

HOUSE BILL REPORT

HB 1513

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

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];
Transportation: 2/21/23, 2/23/23 [DPS(CSJR)].

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

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.

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, 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.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill by Committee on Community Safety, Justice, & Reentry be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Fey, Chair; Donaghy, Vice Chair; Berry, Bronoske, Chapman, Cortes, Doglio, Duerr, Entenman, Hackney, Mena, Ramel, Ramos, Taylor and Wylie.

Minority Report: Do not pass. Signed by 11 members: Representatives Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Goehner, Griffey, Klicker, Orcutt, Schmidt, Volz and Walsh.

Minority Report: Without recommendation. Signed by 2 members: Representatives Timmons, Vice Chair; Dent.

Staff: Beth Redfield (786-7140).

Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Community Safety, Justice, & Reentry:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 18, 2023.

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) You will hear that any violation of the traffic codes is a threat to traffic safety.

However, this bill is backed by data that shows otherwise. Of 11 million traffic stops only 0.27 percent found contraband. In Pierce County, of 2,000 traffic stops, it was only 0.11 percent that resulted in contraband. This is an incredibly inefficient use of officers' time to fight crime. By reprioritizing police time to critical safety issues we can bring down deaths on our roads, improve road safety, and free officers to investigate more dangerous crimes. Reducing forced interactions with law enforcement minimizes the escalations of force. Black and people of color and native drivers are two to five times more likely to be pulled over compared to white people. There is no way to work, educate, present, or employ ourselves out of this situation. Washington has seen a dramatic rise in road fatalities, 745 deaths in 2022. Washington State Traffic Safety Commission data shows that the leading causes are moving violations for risky behavior like impaired driving or speeding. For the Washington State Patrol (WSP), research shows that 92 percent of DUIs begin as moving violations. With limited law enforcement resources, prioritizing safety stops is a strategic use of resources that will address the current crisis while also prioritizing racial and economic equity. Under this bill moving violations and equipment violations that relate to stolen vehicles or that cause immediate safety concerns continue to be primary stops. We agree that all seatbelt violations should also be primary stops as well; only make nonsafety stops into secondary violations. Ineffective stops cause significant social harms to your constituents. All users no matter how they use the system have a right to transportation safety, including safety from unnecessary harmful police interactions. Drivers need to have safe, functional vehicle equipment, and the bill includes a grant program which helps people who cannot afford to fix their vehicles. "Fix-it tickets" which require a repair instead of a fine could address nonmoving issues. Research on the public safety impact of reducing stops found that traffic stops are not effective. Nashville reduced traffic stops over a 5-year period, and crime rates remained flat. In Connecticut, police had been using defective lighting as the basis for 40 percent of stops; after reducing this emphasis, there was a 250 percent increase in stops that resulted in a DUI arrest, with the majority stopped for weaving across the center line. This also reduced the racial disparity of the traffic stops. Ending these low-level stops can also increase public trust in the police. The police depend on the public's cooperation to solve crimes. It does not take necessary tools away from the police. Police would still have the discretionary determination as to whether something poses an immediate safety risk on the road based on the totality of the circumstances; this legal standard does not change. We have seen that these stops can lead to unnecessary deaths of both the police and motorists. A potential minor monetary penalty does not justify the risk to the community or the officers, there are better ways to achieve compliance. Persons stopped by law enforcement are significantly less likely to seek help or report noncrime emergencies; that impacts public safety for everyone. Consent searches are completely voluntary, there is no constitutional justification. However, many people are not aware and consent to searches they want to decline. The bill requires giving them the information they need to make an informed choice of whether to consent to a search, advancing their constitutional rights. The bill still allows searches when police have evidence to support a search, and would still allow officers to ask for field sobriety tests. Cities across the country are instituting these reforms.

(Opposed) Our experience with seat belts, cell phones, vehicular pursuits, and drug possession has told us that when there are no consequences to the unlawful behavior, we get more of that behavior. If the Legislature allows driving a car with no exhaust, no headlights, no seatbelts, no bumpers, no doors, no tail lights, no blinkers, then those vehicle requirements should just be repealed. Making it illegal but not allowing law enforcement to do anything about it undermines the rule of law and is not productive. With 745 deaths in 2022, this is not a good time to deprioritize equipment and safety features of vehicles. The State Patrol agrees on the law enforcement focus on high-risk behaviors, like impaired driving, distracted driving, unrestrained passengers, speeding, and the State Patrol does just that. We also know the importance of enforcing nonmoving violations that the Legislature has placed into law. Not just paperwork violations, they include equipment violations, mudflaps, height requirements, lighting requirements, vehicle projections, current vehicle tabs, and window obstructions. Troopers should continue to have the ability to educate and warn and, when necessary, to cite motorists who are driving with defective equipment. It is an educational opportunity to interact with the public, build trust, and help motorists stay safe. There is a need to ensure the little thing does not become the big thing. Eight percent of DUIs have originated from a nonmoving violation stop. Applying limited resources is most effective when decided by individual law enforcement agency policies and individual officers at a point in time, weighing in the factors they been trained to consider. The WSP report cited above specifically found no evidence of systemic bias in the decision to affect the stop. Pretextual stops are already illegal. Officers are already extensively trained, and we have the most developed body of search and seizure jurisprudence in the world. Money is better spent on public defenders, not on data analysts.

(Other) For the trucking industry, safety on the roadways is critical, for lives, injuries and for the expeditious flow of goods across the state. We support the continuance of traffic stops of commercial vehicles for equipment inspections, this is very important. We also support programs to assist people to make their vehicles safe and legal. The "four Es" are: Education, Engineering, Enforcement, and Emergency Services; we would like to add "Equipment." We spend millions of dollars and a lot of time making sure our trucks are safe and also for passenger vehicles. Collisions caused due to equipment have been reduced to almost acceptable levels. If we stop enforcement of equipment we will have more collisions, more injuries and more fatalities. Cities are concerned about the impact on license registration fees being made a secondary offense and potentially removing the ability to enforce nonpayment of registration fees. We do not want a situation where there is no incentive to pay your car tab fees.

Persons Testifying: (In support) Representative Chipalo Street, prime sponsor; Enoka Herat, American Civil Liberties Union of Washington; Bryce Yadon, Transportation Choices Coalition; Kelly Moore, Policing Project, New York University School of Law; Jacob Nelson, American Automobile Association; Diane Goldstein, Law Enforcement Action Partnership; Lisa Judge, Seattle Office of Inspector General; Magda Baker, Washington Defender Association; Marta Nelson, Vera Institute of Justice; Scarlet Neath, Center for Policing Equity; Po Leapai and Tonya Isabell, Washington Coalition for Police

Accountability; Jac Archer, Spokane Community Against Racism and Peace and Justice Action League of Spokane; KL Shannon, Whose Streets? Our Streets!; and Sam Martin, Washington 4 Black Lives.

(Opposed) David-Henry Sedelmeier; James McMahan, Washington Association of Sheriffs and Police Chiefs; and Lorilee Gates.

(Other) Jeff DeVere, Washington Trucking Associations; Neil Weaver, Washington State Patrol; Jasmine Vasavada, Department of Commerce; and Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: Ellen Dimbat.