

SENATE BILL REPORT

ESB 5242

As Passed Senate, March 5, 2011

Title: An act relating to motorcycle profiling.

Brief Description: Addressing motorcycle profiling.

Sponsors: Senators Hargrove, Pflug, Kline, Regala, Harper, Carrell, Keiser, Nelson, Sheldon, Conway and Shin.

Brief History:

Committee Activity: Judiciary: 2/02/11 [DP].

Passed Senate: 3/05/11, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles, Regala and Roach.

Staff: Juliana Roe (786-7438)

Background: Profiling occurs when a law enforcement officer singles out a suspect that has certain characteristics the officer believes are consistent with a class of persons who are more likely than others to commit crimes. With respect to profiling based on race, local law enforcement agencies must (1) adopt a written policy designed to condemn and prevent racial profiling; (2) review and audit their existing procedures, practices, and training to ensure that they do not enable or foster racial profiling; (3) continue training to address the issues relating to racial profiling; (4) ensure that they have a citizen complaint process in place; (5) work with minority groups to appropriately address racial profiling; and (6) 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.

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.

Summary of Engrossed Bill: The CJTC must ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered to in-service law enforcement officers.

Local law enforcement agencies must add a statement condemning motorcycle profiling to existing policies regarding profiling.

"Motorcycle profiling" is defined as the illegal use of 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.

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: Law enforcement officers target motorcyclists, a class of persons, who they believe are more likely than others to commit crimes. Each year, motorcycle enthusiasts attend an event called Black Thursday here at the capitol. In 2009 state patrol officers were found crawling through the bushes writing down the license plate numbers of all of the motorcycles parked on campus. Officials stated that this was conducted based on the belief that when bikers gather, there is a large propensity for violence. On Black Thursday in 2010, bikers were forced to walk through a massive law enforcement presence, including K-9 units, before reaching the steps of the legislative building. These examples of law enforcement behavior show that officials treat an entire class of people as those who they believed to be violent.

The cost of not addressing motorcycle profiling is apparent in the judicial arena. One individual received a \$90,000 settlement because the court found that he was a victim of motorcycle profiling. This bill would help ameliorate those types of settlements. Further, training in this area would stop officers from pulling bikers over based on a stereotype and allow them to focus on stopping individuals who are actually committing crimes.

Washington should take the lead on this issue because the National Highway Traffic Safety Administration (NHTSA) is heading in the wrong direction. NHTSA is actively providing grants to state departments of public safety to set up motorcycle only check points. While we understand that check points are not legal in Washington State, other states are taking the grants. This sort of behavior is blatant profiling. If the Legislature adopts this bill, Washington can provide the leadership this nation needs to take back civil liberties.

CON: Pretextual or profiling behavior is already illegal in the state Constitution.

The bill focuses on requirements on local agencies and not just the act of inserting training. There is much more that goes into development, implementation, and auditing. Local

governments are already struggling and this is an expensive endeavor for them. One way to offset some of this cost could be to offer this information and training online.

Persons Testifying: PRO: Senator Hargrove, prime sponsor; David Devereaux, Confederation of Clubs; Donnie Landsman, ABATE/BOLT; Larry Walker, Washington Road Riders Association.

CON: Jo Arlow, Washington Association of Sheriffs and Police Chiefs.