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**SENATE BILL 5572**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Valdez, Kauffman, Kuderer, Nguyen, Nobles, and C. Wilson

AN ACT Relating to improving traffic safety by addressing compliance, enforcement, and data collection; amending RCW 46.20.349, 46.37.005, 46.37.320, 46.37.365, 46.37.470, 46.64.030, and 46.64.070; adding a new section to chapter 46.64 RCW; adding a new section to chapter 10.118 RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds the following:

(a) The state of Washington and its political subdivisions undertake to protect the safety of all individuals who use public roadways, including people who drive, bike, walk, and roll;

(b) Focusing enforcement resources on high-risk behavior such as impaired driving, distracted driving, unrestrained passengers, and speeding, has been shown to reduce traffic accidents and fatalities;

(c) Research shows that prioritizing safety stops reduces traffic crash and injury outcomes and reduces racial disparities in traffic stops;

(d) Limited law enforcement resources are most effective when focused on highest risk behavior, and enforcement only through citations, fines, and fees is not proven to improve road safety and further entangles many low-income road users in the criminal and debt collection systems, causing financial hardship and harming their ability to drive to work and contribute to the economic vitality of the state;

(e) National and local data show that high discretion, low-risk traffic violations, including those that are unrelated to road safety, fall disproportionately on black, brown, and indigenous road users, as well as low-income road users and people with older vehicles; and

(f) Biased traffic stops result in a decreased sense of safety for all road users and law enforcement.

(2) As a result of these findings, the legislature has a compelling interest in managing public safety resources to address vehicle violations that impact road safety, and to reduce punitive enforcement of high-discretion traffic violations, so that road safety is improved for all road users.

NEW SECTION. **Sec.**  Subject to the availability of amounts appropriated for this specific purpose, a grant program is established. The Washington traffic safety commission shall develop and implement a grant program to support local initiatives that provide solution-oriented responses to nonmoving violations for low-income road users. The commission must prioritize the award of grants to local initiatives that expand or establish civilian intervention programs for nonmoving violations, and focus on nonpunitive interventions such as helmet voucher programs, fee offset programs, fix-it tickets, and repair vouchers that provide solutions for vehicle equipment failures for low-income road users.

(1) Grants must be awarded to local jurisdictions based on locally developed proposals to establish or expand existing programs, including programs with community-lead organizations. Eligible jurisdictions under the grant program include cities, counties, tribal government entities, tribal organizations, or nonprofit organizations.

(2) The commission shall report on its website by December 1st of each year on the recipients, locations, and types of projects funded under this program.

(3) Beginning September 1, 2024, and biennially thereafter, the commission shall provide a report to the governor and the transportation committees of the legislature detailing findings on the effectiveness of programs funded under this section and any recommendations for enhancements or modifications to the grant program established under this section.

NEW SECTION. **Sec.**  A new section is added to chapter 46.64 RCW to read as follows:

(1)(a) Except as provided in (b) of this subsection, a peace officer may not stop, or otherwise detain, an operator of a vehicle to enforce one or more of the following violations:

(i) Any nonmoving violation;

(ii) Driving while license suspended or revoked in the third degree under RCW 46.20.342(1)(c) (ii), (iv), (v), or (viii); or

(iii) Any warrant for a misdemeanor, other than a misdemeanor warrant for driving under the influence under RCW 46.61.502 or a domestic violence violation, or a civil court order.

(b)(i) A peace officer may only stop or detain an operator of a vehicle when the primary reason for the stop is an equipment failure violation when necessary to protect against an immediate, serious threat to the safety of the operator or others on the roadway.

(ii) Prior to stopping the operator of the vehicle under this subsection (1)(b), the peace officer must log digitally or notify dispatch of the primary reason for the stop before initiating, including a detailed description of the immediate, serious threat to the safety of the operator or others on the roadway.

(iii) Upon first contact with the operator of the vehicle during a stop under this subsection (1)(b), the peace officer must inform the operator of the reason for the stop, and may not request a consent search of the operator, any passengers, or the vehicle. The peace officer may not question the operator or any passenger of the vehicle on a subject other than the equipment failure violation that initiated the stop, unless the peace officer sees evidence in plain view that establishes reasonable suspicion sufficient to question the operator about an independent criminal offense.

(2)(a) Prior to stopping or detaining the operator of a vehicle for a moving violation, a peace officer must log digitally or notify dispatch of the primary reason for the stop before initiating.

(b) Upon first contact with the operator of the vehicle, the peace officer must inform the operator of the reason for the stop.

(c) For moving violations that are infractions or simple misdemeanors, the peace officer may not request a consent search of the operator of the vehicle, any passengers, or the vehicle. The peace officer may not question the operator of the vehicle or any passenger on a subject other than the moving violation that initiated the stop, unless the peace officer sees evidence in plain view that establishes reasonable suspicion sufficient to question the operator about an independent criminal offense.

(3) Before engaging in any consent search of a vehicle, the operator, or any passengers that is not prohibited under subsection (1) or (2) of this section, the peace officer must obtain written consent. To obtain consent, the peace officer must provide the operator and any passengers with an oral explanation and a written consent form that explains the purpose of the search, that the search is voluntary, that such persons may ask to speak with an attorney, and that such persons may choose not to consent to the search or decline the search at any point. The form must state explicitly that such persons will not be punished or suffer retaliation for not consenting or declining to be searched. The form must be available at least in English and Spanish and explained orally to a person who is unable to read the form, using, when necessary, an interpreter from the district communications center language line or other agency resources.

(4) Any evidence recovered during a stop, detention, or search made in violation of this section is inadmissible in any criminal proceeding.

(5) For purposes of this section:

(a) "Immediate, serious threat to the safety of the operator or others on the roadway" means that, based on the totality of the circumstances, it is reasonable for an objective observer to believe that an equipment failure on the vehicle may cause immediate, serious injury to the operator or other persons in the vicinity of the vehicle. Depending on the circumstances, such an immediate threat may include, but is not limited to: Having both taillights, headlights, or brake lights out at nighttime; a shattered windshield impairing the operator's ability to see; or a dragging muffler.

(b) "Moving violation" is defined by rule pursuant to RCW 46.20.2891.

(c) "Nonmoving violation" means any parking violation, equipment violation, or paperwork violation relating to insurance, registration, licensing, and inspection.

(d) "Peace officer" has the same meaning as in RCW 43.101.010.

(e) "Vehicle" has the same meaning as in RCW 46.04.670, but does not include any commercial motor vehicle as defined in RCW 46.32.005.

NEW SECTION. **Sec.**  A new section is added to chapter 10.118 RCW to read as follows:

(1) Each peace officer in the state as defined in RCW 43.101.010 must report each incident when they stop or detain an operator of a vehicle. Each report must include the following information:

(a) The date, time, location (address, latitude and longitude, or GPS information), and duration of the incident;

(b) The primary reason for the stop, and whether it was peace officer-initiated or in response to a call for service from the public;

(c) The perceived or known age, gender, race, ethnicity of the operator of the vehicle, and tribal affiliation of the operator, if applicable, and the language of interpretation used, if applicable;

(d) Make, model, and year of the vehicle;

(e) The agency or agencies employing the peace officer;

(f) The name, approximate age, gender, race, and ethnicity of the peace officer;

(g) Whether a consent search was requested, and whether the operator or any passengers provided or declined written consent to the search request;

(h) Whether a search was conducted, and if so, who and what was searched, and whether the search was conducted pursuant to a warrant, written consent, or an exception to the warrant requirement with a description of the basis for the exception;

(i) Whether the vehicle, personal effects, operator, or any passengers were searched, and the approximate age, gender, race, and ethnicity, if known, or tribal affiliation if applicable, of each person searched;

(j) Whether any property was seized, with a specific description of that property, or whether any contraband such as a firearm, other weapon, or narcotics was found and the specific type, size, and amount of any such contraband as applicable;

(k) Whether the stop resulted in no action, the issuance of a verbal warning, written warning, or citation, an arrest, or other action; and

(l) Whether dashboard or body worn camera footage was recorded for the incident.

(2) Each law enforcement agency in the state must submit the reports required under this section in accordance with the requirements of the statewide use of force data program under RCW 10.118.030.

(3) For the purposes of this section, "vehicle" has the same meaning as in RCW 46.04.670, but does not include any commercial motor vehicle as defined in RCW 46.32.005.

**Sec.**  RCW 46.20.349 and 2010 c 8 s 9026 are each amended to read as follows:

((~~Any~~)) Subject to section 3 of this act, any police officer who has received notice of the suspension or revocation of a driver's license from the department of licensing may, during the reported period of such suspension or revocation, stop any motor vehicle identified by its ((~~vehicle~~)) license plate number as being registered to the person whose driver's license has been suspended or revoked. The driver of such vehicle shall display his or her driver's license upon request of the police officer.

**Sec.**  RCW 46.37.005 and 1987 c 330 s 706 are each amended to read as follows:

((~~In~~)) Subject to section 3 of this act, in addition to those powers and duties elsewhere granted, the chief of the Washington state patrol shall have the power and the duty to adopt, apply, and enforce such reasonable rules and regulations (1) relating to proper types of vehicles or combinations thereof for hauling passengers, commodities, freight, and supplies, (2) relating to vehicle equipment, and (3) relating to the enforcement of the provisions of this title with regard to vehicle equipment, as may be deemed necessary for the public welfare and safety in addition to but not inconsistent with the provisions of this title.

The chief of the Washington state patrol is authorized to adopt by regulation, federal standards relating to motor vehicles and vehicle equipment, issued pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, or any amendment to said act, notwithstanding any provision in Title 46 RCW inconsistent with such standards. Federal standards adopted pursuant to this section shall be applicable only to vehicles manufactured in a model year following the adoption of such standards.

**Sec.**  RCW 46.37.320 and 1987 c 330 s 717 are each amended to read as follows:

(1) ((~~The~~)) Subject to section 3 of this act, the chief of the state patrol is hereby authorized to adopt and enforce rules establishing standards and specifications governing the performance of lighting devices and their installation, adjustment, and aiming, when in use on motor vehicles, and other safety equipment, components, or assemblies of a type for which regulation is required in this chapter or in rules adopted by the state patrol. Such rules shall correlate with and, so far as practicable, conform to federal motor vehicle safety standards adopted pursuant to the national traffic and motor vehicle safety act of 1966 (15 U.S.C. Sec. 1381 et seq.) covering the same aspect of performance, or in the absence of such federal standards, to the then current standards and specifications of the society of automotive engineers applicable to such equipment: PROVIDED, That the sale, installation, and use of any headlamp meeting the standards of either the society of automotive engineers or the United Nations agreement concerning motor vehicle equipment and parts done at Geneva on March 20, 1958, or as amended and adopted by the Canadian standards association (CSA standard D106.2), as amended, shall be lawful in this state.

(2) Every manufacturer who sells or offers for sale lighting devices or other safety equipment subject to requirements established by the state patrol shall, if the lighting device or safety equipment is not in conformance with applicable federal motor vehicle safety standards, provide for submission of such lighting device or safety equipment to any recognized organization or agency such as, but not limited to, the American national standards institute, the society of automotive engineers, or the American association of motor vehicle administrators, as the agent of the state patrol. Issuance of a certificate of compliance for any lighting device or item of safety equipment by that agent is deemed to comply with the standards set forth by the state patrol. Such certificate shall be issued by the agent of the state before sale of the product within the state.

(3) The state patrol may at any time request from the manufacturer a copy of the test data showing proof of compliance of any device with the requirements established by the state patrol and additional evidence that due care was exercised in maintaining compliance during production. If the manufacturer fails to provide such proof of compliance within ((~~sixty~~)) 60 days of notice from the state patrol, the state patrol may prohibit the sale of the device in this state until acceptable proof of compliance is received by the state patrol.

(4) The state patrol or its agent may purchase any lighting device or other safety equipment, component, or assembly subject to this chapter or rules adopted by the state patrol under this chapter, for purposes of testing or retesting the equipment as to its compliance with applicable standards or specifications.

**Sec.**  RCW 46.37.365 and 1987 c 330 s 719 are each amended to read as follows:

(1) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

(2) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

(3) ((~~The~~)) Subject to section 3 of this act, the chief of the Washington state patrol shall, in compliance with ((~~the provisions of~~)) chapter 34.05 RCW, ((~~the administrative procedure act, which govern the adoption of rules,~~)) adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the society of automotive engineers applicable to such fluid.

(4) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section and the standard specifications adopted by the state patrol. No person shall service any vehicle with brake fluid unless it complies with the requirements of this section and the standards and specifications adopted by the state patrol.

(5) Subsections (3) and (4) of this section shall not apply to petroleum base fluids in vehicles with brake systems designed to use them.

**Sec.**  RCW 46.37.470 and 2021 c 65 s 51 are each amended to read as follows:

(1) "Air conditioning equipment," as used or referred to in this section, means mechanical vapor compression refrigeration equipment that is used to cool the driver's or passenger compartment of any motor vehicle.

(2) Air conditioning equipment must be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public. Air conditioning equipment may not contain any refrigerant that is toxic to persons or that is flammable, unless the refrigerant is allowed under the department of ecology's motor vehicle emission standards adopted under RCW 70A.30.010.

(3) ((~~The~~)) Subject to section 3 of this act, the state patrol may enforce safety requirements, regulations, and specifications consistent with the requirements of this section applicable to air conditioning equipment which must correlate with and, so far as possible, conform to the current recommended practice or standard applicable to air conditioning equipment approved by the society of automotive engineers.

(4) A person may not sell or equip, for use in this state, a new motor vehicle with any air conditioning equipment unless it complies with the requirements of this section.

(5) A person may not register or license for use on any highway any new motor vehicle equipped with any air conditioning equipment unless the equipment complies with the requirements of this section.

**Sec.**  RCW 46.64.030 and 1979 ex.s. c 28 s 3 are each amended to read as follows:

((~~The~~)) Subject to section 3 of this act, the provisions of this title with regard to the apprehension and arrest of persons violating this title shall govern all police officers in making arrests without a warrant for violations of this title for offenses either committed in their presence or believed to have been committed based on probable cause pursuant to RCW 10.31.100, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for other like offenses.

**Sec.**  RCW 46.64.070 and 1999 c 6 s 26 are each amended to read as follows:

To carry out the purpose of RCW 46.64.060 and ((~~46.64.070~~)) subject to section 3 of this act, officers of the Washington state patrol are hereby empowered during daylight hours and while using plainly marked state patrol vehicles to require the driver of any motor vehicle being operated on any highway of this state to stop and display his or her driver's license and/or to submit the motor vehicle being driven by such person to an inspection and test to ascertain whether such vehicle complies with the minimum equipment requirements prescribed by chapter 46.37 RCW, as now or hereafter amended. No criminal citation shall be issued for a period of ten days after giving a warning ticket pointing out the defect.

The powers conferred by ((~~RCW 46.64.060 and 46.64.070~~)) this section are in addition to all other powers conferred by law upon such officers((~~,~~)) including, but not limited to, powers conferred upon them as police officers pursuant to RCW 46.20.349 and powers conferred by chapter 46.32 RCW.

NEW SECTION. **Sec.**  The provisions of this act must be liberally construed to accomplish their purpose, and if any provision of this act conflicts with any other statute, ordinance, rule, or regulation of any public employer, the provision of this act controls.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**