

# SENATE BILL REPORT

## SB 5572

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As of February 13, 2023

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

**Brief Description:** Improving traffic safety.

**Sponsors:** Senators Valdez, Kauffman, Kuderer, Nguyen, Nobles and Wilson, C..

**Brief History:**

**Committee Activity:** Transportation: 2/13/23.

### Brief Summary of Bill

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

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Brandon Popovac (786-7465)

**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 (WSP) and Washington Department of Fish and Wildlife employ general authority

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Washington peace officers.

A vehicle is used to transport persons or property on a public highway, and, in some situations, includes bicycles. Certain forms of transportation are excluded from the definition of a vehicle in specified circumstances.

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 civil traffic infractions. 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.

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 their 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 Reporting. Each law enforcement agency is required to report when an officer uses force for situations involving fatality, great and substantial bodily harm, or use of a firearm, taser, pepper spray, weapon, or canine. The reports must include, for example, the date, time, location, agency, force used, injuries, demographics, officer's years of service, and whether minors were present.

**Summary of Bill:** Grant Program for Responses to Nonmoving Violations. The Washington Traffic Safety Commission (WTSC) must develop and implement a grant program to support local initiatives that provide responses for nonmoving violations for low-income road users. The grant program must prioritize nonpunitive interventions, such as helmet vouchers, fee offsets, fix-it tickets, and repair vouchers. Local and tribal governments and nonprofits are eligible for the grants. Reports on the grant recipients, locations, and project types must be published annually. Beginning September 1, 2024, WTSC must submit a biennial report to the Governor and legislative transportation committees detailing program effectiveness and providing recommendations for changes to

the grant program.

Limitations on Stops, Detention, and Consent Searches. Peace officers may not stop or detain vehicle operators committing certain violations, including any nonmoving violation, driving with a suspended or revoked license in the third degree, or certain misdemeanor warrant or civil court order violations.

The limitation on stopping or detaining vehicle operators 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 only stop or detain a vehicle operator for equipment failure that poses an immediate, serious threat to safety, a moving violation, a misdemeanor warrant for driving under the influence, or a domestic violence violation. An immediate, serious threat to safety is defined as a vehicle equipment failure that may cause immediate, serious injury to the vehicle operator or nearby persons.

When an officer stops or detains a vehicle operator for such an equipment failure, the officer must comply with specified processes, including digitally logging or providing notification to dispatch detailing the threat, notification to the operator of the reason for the stop, a prohibition on the officer's option to request a search, and a prohibition to question the vehicle operator or any passenger not related to the equipment failure unless evidence in plain view establishes sufficient reasonable suspicion for further inquiry.

When an officer stops or detains a vehicle operator for a moving violation, the officer must comply with specified processes, including digitally logging or providing notification to dispatch detailing the primary reason for the stop and notification to the operator of the reason for the stop. An officer may only request a consent search if there is visible evidence of a criminal offense, but the driver and passengers must provide written consent. The officer must explain the search is voluntary, its purpose, their right to speak to an attorney, and their option to not to consent to or decline the search at any point. 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.

Law Enforcement Reporting. Peace officers for any law enforcement agency must prepare a report for each stop or detention of a vehicle operator. The report must be submitted in accordance with use of force data program requirements and include:

- the location, duration, and primary reason for the stop;
- a description of the driver, and any language interpretation used;

- a vehicle description;
- the officer's employer and description;
- certain consent search information;
- a property description if any seized;
- the result of the stop; and
- any available dashboard or body camera footage.

Preemption. Provisions of the act must be liberally construed and preempt any conflicting statute, law, or rule of a public employer.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony:** PRO: This bill is a follow up to legislation introduced last session, and feedback from stakeholders was considered in this version. The state has experienced a dramatic rise in road fatalities. The bill prioritizes road safety and racial equity. The leading cause of accidents are moving violations, like impaired driving or speeding. The bill makes sense considering current limited law enforcement resources. Most traffic stops yield no contraband. Deprioritizing stops for nonmoving violations shifts priority to more critical stops. Vehicle operators need to have functional equipment and the new grant program will help, substituting traffic fines with vouchers or fix-it tickets. Reprioritizing traffic stops will reduce racial disparities in arrests. Equitable enforcement is tied to transportation safety. Other resources should be provided by law enforcement during certain stops. All persons have an interest in driving safe vehicles but often do not have the resources for upkeep. Stops for minor equipment violations do not help public safety. Less than one percent of traffic stops result in other criminal offenses. Low risk stops can invite further unnecessary confrontation. DUI enforcement will likely increase with predicted shifting of resources. Consent searches are completely voluntary and most drivers are unaware of this element. This bill will educate people on when to allow a search and to exercise their constitutional rights. The bill will allow more informed choices to consent searches. Reducing low risk traffic stops will reduce police shootings. One unpaid ticket may end up with multiple other infractions and penalties.

CON: Most are supportive of the proposed grant program and it represents the right direction. We need to have more education on what to expect during a traffic stop. Each of the vehicle equipment laws are designed for safety. The bill fundamentally reduces voluntary compliance on roads and is dangerous. Troopers should have the ability to educate drivers for certain equipment stops and impose a fine when necessary. The bill would allow persons to commit more crimes using vehicles. The bill would be detrimental

to services and entities depending upon tab fees. Other nonmoving violations can be dangerous, like not wearing a seatbelt. Law enforcement should have all the necessary tools. The grant program should be an education campaign about constitutional rights. Officers should not be required to teach citizens their constitutional rights. The bill should not handcuff officers from making roads safer.

OTHER: WSP data shows that up to half of DUIs started as nonmoving violations stops. Failure to wear a seatbelt is considered a nonmoving violation. This bill will not allow law enforcement to stop people who are not wearing seat belts or have broken lights. Public interactions with law enforcement would become more distrustful.

**Persons Testifying:** PRO: Senator Javier Valdez, Prime Sponsor; Cynthia Stewart, League of Women Voters of WA; Enoka Herat, ACLU of Washington; Bryce Yadon, Transportation Choices Coalition; Jacob Nelson, AAA; Tonya Isabell, Washington Coalition for Police Accountability; Kiana McKenna, Pacific Islander Community Association of Washington; Kelly Moore, Policing Project, NYU School of Law; Magda Baker, Washington Defender Association; Scarlet Neath, Center for Policing Equity; Max Savishinsky, Washington Physicians for Social Responsibility.

CON: Brian Smith, Chief of Police, City of Port Angeles; Spike Unruh, Washington State Patrol Troopers Association; Jeff DeVere, WACOPS - Washington Council of Police and Sheriffs; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs; David-Henry Sedelmeier, Driving School owner.

OTHER: Neil Weaver, WA State Patrol.

**Persons Signed In To Testify But Not Testifying:**

OTHER: Jeff DeVere, Washington Trucking Associations.