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**SUBSTITUTE HOUSE BILL 1723**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House 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)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to the active transportation safety advisory  
2 council; amending RCW 43.59.155; repealing RCW 43.59.150 and  
3 43.59.160; providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.59.155 and 2015 c 243 s 1 are each amended to  
6 read as follows:

7 (1) Within amounts appropriated to the traffic safety commission,  
8 the commission must convene (~~(a pedestrian)~~) the Cooper Jones active  
9 transportation safety (~~(advisory)~~) council comprised of stakeholders  
10 who have a unique interest or expertise in the safety of pedestrians,  
11 bicyclists, and (~~(road safety)~~) other nonmotorists.

12 (2) The purpose of the council is to review and analyze data and  
13 programs related to (~~(pedestrian)~~) fatalities and serious injuries  
14 involving pedestrians, bicyclists, and other nonmotorists to identify  
15 points at which the transportation system can be improved and to  
16 identify patterns in pedestrian, bicyclist, and other nonmotorist  
17 fatalities and serious injuries. The council may also:

18 (a) Monitor progress on implementation of existing council  
19 recommendations; and

20 (b) Seek opportunities to expand consideration and implementation  
21 of the principles of systematic safety.

1 (3) (a) The council may include, but is not limited to:

2 (i) A representative from the commission;

3 (ii) A coroner from the county in which ~~((the most))~~ pedestrian,  
4 bicyclist, or nonmotorist deaths have occurred;

5 ~~((A representative from the Washington association of  
6 sheriffs and police chiefs;~~

7 ~~(iv))~~ Multiple members of law enforcement who have investigated  
8 pedestrian, bicyclist, or nonmotorist fatalities;

9 ~~((v))~~ (iv) A traffic engineer;

10 ~~((vi))~~ (v) A representative from the department of  
11 transportation;

12 ~~((vii))~~ (vi) A representative from the association of  
13 Washington cities ~~((, and up to two stakeholders, chosen by the  
14 council, who represent municipalities in which at least one  
15 pedestrian fatality has occurred in the previous three years))~~; ~~((and~~

16 ~~(viii))~~ (vii) A representative from the Washington state  
17 association of counties;

18 (viii) A representative from a pedestrian advocacy group; and

19 (ix) A representative from a bicyclist or other nonmotorist  
20 advocacy group.

21 (b) The commission may invite other representatives of  
22 stakeholder groups to participate in the council as deemed  
23 appropriate by the commission. Additionally, the commission may  
24 invite a victim or family member of a victim to participate in the  
25 council.

26 (4) The council must meet at least quarterly. By December 31st of  
27 each year, the council must issue an annual report detailing any  
28 findings and recommendations to the governor and the transportation  
29 committees of the legislature. The commission must provide the annual  
30 report electronically to all municipal governments and state agencies  
31 that participated in the council during that calendar year.  
32 Additionally, the council must report any budgetary or fiscal  
33 recommendations to the office of financial management and the  
34 legislature by August 1st on a biennial basis.

35 (5) As part of the review of pedestrian, bicyclist, or  
36 nonmotorist fatalities and serious injuries that occur in Washington,  
37 the council may review any available information, including  
38 ~~((accident))~~ crash information maintained in existing databases;  
39 statutes, rules, policies, or ordinances governing pedestrians and  
40 traffic related to the incidents; and any other relevant information.

1 The council may make recommendations regarding changes in statutes,  
2 ordinances, rules, and policies that could improve pedestrian,  
3 bicyclist, or nonmotorist safety. Additionally, the council may make  
4 recommendations on how to improve traffic fatality and serious injury  
5 data quality.

6 (6) (a) Documents prepared by or for the council are inadmissible  
7 and may not be used in a civil or administrative proceeding, except  
8 that any document that exists before its use or consideration in a  
9 review by the council, or that is created independently of such  
10 review, does not become inadmissible merely because it is reviewed or  
11 used by the council. For confidential information, such as personally  
12 identifiable information and medical records, which are obtained by  
13 the council, neither the commission nor the council may publicly  
14 disclose such confidential information. No person who was in  
15 attendance at a meeting of the council or who participated in the  
16 creation, retention, collection, or maintenance of information or  
17 documents specifically for the commission or the council shall be  
18 permitted to testify in any civil action as to the content of such  
19 proceedings or of the documents and information prepared specifically  
20 as part of the activities of the council. However, recommendations  
21 from the council and the commission generally may be disclosed  
22 without personal identifiers.

23 (b) The council may review, only to the extent otherwise  
24 permitted by law or court rule when determined to be relevant and  
25 necessary: Any law enforcement incident documentation, such as  
26 incident reports, dispatch records, and victim, witness, and suspect  
27 statements; any supplemental reports, probable cause statements, and  
28 911 call taker's reports; and any other information determined to be  
29 relevant to the review. The commission and the council must maintain  
30 the confidentiality of such information to the extent required by any  
31 applicable law.

32 (7) If acting in good faith, without malice, and within the  
33 parameters of and protocols established under this chapter,  
34 representatives of the commission and the council are immune from  
35 civil liability for an activity related to reviews of particular  
36 fatalities and serious injuries.

37 (8) This section must not be construed to provide a private civil  
38 cause of action.

39 (9) (a) The council may receive gifts, grants, or endowments from  
40 public or private sources that are made from time to time, in trust

1 or otherwise, for the use and benefit of the purposes of the council  
2 and spend the gifts, grants, or endowments from the public or private  
3 sources according to their terms, unless the receipt of the gifts,  
4 grants, or endowments violates RCW 42.17A.560.

5 (b) Subject to the appropriation of funds for this specific  
6 purpose, the council may provide grants targeted at improving  
7 pedestrian, bicyclist, or nonmotorist safety in accordance with  
8 recommendations made by the council.

9 ~~(10) ((By December 1, 2018, the council must report to the  
10 transportation committees of the legislature on the strategies that  
11 have been deployed to improve pedestrian safety by the council and  
12 make a recommendation as to whether the council should be continued  
13 and if there are any improvements the legislature can make to improve  
14 the council.~~

15 ~~(11))~~ For purposes of this section:

16 (a) "Bicyclist fatality" means any death of a bicyclist resulting  
17 from a collision, whether on a roadway, at an intersection, along an  
18 adjacent sidewalk, or on a path that is contiguous with a roadway.

19 (b) "Council" means the ((pedestrian)) Cooper Jones active  
20 transportation safety ((advisory)) council.

21 ~~((b))~~ (c) "Nonmotorist" means anyone using the transportation  
22 system who is not in a vehicle.

23 (d) "Pedestrian fatality" means any death of a pedestrian  
24 resulting from a collision ((with a vehicle)), whether on a roadway,  
25 at an intersection, along an adjacent sidewalk, or on a path that is  
26 contiguous with a roadway.

27 ~~((e))~~ (e) "Serious injury" means any injury other than a fatal  
28 injury that prevents the injured person from walking, driving, or  
29 normally continuing the activities the person was capable of  
30 performing before the injury occurred.

31 ~~((12) This section expires June 30, 2019.))~~

32 NEW SECTION. Sec. 2. The following acts or parts of acts are  
33 each repealed:

34 (1) RCW 43.59.150 (Bicycle and pedestrian safety—Committee) and  
35 2005 c 426 s 6; and

36 (2) RCW 43.59.160 (Cooper Jones bicyclist safety advisory  
37 council) and 2017 c 324 s 2.

1        NEW SECTION.    **Sec. 3.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect June 30, 2019.

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