

SENATE BILL REPORT

SB 6316

As Passed Senate, February 14, 2020

Title: An act relating to prohibiting the consideration of the number of citations for traffic infractions issued by a law enforcement officer in the performance review of the officer.

Brief Description: Prohibiting the consideration of the number of citations for traffic infractions issued by a law enforcement officer in the performance review of the officer.

Sponsors: Senators Holy, Pedersen, Padden, Dhingra, Hasegawa and Lovelett.

Brief History:

Committee Activity: Law & Justice: 1/28/20, 1/30/20 [DP].

Floor Activity:

Passed Senate: 2/14/20, 47-0.

Brief Summary of Bill

- A law enforcement officer's evaluation, rating, salary, or promotion must not consider the number of traffic infractions issued or the amount of penalties produced from the traffic infractions issued.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Melissa Burke-Cain (786-7755)

Background: Employers often collect data on specific metrics as a way to set performance goals or measure their employees' performance. For law enforcement officers, written or unwritten traffic ticket quotas used as a performance metric generated complaints of unfair labor practices and lawsuits in a number of jurisdictions. A 2005 Massachusetts appellate decision found ticket quotas violated state laws giving officers discretion to issue traffic infractions. Police officer lawsuits, including class action suits, challenged the traffic ticket quota systems in Los Angeles, New York City, Missouri, and other locations.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Ticket quotas are not a new issue. Some jurisdictions address it by directing the proceeds of traffic infraction penalties to a general fund to remove any incentive from local jurisdictions to issue as many tickets as possible as a revenue generator. Other jurisdictions directly ban law enforcement traffic ticket quotas including their use to assess officer performance or a basis for promotion.

While this is not a complete list, Illinois, New Jersey, California, Rhode Island, Missouri, New York, Texas, Nebraska, Pennsylvania, North Carolina, Tennessee, and Oklahoma have all enacted laws prohibiting ticket quotas. Florida enacted a similar law, but it only applies to state police. In 2015, Arizona's legislature enacted a similar law, but the governor vetoed it.

Traffic ticket quotas continue as an on-going issue. Most recently, on January 4, 2020, the Chattanooga Press reported that the Tennessee Bureau of Investigation (TBI) concluded an investigation of the Collegedale police, after a former police officer filed a lawsuit alleging he was fired for not meeting traffic ticket quotas. Subsequently, three more officers filed a suit alleging they were fired for cooperating with the TBI's investigation. The TBI findings are under review by the district attorney's office.

Summary of Bill: A law enforcement officer's performance review, evaluation, rating, assessment, salary, promotion or assignment must not consider the number of traffic citations issued by the officer for traffic infractions, or the amount of penalties assessed from issuing traffic infractions.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Police officers must avoid the appearance of impropriety. This bill helps avoid the suspicion from the public that traffic infractions are issued to generate revenue for the local jurisdiction. This same bill failed to advance in the senate in 2016. Opponents of this bill say that the number of traffic citations issued is an evaluation tool to ensure the officer is working, but there are many tasks that officers perform besides issuing citations, and many other ways to assess officer performance besides the number of traffic citations issued. Traffic infraction revenue goes 30 percent to the state and the remainder to the local jurisdiction. When two-thirds of the proceeds go to the local jurisdiction, it gives an appearance of impropriety. Barring use of the number of tickets in evaluations, as this bill does, would disrupt the local jurisdiction's sustained source of income. Any quota is counter to good law enforcement services. The officer learns proper exercise of discretion through training and experience. Sometimes a warning is more effective to change behavior than a citation. The concern should be the outcome of the interaction, not a number. Police officers follow orders and when a number is expected we will strive to meet that number. But good policing is not an assembly line; it requires the exercise of professional discretion. Maybe the number of widgets produced on an assembly

line is an appropriate metric for that job, but law enforcement work has too many variables to make a number an effective performance measure.

CON: The Washington State Patrol (WSP) does not have quotas and the number of traffic infractions issued does not affect WSP's revenue. Traffic enforcement is part of WSP's work, and the number of traffic infractions issued is used in evaluations. We expect a higher number of accident-causing behaviors to be ticketed. If we are prohibited from using this measure in evaluating trooper performance we will not have the opportunity to point out performance that needs improvement because too many citations are issued or not enough citations are being issued. For local law enforcement, traffic infractions are not issued to generate revenue. Traffic citations impact driver behavior. It is a slippery slope that reduces the ability to deal with under performing officers. The bill itself puts undue pressure on agencies and makes undue implications. If there is a quota, it would be embarrassing but if we know about such situations we will address them.

Persons Testifying: PRO: Senator Jeff Holy, Prime Sponsor; Jeff DeVere, Washington Council of Police and Sheriffs.

CON: James McMahan, Washington Association of Sheriffs and Police Chiefs; John Snaza, Thurston County Sheriff; Neil Weaver, Captain, Washington State Patrol.

Persons Signed In To Testify But Not Testifying: No one.