

HOUSE BILL ANALYSIS

HB 1708

Title: An act relating to investigating the causes of fatal motor vehicle accidents.

Brief Description: Investigating causes of fatal vehicle accidents.

Sponsors: Representatives Lantz, Huff, McDonald, Dickerson, Lovick, Kastama, O'Brien, Lambert, Rockefeller and Edmonds.

Brief Summary of Bill

- Requires an officer at the scene of a fatal motor vehicle accident to conduct a breath test on a person who the officer believes caused the accident by violating the rules of the road, and to forward the results of the test to the Washington State Patrol.
- Requires a hospital to forward to the Washington State Patrol any toxicology report taken from a person involved in a fatal motor vehicle accident that shows that the person may have been intoxicated at the time of the accident.
- Requires the Washington State Patrol to file, tabulate, and analyze the breath tests and toxicology reports.

HOUSE COMMITTEE ON JUDICIARY

Staff: Jim Morishima (786-7191).

Background:

I. Accident Reports

Whenever an officer investigates a motor vehicle accident in which there has been an injury or property damage over \$500, the officer must submit an accident report to the Washington State Patrol (WSP). If no officer is present to investigate the accident, the driver of any vehicle involved in such an accident must make a similar report.

The WSP must file, tabulate, and analyze the accident reports. The WSP must publish statistical information based on the reports showing: (1) the number of accidents; (2) the location, frequency, and circumstances of the accidents; and (3) other information that may be helpful in determining the causes of vehicular accidents.

The accident reports and the WSP analysis are available to the Department of Licensing, the Department of Transportation, the Utilities and Transportation Commission, the Traffic Safety Commission, and other public entities for further analysis. These entities use the reports and analysis for many purposes including the regulation of highway traffic and highway construction.

II. The Special Needs Exception

Generally, the federal and state constitutions require some amount of individualized suspicion before a law enforcement officer can conduct a search, e.g., probable cause, reasonable suspicion. In other words, random, suspicionless searches are generally unconstitutional. However, there are several types of searches that do not require any individualized suspicion. For example, suspicionless searches have been approved when the state has special needs beyond normal law enforcement that may justify departures from the usual warrant and probable cause requirements.—

In order to fit under this so-called special needs exception,— the search must be conducted for a reason other than collecting evidence for criminal prosecution. The reason must be important enough to outweigh the privacy interests of the individual being searched. Also, the method of testing must be a reasonable one, and the person searched must have a lowered expectation of privacy. Finally, there must be a showing that obtaining a warrant would be impracticable and would frustrate the state's interest in conducting the search.

Summary of Bill:

A person who operates a motor vehicle in the state is deemed to have consented to a breath test to determine his or her blood alcohol content when: (1) he or she is involved in a fatal motor vehicle accident; and (2) an officer at the scene believes that the person caused the accident by violating the rules of the road. The person may refuse to submit to the test, although such a refusal is a class 3 civil infraction. The officer at the scene must inform the person of his or her right to refuse the test as well as the penalty for the refusal. The officer may not test a person who is unconscious or otherwise incapable of taking the test. The officer must forward the results of the breath test to the WSP.

A hospital must forward to the WSP any toxicology report taken from a person involved in a fatal motor vehicle accident that shows that the person may have been under the influence of intoxicating liquor at the time of the accident.

The WSP must file, tabulate, and analyze the breath tests and toxicology reports in the same manner it files, tabulates, and analyzes accident reports. The WSP must share the breath tests, toxicology reports, and analysis thereof with the same entities with which it shares accident reports.

Fiscal Note: Requested February 11, 1999.

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

Office of Program Research