

SENATE BILL REPORT

SB 5071

AS OF FEBRUARY 3, 1992

Brief Description: Authorizing sobriety checkpoint programs.

SPONSORS: Senators Nelson, Rasmussen, Oke, Roach, Bailey, Craswell, Thorsness, McCaslin, Johnson, Barr, Anderson and Conner.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lidia Mori (786-7755)

Hearing Dates: February 4, 1992

BACKGROUND:

In 1983, the City of Seattle Police Department instituted a sobriety checkpoint program. Roadblocks were set up in geographical areas where there had been a high number of DWI incidents reported. The officers stopped all vehicles, requested the drivers to produce their driver's license, and then observed the drivers for evidence of intoxication. Slightly less than 1 percent of the drivers were arrested for DWI.

The Washington State Supreme Court held, in Seattle v. Messiani, 110 Wn.2d 454 (1988), that the sobriety checkpoint program violated both Article 1, section 7 of the Washington State Constitution and the Fourth Amendment of the United States Constitution. The court held that the program utilized warrantless searches without the "authority of law" as required by the Washington Constitution.

Using a balancing test the Supreme Court further held that the program violated the Fourth Amendment because of the lack of statutory constraints, the invasion of privacy interests, and the highly intrusive nature of the searches. However, in a concurring opinion, Justice Dolliver suggested that a program authorized by statute would be permissible under both the state and federal Constitutions.

The United States Supreme Court recently ruled, in Michigan Department of State Police v. Sitz, Slip Opinion 88-1897 (June 14, 1990), that a Michigan sobriety checkpoint program with guidelines governing operations, site selection, and publicity was a constitutional program consistent with the Fourth Amendment. The Supreme Court found that stopping a vehicle (a "seizure") is reasonable when balanced with the program's minimal intrusion and effectiveness.

SUMMARY:

The Washington State Patrol and local law enforcement agencies are authorized to establish sobriety checkpoint programs. The programs must meet statutory minimum standards and guidelines.

The statutory criteria include: training, site selection, hours of operation, visibility of officers, minimal delays, adequate on-site warnings, a method of random selection, prior public notice, and the prior issuance of an area-wide search warrant.

Appropriation: none

Revenue: none

Fiscal Note: requested