

HOUSE BILL REPORT

SHB 1382

As Passed House:

March 10, 1999

Title: An act relating to authorized emergency vehicles.

Brief Description: Limiting liability for police officers who do not pursue a fleeing suspect.

Sponsors: By House Committee on Judiciary (Originally sponsored by Representatives Delvin, O'Brien, Cairnes, Hurst, Eickmeyer, Schindler, McDonald, Campbell, Edmonds, Lambert, Constantine, Linville, Pennington, Pflug, Miloscia, Esser, Sheahan, Carrell and Cooper).

Brief History:

Committee Activity:

Judiciary: 2/12/99, 2/26/99 [DPS].

Floor Activity:

Passed House: 3/10/99, 97-0.

Brief Summary of Substitute Bill

- Provides a police officer immunity from liability for any damages or injuries caused by the flight of the suspect when the officer decides not to pursue or terminates pursuit of the suspect.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Lantz; Lovick; McDonald and Schindler.

Staff: Trudes Hutcheson (786-7384).

Background:

An authorized emergency vehicle is any vehicle of a fire department, police department, sheriff's office, coroner, prosecuting attorney, Washington State Patrol, ambulance service (public or private), or any other vehicle authorized as such in writing by the State Patrol.

When responding to an emergency call, pursuing an actual or suspected violator of the law, or responding to a fire alarm, the driver of an authorized emergency vehicle is permitted to exercise privileges that would otherwise be prohibited under the motor vehicle laws. For example, the driver may park in a no-parking zone, proceed past a red light, and disregard regulations governing direction of movement. A driver may also exceed the maximum speed limit "so long as he does not endanger life or property." A driver may exercise these privileges only when making use of visual signals required by law.

The privileges that a driver of an authorized emergency vehicle may exercise do not relieve the driver from the duty to drive with due regard for the safety of all persons, nor do they protect the driver from the consequences of acting in reckless disregard for the safety of others.

Courts have used "due regard for the safety of all persons" interchangeably with the duty of care for ordinary negligence. Ordinary negligence involves a breach of a duty of "reasonable care." Acting with reasonable care means acting how a reasonably careful person would act under the same or similar circumstances.

Reckless disregard for the safety of others is intentional conduct that breaches a duty to act or not act, and that is in wanton disregard of the consequences and under such circumstances that a reasonable person would know the conduct is likely to harm another person.

Generally, government entities are immune from liability for acts involving "basic policy discretion." The Washington Supreme Court has ruled that the decisions of law enforcement officers whether to begin pursuit or continue a pursuit are operational decisions and are not decisions involving basic policy discretion. Law enforcement officers may be liable for negligence in their decisions regarding pursuing suspected violators of the law.

"Police officer" is defined under the motor vehicle statutes as any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Summary of Bill:

A grant of immunity is created for police officers and their employing agencies. If a police officer decides not to pursue or terminates pursuit of an actual or suspected

violator of the law, the officer and the employing agency are not liable for any subsequent damages or injuries proximately caused by the flight of the suspect.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original bill) This bill will help address the policy concerns of police deciding whether to pursue or terminate pursuit. This bill helps to protect the officer who is trying to do his job and act reasonably. Police are in a "no win" situation and are sued regardless of what they do in these situations. This bill is reasonable and responsible and will result in a decrease of pursuits.

Testimony Against: (Original bill) If police are not held liable, they have less incentive to make good decisions. Any type of immunity will hurt the innocent victims of dangerous pursuits. What is needed instead of this bill is reasoned and sound policy at the local level regarding police pursuits.

Testified: (In support) Representative Delvin, prime sponsor; Representative O'Brien; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Jim Justin, Association of Washington Cities; Mike Patrick, Washington Council of Police and Sheriffs; and Eric Robertson, Washington State Patrol.

(Opposed) Carolyn Gabrielson, citizen; and Mark Gabrielson, citizen.