

HOUSE BILL REPORT

SHB 1113

As Passed House:
February 11, 2005

Title: An act relating to traffic control signal preemption devices.

Brief Description: Regulating traffic signal preemption devices.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Wallace, Jarrett, Fromhold, Armstrong, Moeller, Lovick, Morrell, Kilmer, Dickerson, Appleton, Wood, Ormsby, Sells and Chase).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/28/05, 2/3/05 [DPS].

Floor Activity:

Passed House: 2/11/05, 98-0.

Brief Summary of Substitute Bill

- Makes unauthorized possession of a signal preemption device a misdemeanor offense.
- Makes unauthorized selling and purchasing of a signal preemption device a gross misdemeanor offense.
- Makes it a felony offense to cause injury or death due to the unauthorized use of a signal preemption device.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Staff: Yvonne Walker (786-7841).

Background:

Optical Strobe Light Devices. The chapter governing vehicle lighting and other equipment describes "optical strobe light devices" as devices that emit optical signals at specific

frequencies to traffic control signals in order to alter the cycle of the lights. Optical strobe light devices may only be installed or used on the following classes of vehicles: (1) law enforcement or emergency vehicles in order to obtain the right-of-way at intersections; (2) the Department of Transportation, city, or county maintenance vehicles in order to perform maintenance tests; and (3) public transit vehicles in order to accelerate the cycle of the lights. A violation of these provisions is a traffic infraction.

Although there are some exceptions, generally under the chapter governing disposition of traffic infractions, a person found to have committed a traffic infraction is assessed a maximum monetary penalty of \$250.

Traffic Control Signal. The chapter governing public highways and transportation defines a "traffic control signal" as any manual, electronic, or mechanically operated traffic device by which traffic is alternately directed to stop or proceed or is otherwise controlled. Traffic control signals are designed and operated to respond to certain classes of approaching vehicles, usually emergency or transit vehicles, to give them priority in passing through an intersection. Devices which activate this priority or otherwise preempt the normal traffic signal operations have recently become more available to the general public.

Any meddling with a traffic control signal, which includes any attempt to alter, deface, injure, knock down, or remove any official traffic control signal, traffic device, or railroad sign or signal is a misdemeanor offense.

A misdemeanor offense is punishable by imprisonment in the county jail for a maximum term of not more than 90 days, or by a fine of not more than \$1,000, or both.

Summary of Substitute Bill:

It is a criminal offense to possess, sell, purchase, install, or use a signal preemption device in a vehicle, unless the vehicle is being used as an emergency vehicle authorized by the state patrol, a publicly owned law enforcement or emergency vehicle, or a public transit vehicle.

Optical Strobe Light Devices. Provisions relating to optical strobe light devices are deleted.

Signal Preemption Device. A signal preemption device is defined as a device capable of altering the normal operation of a traffic control signal. Any other device manufactured by a vehicle manufacturer is not a signal preemption device if the primary purpose of the device is any purpose other than the preemption of traffic signals and the device's ability to alter traffic signals is unintended and incidental to the device's primary purpose.

Possession of Signal Preemption Devices. Unless otherwise authorized, it is a misdemeanor offense to possess a signal preemption device. A misdemeanor offense is punishable by imprisonment in the county jail for a maximum term of not more than 90 days, or by a fine of not more than \$1,000, or both.

Selling and Purchasing of Signal Preemption Devices. It is a gross misdemeanor offense to: (1) use a signal preemption device unless authorized to do so; (2) sell a signal preemption device to a person other than someone authorized to use such a device; and (3) purchase a signal preemption device for unauthorized uses. A gross misdemeanor offense is punishable by imprisonment of not more than one year in jail, or by a fine of not more than \$5,000, or both.

Penalties for Causing an Injury Due to the Unauthorized Use of a Signal Preemption Device. *Negligently Causing an Accident.* It is an unranked class C felony offense to negligently cause an accident by the unauthorized use of a signal preemption device. Negligently causing an accident occurs when an unauthorized person uses a signal preemption device that causes an accident resulting in injury to property or to a person (victim) that does not result in substantial bodily harm.

A person convicted for an unranked felony would receive a sentence of up to one year in jail. The sentence may also include community service, legal financial obligations, a term of community supervision not to exceed one year and a fine.

Negligently Causing Substantial Bodily Harm by Use of a Signal Preemption Device. It is a seriousness level III, class B felony offense to negligently cause substantial bodily harm by the unauthorized use of a signal preemption device. Negligently causing substantial bodily harm occurs when an unauthorized person uses a signal preemption device that causes an accident that results in injury to a person (victim) that amounts to substantial bodily harm. A first-time offender with no prior criminal history would receive a presumptive sentence range of one to three months in jail.

Negligently Causing Death. It is a seriousness level VII, class B felony offense to negligently cause death by the unauthorized use of a signal preemption device. Negligently causing death occurs when an accident results in the death of a victim due to an unauthorized person using a signal preemption device. A first-time offender with no prior criminal history would receive a presumptive sentence range of 15 to 20 months in prison.

Authorized Users of Signal Preemption Devices. Exemptions exist for the use, selling, and purchasing of signal preemption devices and the criminal violations do not apply to the following:

- a law enforcement agency and law enforcement personnel in the course of providing law enforcement services;
- a fire station or a firefighter in the course of providing fire prevention or fire extinguishing services;
- an emergency medical service or ambulance in the course of providing emergency medical transportation or ambulance services;
- an operator, passenger, or owner of an authorized emergency vehicle in the course of his or her emergency duties;
- the Department of Transportation, city, or county maintenance personnel while performing maintenance;

- public transit personnel in the performance of their duties. However, public transit personnel operating a signal preemption device shall have second degree priority to law enforcement personnel, fire fighters, emergency medical personnel, and other authorized emergency vehicle personnel, when simultaneously approaching the same traffic control signal;
- a mail or package delivery service or employee or agent of a mail or package delivery service in the course of shipping or delivering a signal preemption device; and
- an employee or agent of a signal preemption device manufacturer or retailer in the course of his or her employment in providing, selling, manufacturing, or transporting a signal preemption device to an authorized individual or agency.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Police and fire trucks on their way to an emergency often use traffic preemption signal devices to change traffic signals as a means of getting through large amounts of traffic. Traffic signal devices are about the size of a small palm pilot and normally sit on the top of the dashboard of most vehicles.

Recently these devices which change the sequence of the lights are now being sold via the internet for approximately \$300 a piece. The companies that sell these items even market them to expecting fathers. Unauthorized use of these devices cause congestion on busy roads and can often take up to six minutes for the traffic lights to get back into its normal sequence of operation. There have been accidents that have occurred where the signal devices have been found right on the dashboard of the vehicle that caused the incident.

This is a proactive bill to take care of issues in the future and is essential for the safe and efficient operation of traffic signals.

(In support with concerns) An amendment needs to be added to the bill to ensure that manufacturers of automobiles are not held liable for devices that they develop to help enhance night vision or to be able to help those that drive on foggy days.

Testimony Against: None.

Persons Testifying: (In support) Representative Wallace, prime sponsor; Scott Zeller, Washington State Department of Transportation; Fred Fakkema, Washington State Patrol; and Peter Thein, Washington State Transit Association.

(In support with concerns) Tim Layton, General Motors Corporation.

Persons Signed In To Testify But Not Testifying: None.