

HOUSE BILL REPORT

HB 1513

As Reported by House Committee On:
Community Safety, Justice, & Reentry

Title: An act relating to improving traffic safety by addressing compliance, enforcement, and data collection.

Brief Description: Improving traffic safety.

Sponsors: Representatives Street, Simmons, Doglio, Pollet, Berry, Gregerson, Ryu, Farivar, Alvarado, Reed, Bateman, Thai, Chopp, Macri, Fitzgibbon, Morgan, Peterson, Santos, Mena, Duerr, Orwall, Ormsby and Fosse.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/30/23, 2/9/23 [DPS].

Brief Summary of Substitute Bill

- Limits officers' use of stops and detentions for non-moving violations as a primary offense, and specifies additional process requirements for traffic stops.
- Requires written consent before an officer may search a vehicle or passengers.
- Requires an officer to prepare a detailed report for each stop or detention.
- Creates a grant program focused on interventions for non-moving violations for low-income road users.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Farivar and Fosse.

Minority Report: Do not pass. Signed by 3 members: Representatives Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Graham.

Minority Report: Without recommendation. Signed by 1 member: Representative Ramos.

Staff: Martha Wehling (786-7067).

Background:

Traffic Enforcement.

Peace officers are full-time officers employed by a state or local government or agency whose primary function is to detect and apprehend persons committing infractions or violating traffic or criminal laws. The Washington State Patrol and Washington Department of Fish and Wildlife employ general authority Washington peace officers. A peace officer is commissioned to enforce the state's criminal laws.

The Department of Licensing adopts and maintains rules that define a moving violation. Moving violations include any violations of a vehicle law committed by the vehicle driver while the vehicle is moving and include certain criminal traffic infractions and traffic infractions. A vehicle is used to transport persons or property on a public highway, and, in some situations, includes bicycles. Commercial vehicles, which are distinguished by weight, passengers, or hazardous materials, are not included in these limitations. Noncommercial recreational vehicles are included.

Examples of criminal infractions include driving under the influence, negligent driving, hit and run, and speeding. Examples of traffic infractions include driving the wrong way on a one-way street, making an improper freeway entrance or exit, embracing, using an improper signal, or failing to signal. Primary offenses are those traffic violations for which an officer may stop or detain a vehicle. A secondary offense is a law that can only be enforced when a primary offense has also occurred.

Nonmoving violations include violations for parking, equipment, or paperwork, including insurance, registration, licensing, and inspection. Washington State Patrol officers may stop vehicles to check a driver's license and inspect the vehicle's equipment. Equipment requirements include: lighting devices, hydraulic brake fluid, air conditioning equipment, hauling, and other vehicle equipment. Vehicle stops for license or equipment checks are limited to daylight hours by marked patrol vehicles.

Officers may stop any vehicle when the license is registered to a person whose license has been suspended or revoked. The driver must provide his or her license to the officer upon request. The penalties for driving with a suspended or revoked license vary, but may include imprisonment and a gross misdemeanor. Officers also have the authority to arrest a

person without a warrant in several situations, including when the person is violating an antiharassment order. All police officers must comply with designated procedures to make an arrest without a warrant for violations of the traffic enforcement statute.

Law Enforcement Transparency.

To maintain public trust, data collection on law enforcement use of force is required to provide transparency and accountability. Each law enforcement agency is required to report when an officer uses force for situations involving fatality, bodily harm, or use of a firearm, taser, pepper spray, weapon, or canine. The reports must include the date, time, location, agency, force used, injuries, demographics, officer's years of service, and whether minors were present.

Summary of Substitute Bill:

Limitation on Stops, Detention, and Consent Searches.

Peace officers may not stop or detain drivers committing certain violations, including nonmoving violations, certain suspended or revoked licenses, or certain misdemeanor warrants, as a primary offense. Officers retain the authority to enforce nonmoving violations as a secondary offense. Officers may not stop or detain drivers for suspended or revoked licenses that are based on: failure to provide a financial statement under the Uniform Vehicle Code; failure to respond to a traffic infraction notice, failure to appear at a court hearing, or failure to comply with a traffic infraction or citation notice; commission of an offense in another state that would not be grounds for suspension or revocation in Washington; or certification by the Department of Social and Health Services as noncompliant with a child support order. Officers may not stop or detain drivers for misdemeanor warrants, except for driving under the influence, a domestic violence violation, or a civil court order.

The limitation on stopping or detaining drivers applies to:

- driving with a suspended or revoked license;
- hauling and vehicle equipment;
- lighting devices;
- hydraulic brake fluid;
- safety requirements for air conditioning equipment;
- arrest and prosecution without a warrant; and
- stopping vehicles to check a driver's license or inspect a vehicle.

A peace officer may stop or detain a driver for:

- improper use of warning lights;
- license plates that do not match the vehicle registration;
- equipment failure that poses an immediate, serious threat to safety;
- a moving violation;
- driving while license suspended or revoked for:

- failure to furnish proof of progress in alcohol or drug treatment program;
- failure to comply with the Uniform Vehicle Code for uninsured accidents;
- convictions for certain criminal violations; or
- traffic citations or notices of traffic infractions that resulted in a suspension relating to an intermediate driver's license;
- a misdemeanor warrant for driving under the influence;
- a domestic violence violation; or
- a civil court order.

An "immediate, serious threat to safety" is defined as an objective observer's reasonable belief "that an equipment failure on the vehicle may cause immediate, serious injury to the operator or other persons in the vicinity of the vehicle. Depending on the circumstances, such an immediate threat may include, but is not limited to: having both taillights, headlights, or brake lights out at nighttime; a shattered windshield impairing the operator's ability to see; or a dragging muffler.

After an officer stops or detains a vehicle, the officer must comply with specified processes, including logging or notifying dispatch detailing the threat, notifying the driver of the reason for the stop, and prohibiting the officer's option to request a search, subject to exceptions.

When a vehicle is stopped or detained for a moving violation, an officer may request a search if the officer detects evidence of a criminal offense, but the driver and passengers must provide written consent. The officer must explain the search is voluntary, its purpose, the right to an attorney, and the option to decline. A written consent form must be provided in English and Spanish. If evidence is recovered without compliance with these requirements, the evidence is inadmissible in a criminal proceeding.

Reporting Requirements for Stop or Detention.

Peace officers for any law enforcement agency must prepare a report for each stop or detention of a driver. The report must include: the location, duration, purpose of the stop, description of the driver, language used, vehicle description, officer's employer and description, consent search information, property description if any seized, result of stop, and available camera footage, whether dashboard or body cam.

Grant Program for Nonmoving Violations.

The Department of Commerce is required to develop a grant program for nonmoving violations for low-income road users. The program should prioritize nonpunitive interventions, such as helmet vouchers, fee offsets, fix-it tickets, and repair vouchers. Local and tribal governments, law enforcement, and nonprofits are eligible for the grants. Reports on the grant recipients, locations, and project types must be published annually. Beginning in September 2024, the Department of Commerce must submit a biennial report to the Governor and Legislative transportation committees recommending changes to the grant program.

Substitute Bill Compared to Original Bill:

Officers may not stop or detain vehicles for nonmoving violations as a primary offense, but officers retain the authority to enforce nonmoving violations as a secondary offense. Improper use of warning lights or missing or mismatched license plates are added to reasons officers may stop or detain vehicles for nonmoving violations.

After a vehicle is stopped, the officer must log the stop or notify dispatch before contacting the driver, instead of logging or notifying prior to stopping the vehicle. The officer may use any sense to detect evidence as the basis for a consent search, rather than solely visual detection.

The Department of Commerce replaces the Washington Traffic Safety Commission for the grant program, and law enforcement is added as an eligible recipient of the grants.

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 bill improves community safety while building trust with law enforcement. People do not engage with the police because of concerns about surveillance, and the risk that a simple stop will turn deadly. Very few minor violation stops result in evidence of a serious crime. Inadequate lights have minimal to no effect on traffic safety, and no one should ever be pulled over for expired tabs or a taillight out. Minor stops for minor violations also lead to needless entanglement in the court system and further debt for people in poverty. The grant program moves away from enforcement to allow people to fix issues, like the successful "Don't drip and drive" program. When people are given access to funds, they will fix their cars.

Data shows that law enforcement time is better spent on critical safety issues like violent crime, sexual assaults, or impaired driving, not low-level traffic stops. It is moving violations that cause traffic accidents, not equipment failures like expired tags or a single broken taillight. Many people do not realize that consent searches are voluntary, so requiring a form and thorough explanation will allow them to decline.

Communities of color receive a disproportionate burden of traffic stops, which sometimes result in tragic escalations of force and community mistrust of the police because the systems and policies were built without these communities in mind. Native American

drivers are five times more likely to be stopped and searched than white drivers, even though white drivers more often have contraband. Expired tabs with nothing but a monetary penalty do not justify the risk to lives. People of color often do not even feel safe reaching for their license while an officer is watching. The bill will save lives by reducing traffic stops.

(Opposed) Last year 745 residents lost their lives on public roadways; it was the most dangerous year in 30 years. Now is not the time to deprioritize traffic infractions. When citations are reduced, fatalities increase. Each law concerning a light, muffler, or fender has a family's name associated with it when a loved one was lost. The laws have been promulgated over decades for safety reasons. If the Legislature does not want those laws enforced, they should make that behavior lawful rather than putting the officers in a lose-lose situation trying to determine when laws should be enforced. Many DUIs were based on stops for equipment violations. Data can be collected after the stop, but radio time is precious and should be limited to keep a clear channel for emergencies.

The grant program that helps vehicles to comply with legal requirements is a good start. Giving officers coupons to allow the driver to fix a violation would create an amazing positive interaction with the community. Officers' positive interactions with stopped drivers are often educational opportunities, and also provide an opportunity for community policing.

(Other) The Washington State Patrol currently focuses its resources on high-risk behaviors, like speeding and distracted driving. Non-moving violations are not just paperwork, but include equipment violations like bumpers, overwidth tires, splash aprons, and child restraints. Safety on roadways is critical, and traffic enforcement helps keep roadways safe. Up to 8 percent of DUI charges between 2018-2022 originated from non-moving violations. Defective equipment is not the Washington State Patrol's core goal, but it does provide an educational opportunity. It should be the trooper's discretion whether to educate, warn, or cite drivers. The limitation on questioning subjects other than moving violations would preclude a trooper from checking on the well-being of other occupants of the vehicle or when there is an odor of intoxicants. Even though commercial vehicles are excluded, passenger vehicles cause 78 percent of fatality crashes involving trucks, and decreasing the requirements for passenger vehicles will increase that number and will not increase roadway safety.

Persons Testifying: (In support) Representative Chipalo Street, prime sponsor; Scarlet Neath, Center for Policing Equity; Nila Bala, Policing Project New York University School of Law; Bryce Yadon, Transportation Choices Coalition; KL Shannon, Whose Streets? Our Streets!; Magda Baker, Washington Defender Association; Alyssa Perez-Morrison, Office of Inspector General; Enoka Herat, American Civil Liberties Union of Washington; Jac Archer, Spokane Coalition Against Racism and Peace and Justice Action League of Spokane; Kiana McKenna, Pacific Islander Community Association of Washington; Tonya Isabell and Dani Bargala, Washington Coalition for Police Accountability; and Sam Martin,

Washington for Black Lives.

(Opposed) Jeff DeVere, Washington Council of Police and Sheriffs; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Other) Jeff DeVere, Washington Trucking Associations; and Neil Weaver, Washington State Patrol.

Persons Signed In To Testify But Not Testifying: None.