

HOUSE BILL REPORT

HB 1333

As Reported by House Committee On:
Public Safety & Emergency Preparedness
General Government Appropriations & Oversight

Title: An act relating to motorcycle profiling.

Brief Description: Addressing motorcycle profiling.

Sponsors: Representatives Kirby, Van De Wege, Hurst, Pearson, Appleton, Ross, Ladenburg, Kagi, Upthegrove, Blake, Green, Kenney and Condotta.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/1/11 [DP];

General Government Appropriations & Oversight: 2/15/11, 2/18/11 [DPS].

Brief Summary of Substitute Bill

- Requires training to stop motorcycle profiling be addressed in the Basic Law Enforcement Academy and be offered as part of law enforcement in-service training regarding profiling.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 8 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Goodman, Kirby, Moscoso and Ross.

Staff: Yvonne Walker (786-7841).

Background:

Profiling occurs when a law enforcement officer singles out a suspect with certain characteristics because the officer believes that the class of person that exhibits the characteristics is more likely than others to commit crimes. With respect to profiling based on race, local law enforcement agencies must:

- adopt a written policy designed to condemn and prevent racial profiling;

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- review and audit their existing procedures, practices, and training to ensure that they do not enable or foster racial profiling;
- continue training to address the issues relating to racial profiling. Officers should be trained in how to better interact with persons they stop to prevent legitimate behavior from being misinterpreted as racial profiling;
- ensure that they have a citizen complaint process in place;
- work with minority groups to appropriately address racial profiling; and
- collect demographic data on traffic stops and analyze the data to ensure that racial profiling is not occurring.

The Washington Association of Sheriffs and Police Chiefs (WASPC) and the Criminal Justice Training Commission (CJTC) must ensure that issues related to racial profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers.

Summary of Bill:

Local law enforcement agencies must:

- adopt a written policy designed to condemn and prevent motorcycle profiling;
- review and audit their existing procedures, practices, and training to ensure that they do not enable or foster the practice of motorcycle profiling;
- institute training to address the issues related to motorcycle profiling (including training in how to better interact with persons they stop to prevent legitimate behavior from being misinterpreted as motorcycle profiling); and
- work with motorcycle groups in their communities to appropriately address the issue of motorcycle profiling.

The WASPC and the CJTC must ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers. "Motorcycle profiling" is defined as using the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without legal basis under the United States Constitution or the Washington Constitution.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is identical to a bill that was heard and passed by the House in 2010. This motorcycle profiling bill is not only credible but necessary.

The discrimination on the grounds of the state capitol over the last couple of years has been well documented. The time is now to deal with this issue. The cost of not addressing motorcycle profiling is starting to mount. Just recently the courts awarded over a \$90,000 financial settlement to a person in Pierce County who was a victim of motorcycle discrimination and profiling.

The International Association of Directors of Law Enforcement Standards and Training manual for motorcyclists states that more and more people are buying and riding motorcycles. There is no such thing as the typical rider, no more so than to describe the typical criminal type. Violators are defined by their actions not by how they look.

(Opposed) While the issue of motorcycle profiling may occur, it is not a pervasive issue. If there are problems in particular jurisdictions then those local agencies can deal with that particular problem. Also, agencies already have policies pursuant to state constitutional law about profiling and pretextual stops.

The bill uses the same language used for racial profiling. There are historical reasons as to why the legislation on racial profiling came about. This language may not be the best fit for motorcycle profiling.

Lastly, in a time of scarce resources, there are some concerns about the impact on local law enforcement.

Persons Testifying: (In support) Representative Kirby, prime sponsor; David Devereaux, Confederation of Clubs; Donnie Landsman, A Brotherhood Against Totalitarian Enactments; and Larry Walker, Washington Road Riders Association.

(Opposed) Jo Arlow, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Blake, Fitzgibbon, Ladenburg, Moscoso, Pedersen, Van De Wege and Wilcox.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On General Government Appropriations & Oversight Compared to Recommendation of Committee On Public Safety & Emergency Preparedness:

The General Government Appropriations and Oversight Committee recommended: (1) removal of the requirement that local law enforcement review and audit their existing procedures regarding the practice of motorcycle profiling; (2) removal of the requirement that local law enforcement agencies work with motorcycle groups in their communities to address the issue of profiling; (3) modification to the definition of motorcycle profiling; and (4) clarification that motorcycle profiling training be addressed in the Basic Law Enforcement Academy training and in existing in-service training regarding profiling.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The fiscal note estimate of \$1 million in costs for local government is inaccurate and misleading. This bill is modeled after the 2002 legislation regarding racial profiling. The fiscal note for that measure concluded that the costs for training, which was more extensive, was minimal and would not have an impact on the Washington State Patrol (WSP) or local law enforcement agencies. For this fiscal note, the WSP has indicated that the measure would have no costs and could be implemented within existing training. For local law enforcement, this training could be provided as part of the annual in-service training that currently exists.

(Opposed) Adopting training to prevent motorcycle profiling as part of the yearly in-service training will force local agencies to substitute this training for other types of training, such as firearms or defensive tactics. In these tight budget times, this issue does not rise to the level of spending \$1 million of local funds.

Persons Testifying: (In support) David Devereaux, Confederation of Clubs of Washington; and Larry Walker, Washington Road Riders Association.

(Opposed) Don Pierce, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.