

HOUSE BILL REPORT

SSB 5264

As Reported by House Committee On: Judiciary

Title: An act relating to the transportation and storage of certain explosive devices.

Brief Description: Concerning the transportation and storage of certain explosive devices.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Benton, Mullet, Baumgartner and Sheldon).

Brief History:

Committee Activity:

Judiciary: 3/20/13, 3/27/13 [DP].

Brief Summary of Substitute Bill

- Creates an exemption in the Washington Explosives Act for the transportation and storage of explosive actuated tactical devices in law enforcement vehicles designated for tactical response team use, as long as the devices are stored in compliance with federal regulations and rulings.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 13 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

Staff: Omeara Harrington (786-7136).

Background:

Explosives are regulated under both federal and state law. The United States Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) provides federal regulation of the storage of explosives. The Washington Explosives Act, administered by the Department of Labor and Industries (L&I), governs the storage, transportation, and use of explosives in Washington. The state explosives act contains a number of exemptions for the use and handling of explosives in specific situations, including military and emergency law

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enforcement operations, and activities carried out by hazardous device technicians, among others.

Under federal and state law, all explosives must be stored in an approved magazine, which is any building or other structure, other than an explosives manufacturing building, used for the storage of explosives. Explosive devices must remain in the magazine except in limited circumstances, such as when the devices are being transported or are in use. The type of magazine that is appropriate varies depending on the type and quantity of explosive at issue, the location of the magazine, and whether the magazine is attended. The L&I licenses the storage of explosives and conducts annual inspections to ensure compliance with storage regulations. The L&I also requires testing for some activities involving use of explosives, including the use of diversionary devices and crowd control devices, and tactical entry or breaching by police officers.

A number of ATF rulings specifically address storage of explosives used by law enforcement. In 2009 the ATF issued a ruling permitting overnight storage of certain explosive materials in official response vehicles used by law enforcement bomb technicians and explosives response teams when specific security criteria are met. In 2012 the ATF issued a ruling that is available only to law enforcement agencies, which provides guidance on the storage of explosive actuated tactical devices for law enforcement tactical response teams. "Explosive actuated tactical device" is not a defined term in federal or state law, but has been used in reference to a variety of explosive tactical devices used by law enforcement, including flash powder containing noise and flash diversionary devices, and powder blast grenades known as stingers, as well as pyrotechnic smoke and gas grenades, aerosol grenades, and blast grenade irritants.

Summary of Bill:

An exemption is created in the Washington Explosives Act for the transportation and storage of explosive actuated tactical devices, including noise and flash diversionary devices, in local law enforcement vehicles designated for tactical response team use, provided that the devices are stored and secured in compliance with regulations and rulings adopted by the ATF.

Appropriation: None.

Fiscal Note: Not requested.

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) The current L&I rules are different than the ATF rules regarding storage of tactical devices by law enforcement. There is a need for clarity and standardization between

the state and federal laws in this area. The National Tactical Officers Association has been working on this for six years, and it is the national standard. The L&I and the ATF were also consulted in drafting the language, and both organizations are in support. Currently, law enforcement teams have to carry their tactical explosives in Special Weapons and Tactics vans, which can be up to an hour away. Too much time goes by before needed equipment arrives, particularly in hostage and active shooter situations. This legislation would require tactical teams to adhere to specific ATF storage regulations and rulings. The requirements involve use of specific containers and locking devices that adhere to the vehicle itself, and there are strict requirements for inventory, oversight, inspection, and theft reporting. Only tactical officers would be permitted to transfer and store these devices.

(Opposed) Everyone who handles explosives should have to adhere to the Washington Explosives Act and federal and state regulations. Licensing fosters higher responsibility and furthers public safety. There is a responsibility to keep up with research and development in the field of blasting. Explosives do not differentiate between emergencies and non-emergencies and do not forgive when mishandled. Immediate reactions are disfavored when dealing with explosives.

Persons Testifying: (In support) Senator Benton, prime sponsor; Michael McCabe and Pete Muller, Clark County Sheriff's Office; and Jeff Olson, Vancouver Police Department.

(Opposed) Jon Andrews, International Society Explosives Engineers.

Persons Signed In To Testify But Not Testifying: None.