

SENATE BILL REPORT

ESB 5352

As Amended by House, April 10, 2023

Title: An act relating to vehicular pursuits.

Brief Description: Concerning vehicular pursuits.

Sponsors: Senators Lovick, MacEwen, Cleveland, Conway, Gildon, Holy, Hunt, Mullet, Rolfes, Salomon, Short, Torres, Van De Wege, Warnick and Wilson, L..

Brief History:

Committee Activity:

Floor Activity: Passed Senate: 3/8/23, 26-23.

Passed House: 4/10/23, 57-40.

Brief Summary of Engrossed Bill

- Lowers the evidentiary threshold required for engaging in a vehicular pursuit by allowing an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing specified criminal offenses.
- Limits vehicular pursuits to situations where the subject of the pursuit poses a serious risk of harm to others.
- Modifies certain vehicular pursuit requirements related to supervisory oversight and establishes new requirements related to direct communication with specified entities, development of a plan to end the vehicular pursuit, and the pursuing officer's training and certifications.

Background: A vehicular pursuit is an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive

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maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer. When engaging in a vehicular pursuit, the officer may violate certain rules of the road including, for example, stop signals, speed limits, and parking restrictions.

An officer may not engage in a vehicular pursuit unless:

- there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense, or an escape, or there is reasonable suspicion that a person in the vehicle has committed or is committing a driving under the influence offense;
- the vehicular pursuit is necessary for identifying or apprehending the person;
- the person poses an imminent threat to the safety of others; and
- the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances.

The officer must receive authorization from a supervisor to engage in the vehicular pursuit and there must be supervisory control, or, in jurisdictions with fewer than ten commissioned officers, the officer must request the on-call supervisor be notified if a supervisor is not on duty at the time. The officer and supervisor, when applicable, must consider alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations. The officer must terminate the vehicular pursuit if any of these requirements are not met. The officer must also comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit and comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable.

Summary of Engrossed Bill: The evidentiary threshold required for engaging in a vehicular pursuit is modified to allow an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person in the vehicle has committed or is committing a violent offense, a sex offense, a vehicular assault offense, an escape offense, a driving under the influence offense, or a domestic violence assault in the first, second, third, or fourth degree offense. The pursuit must be necessary for the purpose of identifying or apprehending the person. The fleeing person must pose a serious risk of harm to others, and the risk of failing to apprehend or identify the person must be considered to be greater than the safety risks of the vehicular pursuit under the circumstances.

The pursuing officer must immediately notify a supervising officer upon initiating the pursuit. The pursuit must be done with supervisory oversight, and the pursuing officer, in consultation with the supervising officer, must consider alternatives to the pursuit, the justifications for the pursuit, and other safety considerations. In jurisdictions with fewer than ten commissioned officers, if a supervisor is not on duty, the pursuing officer must request the on-call supervisor be notified according to the agency's procedures, and the

pursuing officer considers alternatives to the pursuit and other safety consideration.

In any vehicular pursuit, the pursuing officer, and applicable supervising officer, must comply with agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit. The pursuing officer, supervising officer, or dispatch must notify surrounding law enforcement agencies that may be impacted or called upon to assist with the pursuit. The pursuing officer must be able to communicate with other involved officers and dispatch.

As soon as practicable, the pursuing officer, applicable supervising officer, or responsible agency must develop a plan to end the pursuit through the use of available pursuit intervention options. To engage in a pursuit, the pursuing officer must have completed an emergency vehicle operator's course, must have completed updated emergency vehicle operators training in the previous two years, where applicable, and must be certified in at least one pursuit intervention option. A vehicle pursuit not meeting the requirements above must be terminated.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

EFFECT OF HOUSE AMENDMENT(S):

- Requires pursuing officers in a jurisdiction with 15 or fewer commissioned officers, rather than ten, request the on-call officer be notified of the pursuit upon initiating the pursuit.
- Requires emergency vehicle operator training include training on performing a risk assessment analysis of whether a person being pursued poses a serious risk of harm to others and when the safety risks of failing to apprehend or identify the person are considered greater than the safety risk of the pursuit.