

# HOUSE BILL REPORT

## ESHB 1723

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**As Passed House:**  
March 5, 2019

**Title:** An act relating to the active transportation safety advisory council.

**Brief Description:** Establishing the Cooper Jones active transportation safety council.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Kloba, Goodman, Lovick, Doglio, Bergquist, Eslick, Shewmake, Kilduff, Ortiz-Self, Stanford and Riccelli; by request of Washington Traffic Safety Commission).

**Brief History:**

**Committee Activity:**

Transportation: 2/18/19, 2/21/19 [DPS].

**Floor Activity:**

Passed House: 3/5/19, 69-29.

**Brief Summary of Engrossed Substitute Bill**

- Establishes the Cooper Jones Active Transportation Safety Council (Active Transportation Council) to be convened by the Washington Traffic Safety Commission to replace the Pedestrian Safety Advisory Council and the Cooper Jones Bicyclist Safety Advisory Council, which are expiring.
- Requires the Active Transportation Council to review and analyze data related to pedestrian, bicyclist, and other non-motorist fatalities and serious injuries to identify opportunities for safety improvements.
- Mandates that the Active Transportation Council meet at least quarterly, and issue an annual report detailing its findings and recommendations to the Governor and the transportation committees of the Legislature by December 31 of each year.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd

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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.*

Vice Chair; Wylie, 1st Vice Chair; Chapman, Doglio, Entenman, Eslick, Gregerson, Kloba, Lovick, Mead, Orcutt, Paul, Pellicciotti, Ramos, Riccelli, Shewmake and Van Werven.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke, Chambers, Dent, Goehner, Irwin, McCaslin and Shea.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Barkis, Ranking Minority Member; Dufault.

**Staff:** Jennifer Harris (786-7143).

### **Background:**

#### Pedestrian and Bicyclist Safety Efforts.

The Washington Traffic Safety Commission (WTSC) was established in 1967, following passage of the Federal Highway Safety Act of 1966, to oversee efforts to improve safety on Washington's public highways. The WTSC is the federally recognized highway safety office of Washington. In directing its work, the WTSC uses Target Zero—Washington State's Strategic Highway Safety Plan. The WTSC also collects fatal and serious injury crash data, engages in research studies, and oversees highway safety pilot projects. In 1998 the "Cooper Jones Act" directed the WTSC to establish a program for improving bicycle and pedestrian safety and to cooperate with stakeholders and independent representatives to form an advisory committee to develop programs and create public-private partnerships to promote bicycle and pedestrian safety.

A 2015 law directed the WTSC to convene a Pedestrian Safety Advisory Council (Pedestrian Council) to review and analyze data related to pedestrian fatalities and serious injuries to identify points at which the transportation system could be improved and to identify patterns in pedestrian fatalities and serious injuries. The Pedestrian Council is required to meet at least quarterly and to provide a report and make recommendations on measures that could improve pedestrian safety by December 31 of each year. By December 1, 2018, the Pedestrian Council was required to report to the Legislature on the strategies that have been deployed by the Pedestrian Council to improve pedestrian safety and to make recommendations on whether the Pedestrian Council should be continued and how it could be improved. Laws governing the Pedestrian Council expire June 30, 2019.

A 2017 law directed the WTSC to convene the Cooper Jones Bicyclist Safety Advisory Council (Bicyclist Council) to review and analyze data related to bicycle fatalities and serious injuries to identify opportunities for safety improvements in the transportation system. The Bicyclist Council is required to meet at least quarterly. The Bicyclist Council was required to report to the transportation committees of the Legislature by December 1, 2018, on the following: the strategies that have been deployed to improve bicyclist safety; a recommendation regarding whether the Bicyclist Council should be continued; and a recommendation on whether there are any improvements the Legislature can make to the Bicyclist Council. Laws governing the Bicyclist Council expire June 30, 2019.

## Information Disclosure, Liability, and Grant Funding.

In reviewing fatalities and serious injuries in the state, both the Pedestrian Council and the Bicyclist Council (Councils) are permitted to review any available information, including accident information maintained in existing databases; statutes, rules, policies, and ordinances governing pedestrians, bicyclists, and traffic related to these incidents; and any other relevant information. They may review law enforcement incident documentation, supplemental reports, probable cause statements, 911 dispatcher reports, and any other relevant and necessary information only to the extent otherwise permitted by law or court rule.

Documents prepared by and for both Councils are inadmissible and may not be used in civil or administrative proceedings unless they exist independently of this use. Neither the WTSC nor the Councils may publicly disclose any confidential information obtained, such as personally identifiable information or medical records. Those who attend Council meetings or who participate in the development, retention, collection, or maintenance of information or documents may not be permitted to testify in any civil action regarding the content of the meetings or of the documents or information prepared. Recommendations by both Councils and the WTSC may be disclosed if they do not include personal identifiers.

When acting in good faith, without malice, and within the scope and authority granted under law, staff of the WTSC and members of both Councils are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries. No new private civil cause of action is created. The Councils are permitted to receive gifts, grants, and endowments from public and private sources for the use and benefit of the purposes of the Councils and to spend gifts, grants, and endowments according to their terms, subject to state law that governs state official solicitation and acceptance of contributions. Both Councils may provide grants targeted at improving safety in accordance with recommendations made by the Councils.

### **Summary of Engrossed Substitute Bill:**

Within amounts appropriated to the WTSC, the WTSC is required to convene the Cooper Jones Active Transportation Safety Council (Active Transportation Council), which must be composed of stakeholders with a unique interest or expertise in the safety of pedestrians, bicyclists, and other non-motorists. The Active Transportation Council's purpose is to review and analyze data and programs related to fatalities and serious injuries involving pedestrians, bicyclists, and other non-motorists to identify areas of improvement for the transportation system, as well as patterns in pedestrian, bicyclists, and other non-motorist fatalities and serious injuries. The Active Transportation Council may also monitor progress on implementation of existing recommendations and seek opportunities to expand consideration for and implementation of principles related to safety.

The Active Transportation Council may include, but is not limited to: (1) a WTSC representative; (2) a county coroner; (3) multiple members of law enforcement who have investigated pedestrian, bicyclist, or other non-motorist fatalities; (4) a traffic engineer; (5) a Washington State Department of Transportation representative; (6) an Association of Washington Cities representative; (7) a Washington State Association of Counties

representative; (8) a pedestrian advocacy group representative; and (9) a bicyclist or other non-motorist group representative. The WTSC may invite other representatives of stakeholder groups to participate in the Active Transportation Council, and may also invite a victim or family member of a victim to participate.

The Active Transportation Council must meet at least quarterly and issue an annual report detailing its findings and recommendations to the Governor and the transportation committees of the Legislature by December 31 of each year. The WTSC must provide the annual report electronically to all municipal governments and state agencies that participated in the Active Transportation Council during the calendar year. The Active Transportation Council must also report any budgetary or fiscal recommendations to the Office of Financial Management and the Legislature by August 1 on a biennial basis.

The information disclosure, liability, and grant-funding provisions that apply to the Pedestrian Council and the Bicyclist Council apply to the Active Transportation Council.

Laws governing the Active Transportation Council expire July 1, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on June 30, 2019.

**Staff Summary of Public Testimony:**

(In support) The Pedestrian and Bicyclist Safety Advisory Councils have done important work. They have held a few joint sessions, which made clear that combining these Councils will work. This group is interdisciplinary and will find strategies to improve safety. The vulnerable roadway user bill moves forward some of the recommendations that have come out of the work of the Pedestrian and Bicyclist Councils.

This is about addressing the real impacts to real people when someone is injured or lost. Fatalities are on the rise for people who walk and bike, and the number of deaths and serious injuries for these groups has increased faster than the rate of population growth and increases in vehicle miles traveled. Every three days, a person walking along traffic is killed. One in five traffic-related deaths and serious injuries is to a pedestrian or bicyclist.

Active modes of transportation are the foundation of the transportation network. Recommended solutions from the Active Transportation Council are needed to inform future policy and budget decisions, which can lead to reductions in injuries and deaths on the state's roadways. Some of the most cost-effective improvements that can be made to the transportation system address active transportation safety needs.

Cooper Jones was a young bicyclist in Spokane who was killed in a traffic collision, and this Active Transportation Council is named in his honor.

(Opposed) None.

**Persons Testifying:** Representative Kloba, prime sponsor; Shelly Baldwin, Washington Traffic Safety Commission; Julia Reitan, Feet First; and Josh Diekmann, City of Tacoma.

**Persons Signed In To Testify But Not Testifying:** None.