

ESHB 1493 - S AMD TO TRAN COMM AMD (S-5448.1/24) **810**
By Senator Lovelett

ADOPTED 02/29/2024

1 On page 78, after line 5, insert the following:

2 "NEW SECTION. **Sec. 33.** A new section is added to chapter 46.61
3 RCW to read as follows:

4 (1) Any law enforcement agency utilizing oral fluid roadside
5 information as part of the enforcement of driving under the influence
6 laws must ensure the following:

7 (a) The oral fluid test instrument or instruments to be used are
8 valid and reliable;

9 (b) Any peace officer who may administer an oral fluid test is
10 properly trained in the administration of the test;

11 (c) Prior to administering the test, the administering peace
12 officer advises the subject of the following information:

13 (i) The test is voluntary, and does not constitute compliance
14 with the implied consent requirement of RCW 46.20.308;

15 (ii) Test results may not be used against the person in a court
16 of law; and

17 (iii) Submission to the test is not an alternative to any
18 evidentiary breath or blood test; and

19 (d) The law enforcement agency establishes policies to protect
20 personally identifying information from unnecessary and improper
21 dissemination including, but not limited to:

22 (i) Destruction of biological samples from oral fluid tests as
23 soon as practicable after collection of test results; and

24 (ii) Prohibitions against entering DNA samples or results from
25 such tests into any database.

26 (2) Any law enforcement agency administering an oral fluid
27 roadside test as authorized in this section or section 1 of this act
28 is strictly liable for (a) any failure to destroy biological samples
29 from such tests within 24 hours or (b) unlawful entry of DNA samples
30 or results from such tests into any database."

1 Renumber the remaining sections consecutively and correct any
2 internal references accordingly.

3 On page 78, line 18, after "10.05 RCW;" insert "adding a new
4 section to chapter 46.61 RCW;"

EFFECT: Establishes requirements for the use of oral fluid roadside tests and instruments used as part of the enforcement of driving under the influence laws.

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