

# SENATE BILL REPORT

## SB 5264

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As of February 26, 2013

**Title:** An act relating to the transportation and storage of certain explosive devices.

**Brief Description:** Concerning the transportation and storage of certain explosive devices.

**Sponsors:** Senators Benton, Mullet, Baumgartner and Sheldon.

**Brief History:**

**Committee Activity:** Transportation: 2/25/13.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Kim Johnson (786-7472)

**Background:** The U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulates the storage of explosives. The Washington State Explosives Act, administered by the Department of Labor and Industries (L&I), governs the transportation, storage, and use of explosive devices in Washington. State and local governmental agencies must store and transport explosives in conformity with both federal and state law.

Federal and state law require that explosive devices be stored in an appropriate type of magazine, depending on the quantity and type of explosive involved. A magazine is any building or structure, other than an explosives manufacturing building, used for storage of explosive materials. Magazines are rated for different types of explosives and their construction and security mechanisms are set out in federal and state law. In Washington, L&I licenses the storage of explosive devices and conducts an annual inspection of the storage magazine.

L&I also licenses the use of explosives in Washington State. Law enforcement officers conducting a blasting operation must have a List A blaster's license. Additionally, under L&I regulation the use by law enforcement officers of diversionary devices and crowd control devices, known as stingers, requires a handler's test. Tactical entry or breaching by law enforcement officers requires taking a tactical entry test administered by L&I. However, the Washington State Explosives Act and L&I regulations do not apply to emergency operations of any police department.

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Explosive actuated tactical devices (EATDs) may or may not contain flash powder. EATDs that contain flash powder include noise and flash diversionary devices (NFDD) also known as flash bangs, and powder blast grenades also known as stingers. Non-flash powder EATDs generally contain a low explosive fuse or other low explosive pyrotechnic material. These devices typically expel smoke or an irritant such as tear gas and are commonly known as pyrotechnic smoke and gas grenades, aerosol grenades, and blast grenade irritants. EATDs are typically used by law enforcement officers in hostage situations, for executing search warrants, and in controlling crowds that threaten public safety. Under current published state and federal law, local law enforcement officers are not authorized to store certain tactical explosive devices in a standard department-issue police vehicle.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The transportation and storage of EATDs, including NFDDs, by local law enforcement tactical response teams and officers in law enforcement department-issued vehicles are exempt from the Washington State Explosives Act and the regulation of L&I, so long as the devices are stored and secured in compliance with the regulations and rulings adopted by ATF.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: My duty as the commander assigned to the special operations and SWAT is to ensure that the transportation and storage of explosive devices is done in a manner that ensures public safety. I hold my team and myself to the highest standards. This bill would require tactical teams and officers to follow ATF rulings on the transport and storage of these devices in tactical squad vehicles. These devices would be in a specially constructed container, that has specific lock and security requirements and is bolted to the vehicle. There will be annual audits and inventory performed on these devices, including reports of loss or any theft. Currently Washington State tactical officers are unable to store these devices in their official vehicle. There needs to be a change to address the public safety need to deal with emergency situations where an explosive tactical device could make a difference. In emergency situations, seconds and minutes matter and waiting for the full tactical team van to arrive on site before being able to deploy these tactical devices causes unnecessary delay and could mean the difference between life and death. This bill will provide a balanced way to allow tactical teams to have access to the tools they need while ensuring a strong system of accountability and security. This bill provides clarity to ensure that these devices are transported safely.

**Persons Testifying:** PRO: Michael McCabe, Pete Muller, Clark County Sheriff's Office, WA Council of Police and Sheriffs (WACOPS); Jeff Olson, Vancouver Police, WACOPS; Jeff Selleg, Port of Seattle Police, WACOPS.