

HOUSE BILL REPORT

HB 2511

As Passed House:
February 15, 2010

Title: An act relating to motorcycle profiling.

Brief Description: Addressing motorcycle profiling.

Sponsors: Representatives Kirby, Blake, Upthegrove, Conway, Van De Wege, Ormsby, Moeller, Campbell and Haigh.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/2/10 [DP].

Floor Activity:

Passed House: 2/15/10, 96-2.

Brief Summary of Bill

- Requires law enforcement agencies to adopt policies and institute training to stop motorcycle profiling.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 7 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

Minority Report: Do not pass. Signed by 1 member: Representative Klippert, Assistant Ranking Minority Member.

Staff: Yvonne Walker (786-7841).

Background:

Profiling occurs when a law enforcement officer singles out a suspect with certain characteristics because the officer believes that the class of persons that exhibits the characteristics is more likely than others to commit crimes. With respect to profiling based on race, local law enforcement agencies must:

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

- adopt a written policy designed to condemn and prevent racial profiling;
- review and audit their existing procedures, practices, and training to ensure that they do not enable or foster racial profiling;
- continue training to address the issues relating to racial profiling. Officers should be trained in how to better interact with persons they stop to prevent legitimate behavior from being misinterpreted as racial profiling;
- ensure that they have a citizen complaint process in place;
- work with minority groups to appropriately address racial profiling; and
- collect demographic data on traffic stops and analyze the data to ensure that racial profiling is not occurring.

The Washington Association of Sheriffs and Police Chiefs (WASPC) and the Criminal Justice Training Commission (CJTC) must ensure that issues related to racial profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers.

Summary of Bill:

Local law enforcement agencies must:

- adopt a written policy designed to condemn and prevent motorcycle profiling;
- review and audit their existing procedures, practices, and training to ensure that they do not enable or foster the practice of motorcycle profiling;
- institute training to address the issues related to motorcycle profiling. Also, officers should be trained how to better interact with persons they stop to prevent legitimate behavior from being misinterpreted as motorcycle profiling; and
- work with motorcycle groups in their communities to appropriately address the issue of motorcycle profiling.

The WASPC and the CJTC must ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers. "Motorcycle profiling" is defined as using the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without legal basis under the United States Constitution or the Washington Constitution.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In this day and age, motorcycle profiling is back, it does occur, and it needs to stop. The legislators should not have had to pass a racial profiling bill but they did because it was the right thing to do. The passage of this motorcycle profiling bill is the right thing to do.

According to the Washington Legislature and the Washington courts, the unlawful act of profiling occurs when law enforcement targets an individual displaying characteristics of a class that an officer believes is more likely than others to commit a crime. Motorcycle profiling is occurring today and it demands legislative relief. Even on the Capitol campus, motorcycle profiling occurs each year on Black Thursday by the Washington State Patrol (WSP). In response to a letter written to the Governor and the WSP, the WSP admitted in writing to profiling because they believed that when motorcycle clubs gather there is a propensity for violence. If this type of profiling is occurring on the grounds on the Capitol campus, this tells you what is happening on the outside.

Almost every member of a motorcyclists club experiences interrogation and discrimination on a regular basis. In November 2009, the WSP admitted under oath that they have been violating a Thurston County injunction against a concept called, Basic Biker 101. This is a manual that outlines on how to target motorcyclists. The problem is that pre-textual stops are illegal in the State of Washington.

The problem with profiling is those that are getting profiled know that they are getting profiled. Those that are doing the profiling do not know they are profiling other people. Not all motorcyclists are part of a criminal gang. Some motorcyclists may carry a concealed weapon but they have been cleared and given a legal permit to carry one. In fact, most motorcyclists are legal law abiding citizens, they pay taxes, go to work, take care of their families, and support the community. There are a wide variety of motorcycle groups such as: Christian groups, female groups, Native American groups, and even charity-based groups. There is a Toy Run program that the motorcyclists participate in every December. This past year, over 1,600 motorcyclists participated in the Toy Run and raised over \$160,000 in toys, clothes, and money for the Toys for Tots and the local community.

If people are breaking the law then they should be held accountable, but 99 percent of motorcyclists belong in a motorcycle club for the freedom to ride and a desire of brotherhood. Motorcyclists are not dangerous people.

(Oppose) None.

Persons Testifying: Representative Kirby, prime sponsor; David Devereaux, Confederation of Clubs Washington; Donnie Lundsman and Cindy Gardner, American Bikers Against Totalitarian Enactments of Washington; and Neil Eckerson.

Persons Signed In To Testify But Not Testifying: Tim Mellema, American Bikers Against Totalitarian Enactments of Washington.