The penalty for taking a motor vehicle in the second degree is increased. An auto theft task force and grant program is established and operated by the WASPC. However, the WASPC is not required to implement the Task Force or any of the programs if adequate funding is not provided to them.

Taking a Motor Vehicle Without Permission. The crime of taking a motor vehicle without permission in the second degree is increased to a seriousness level II offense with a mandatory minimum sentence. Generally, a first-time offender with no previous criminal history would receive a presumptive sentence of zero to 90 days in jail, however a provision is added that requires each offender convicted of second degree taking a motor vehicle without permission to serve a minimum sentence of 30 days of home detention.

Washington Association of Sheriffs and Police Chiefs. The Washington Auto Theft Task

Force is created. The WASPC is responsible for facilitating the Task Force and must appoint a Task Force program steering committee. The steering committee includes, but is not limited to, the following individuals: a chief of police; a county sheriff; the Washington State Patrol; a representative of the Washington Association of Prosecuting Attorneys; a representative of the Washington Council of Police and Sheriffs; a person representing vocational education; a representative of the auto insurance industry; a representative of the auto sales industry; a representative of the auto repair industry; and a representative of the auto auction industry.

The Task Force is responsible for the following activities:

- awarding grants to units of local governments or to teams consisting of multiple units of local governments, for the purpose of establishing regional auto theft task forces;
- developing grant criteria;
- developing general operational guidelines for regional auto theft task forces;
- reviewing all regional auto theft task force operations on an annual basis; and
- producing an annual report to the Legislature.

Any unit or team consisting of multiple units of local government may apply to the WASPC for a regional auto theft task force grant, however the grant applications must consist of the following minimum requirements:

- Statistically demonstrate an auto theft problem in the county or counties covered in the grant application;
- Have at least one prosecuting attorney dedicated to the prosecution of auto theft cases;
- County and city law enforcement officers must be proportionately represented on each regional auto theft task force;
- Demonstrate a proposal to reimburse all participating units of local governments for their costs, which include but are not limited to: regional auto theft task force administration costs, law enforcement costs, prosecutor costs, court costs, and county offender confinement costs; and
- If a regional auto theft task force crosses jurisdictional boundaries, demonstrate that any necessary interlocal agreements can be executed so that law enforcement officers and prosecutors can fulfill the duties of the regional auto theft task force across jurisdictional boundaries.

Prior to awarding any grants to regional auto theft task forces, the WASPC must verify that sufficient grant funding exists to cover all proposed task force activities, which include but are not limited to: regional auto task force administration costs, law enforcement costs, prosecutor costs, court costs, and county offender confinement costs.

Substitute Bill Compared to Original Bill:

A person representing vocational education is added to the Washington State Auto Theft Task Force Steering Committee.

The provision was eliminated that established a statewide vehicle identification etching program for all new automobiles sold on or after July 1, 2004.

In addition, the new provision was eliminated that stated that any person in possession of a motor vehicle taken without permission of the owner may be inferred to have acted with the intent to commit the offense, unless the possession can be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except Sections 5 and 7, which takes effect July 1, 2004.

Testimony For: The State of California cracked down on auto theft several years ago. In fact, in the year 2000, 300,000 cars were stolen in California. In the year 2001 that number had decreased to 150,000 cars. Currently auto theft is the fastest growing crime in Washington right now. The police estimate that one car is stolen every 11 minutes in our state.

This bill is a result of the WASPC bringing together a number of individuals to address the serious issue of auto theft crimes. This bill does three things: 1) it increases the penalty of second degree taking a motor vehicle without permission; 2) creates an auto theft task force; and 3) establishes a statewide etching program. Although the enhanced penalties in this bill may be a funding issue, we have to keep in mind that auto theft and auto fraud is a growing problem in the state. The grants being distributed in this bill will be funded by a \$1 to \$2 fee that vehicle owners will be required to pay on new vehicles.

(Concerns) This bill will require auto dealers to etch all new cars. This is a cost and inconvenience for auto dealers and does not include the time and training needed to teach their employees how to etch auto parts. (The substitute bill addresses this concern by eliminating this requirement.)

There is also language in the bill that shifts the burden-of-proof from the prosecution to the defense. This language is unfair and unconstitutional. Under this bill, a person charged with the crime of taking a motor vehicle without permission would be required to prove he or she is innocent by offering evidence to explain that he or she did not have any intent to commit the crime. (The substitute bill addresses this concern by eliminating that added provision.)

Testimony Against: None.

Testified: (In support) Representative Lovick, prime sponsor; Michael J. West, Autobody Craftman Association; Glenda Nissen, Pierce County; Captain Greg Edwards, Kirkland Police Department; and Mel Sorenson, National Association of Independent Insurers Allstate Insurance.

(Neutral) Deputy Chief Steve Jewell, Washington State Patrol.

(Concerns) Lisa Thatcher, Washington State Auto Dealer's Association; and Todd Gruen Hagen, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

(Information only) Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.