

# SENATE BILL REPORT

## ESSB 5819

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As Passed Senate, March 18, 2003

**Title:** An act relating to operation of a vehicle, street car, rail fixed guideway system, vessel, aircraft, or other conveyance involved in an accident.

**Brief Description:** Concerning the collection of evidence of blood alcohol content from drivers involved in fatal vehicle accidents.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Finkbeiner and Kline).

**Brief History:**

**Committee Activity:** Judiciary: 2/28/03, 3/5/03 [DPS].

Passed Senate: 3/18/03, 46-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5819 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Johnson, Kline and Thibaudeau.

**Staff:** Lidia Mori (786-7755)

**Background:** Current law provides that any person who operates a motor vehicle in this state is deemed to have given consent to a test of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in the breath or blood if arrested for any offense where, at the time of the arrest, the officer has reasonable grounds to believe the person had been driving while under the influence of liquor or any drug. The officer is required to inform the person of the right to refuse the test and of the right to have additional tests administered by any qualified person of his or her choosing. The officer must warn the person that if the test is refused, his or her license to drive will be revoked or denied, and if the test shows the alcohol concentration to be .08 or more, his or her license will be suspended, revoked, or denied. The warning must include that if the person refuses the test, it may be used in a criminal trial.

**Summary of Bill:** A person who operates a vehicle within this state is deemed to have given consent to a test of his or her breath if the person is involved in a vehicle accident in which there has been a fatality. "Vehicle" is defined as including a motor vehicle, street car, light rail, vessel, aircraft not regulated by the FAA, and railroads not regulated by the federal railroad administration. The operator involved in the fatal accident has the right to refuse the breath test and is warned that a refusal results in a class 3 civil infraction. Every hospital reports monthly in writing to the chief of the Washington State Patrol any toxicology report taken during the preceding month from a person hospitalized as a result of a fatal accident that shows a person may have been under the influence of alcohol at the time of the accident.

The chief of the State Patrol files, tabulates, and analyzes all breath test results collected from operators of vehicles involved in fatal accidents.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** A 22-year old pedestrian was killed by a car driven by a Washington State Patrol officer in February 2002. The victim was tested for alcohol or drugs but the driver of the vehicle was not. In order to get a complete picture of what happened, it seems only fair and logical to also test the driver involved. The eight-hour time frame contained in the bill causes some concern. There is already a .02 standard for commercial vehicle drivers but this bill would not affect that situation negatively. Railroads are covered by stringent federal law.

**Testimony Against:** None.

**Testified:** Dan Loshbaugh; Melodee Loshbaugh; Glen Cramer, Washington State Patrol (pro with concerns); Tom Retterath, United Transportation Union (with concerns); Bill Stauffacher, Burlington Northern and Santa Fe Rail (with concerns).