

# SENATE BILL REPORT

## HB 2465

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As of February 18, 2010

**Title:** An act relating to breath test instruments approved by the state toxicologist.

**Brief Description:** Concerning breath test instruments approved by the state toxicologist.

**Sponsors:** Representatives Hurst, Rodne, Kelley, Roberts and Ericks; by request of Washington State Patrol.

**Brief History:** Passed House: 1/28/10, 97-0.

**Committee Activity:** Judiciary: 2/17/10.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Karen Campbell (786-7448)

**Background:** The Washington State Patrol (WSP) uses an instrument called the Datamaster to test a person's breath alcohol concentration (BAC). A person is required to blow into the machine at least twice to constitute a breath test. Between the person's two samples, the machine is tested using an external standard simulator, which must produce a reading within a certain range to indicate that the machine is accurate and functioning properly. The Datamaster uses a liquid simulator solution, which is prepared by the state toxicology lab. Currently, only liquid simulator solutions are used. Dry gas may also be used as an external standard.

The Legislature establishes criteria for the admissibility of the BAC evidence. A breath test performed by an instrument approved by the state toxicologist is admissible at trial or in an administrative proceeding if the prosecution or the Department of Licensing produces prima facie evidence that, among other things, the external standard simulator test was within a specified range.

**Summary of Bill:** The statute listing the criteria for breath test admissibility is amended to allow for the use of dry gas simulators as well as liquid simulator solutions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The Data Master currently being used by WSP is no longer being manufactured. WSP would like to use a newer product that is more efficient. Both liquid and dry gas simulator solutions are used in the more recent models of BAC machines. The statute establishing the criteria for admissibility of BAC tests needs to be changed to allow for the use of both types of simulator solutions.

**Persons Testifying:** PRO: Rob Reichert, WSP.