

SENATE BILL REPORT

SB 5534

As of February 14, 2013

Title: An act relating to assessing penalties on motor vehicle-related violations in order to support the Washington state strategic highway safety plan.

Brief Description: Assessing a penalty on certain motor vehicle-related violations to provide funding for the Washington state strategic highway safety plan.

Sponsors: Senators Rolfes and Billig.

Brief History:

Committee Activity: Transportation: 2/13/13.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kim Johnson (786-7472)

Background: Federal law requires that each state have a Strategic Highway Safety Plan. Washington's plan, called Target Zero, has been in place since 2000 and was last updated in 2010. The statewide plan identifies Washington State's traffic safety needs and helps to guide investments in an attempt to achieve significant reductions in traffic fatalities and serious injuries on all public roads. Currently, the Washington Traffic Safety Commission (WTSC) manages a network of 23 local Target Zero managers who work to implement the Target Zero plan in their communities. The local managers are currently funded by both state and federal dollars.

The following are motor vehicle related crimes and the possible punishments that may be levied by the court:

- Vehicular homicide is a class A felony and is punishable by confinement for a term of life, or by a \$50,000 fine, or by both.
- Vehicular assault and hit and run involving a death are class B felonies and are punishable by confinement for a period of ten years, or by a \$20,000 fine, or by both.
- Hit and run involving an injury and attempting to elude a police vehicle are class C felonies and are punishable by a term of confinement for a period of five years, or by a \$10,000 fine, or both.
- Driving while license suspended, DUI, physical control of a vehicle while under the influence, hit and run involving striking a deceased person, circumventing an ignition

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- interlock, racing of vehicles, and reckless driving are gross misdemeanors and are punishable by imprisonment for up to 364 days, up to a \$5,000 fine, or by both.
- Negligent driving in the first degree, driving or being in control of a motor vehicle after consuming alcohol or marijuana under age 21, and hit and run involving unattended property are misdemeanors and are punishable by imprisonment in the county jail for not more than 90 days, up to a \$1,000 fine, or by both.

Additionally, there are a number of statutory penalty assessments that are levied on top of the base penalty imposed for conviction for certain crimes. For example, there is an alcohol violators assessment levied on persons convicted of certain motor vehicle related crimes involving alcohol. The assessment is \$200 and is distributed to various entities for purposes that include funding the state toxicology laboratory blood or breath testing program and to the State Patrol and WTSC to fund programs that help to reduce alcohol related accidents and deaths.

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

Summary of Bill (Proposed Substitute): Superior and district courts must impose a penalty assessment of \$100 on any person who is convicted for a violation of any of the following motor vehicle related crimes: vehicular homicide; vehicular assault; hit and run involving death, injury, a deceased person, or damage to unattended property; driving while license suspended; attempting to allude a police vehicle; DUI; physical control of a vehicle while under the influence; racing; reckless driving; being in control of a motor vehicle after consuming alcohol or marijuana while under age 21; and negligent driving in the first degree.

The court is prohibited from reducing, waiving, or suspending the penalty assessment, unless the court finds the offender to be indigent.

The penalty assessment must be forwarded to the city or county in which the court imposing the assessment is located and must be used solely for the purposes of funding the following programs according to the following priorities:

- Priority 1: traffic safety taskforces that provide education, prevention, and enforcement programs designed to reduce motor vehicle related deaths and serious injures; or
- Priority 2: effective strategies to reduce motor vehicle related deaths and serious injuries, such as those listed in the Target Zero safety plan.

If a city or county does not have one of these programs, then the city or county may use the revenue from the penalty assessment to establish a program or contract for such a program. A city or county may not use the funds from the penalty assessment for indigent criminal defense.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 13, 2013.

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: Twenty-one people were killed in motor vehicle accidents in Kitsap County last year. One death is one too many. Our taskforce includes over 17 law enforcement agencies, in addition to local schools, military, hospitals, and prosecutor offices who are also members. Funds coming to the taskforces will be used in our area to continue to fund our dedicated Target Zero team which is comprised of law enforcement officers whose sole job is to arrest impaired drivers in areas where we have the most fatalities. We would enhance our party intervention patrols and continue our post-arrest interventions to help kids and parents to get educated on the dangers of DUI. My daughter was killed by a drunk driver. We have been invited to participate in important DUI prevention efforts since her death. From 2006 to 2010 an average of 29 citizens were killed per year by a drunk driver in Pierce County. That number in 2011 was 17. That means there were 12 fewer families destroyed last year by a drunk driver. We think it is fair and fitting that the people who continue to violate traffic laws help to pay for these critical safety programs. These local programs are stretched very thin financially and some managers were even spending their own money to keep things afloat. Think globally, act locally. WTSC supports this bill. We could not do our work without these folks on the ground coordinating local efforts to implement these critical traffic safety programs.

CON: We oppose using criminal penalties as a funding mechanism for state and local programs. In particular, the worst part of the bill is that it is primarily funded by placing a \$100 penalty assessment on what is known as driving while license suspended in the third degree, as this is by far and away where the bulk of the criminal prosecutions under this bill will be. This crime is also known as driving while poor. The Legislature would be adding yet another fine on people, who are in court primarily because they couldn't pay a traffic ticket, which is how their license was suspended in the first place. While we support the traffic safety programs mentioned in the bill, we cannot support this bill or the policy of using the criminal justice system as a revenue-generating machine.

Persons Testifying: PRO: Marsha Masters, Kitsap Target Zero Task Force; Gloria Averill-Mansfield, Pierce Co. Target Zero Task Force; Frank Blair, Tony Gomez, King County Target Zero Task Force; Steve Lind, WTSC.

CON: Steve Brown, WA State District and Municipal Court Judges Assn.