

SB 5352 - S AMD **215**
By Senator Dhingra

ADOPTED 03/08/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 10.116.060 and 2021 c 320 s 7 are each amended to
4 read as follows:

5 (1) A peace officer may not engage in a vehicular pursuit,
6 unless:

7 (a) ((+i))) There is ((probable cause)) reasonable suspicion to
8 believe that a person in the vehicle has committed or is committing
9 ((a)):

10 (i) A violent offense ((or)) as defined in RCW 9.94A.030;
11 (ii) A sex offense as defined in RCW 9.94A.030((, or an));
12 (iii) A vehicular assault offense under RCW 46.61.522;
13 (iv) An assault in the first, second, third, or fourth degree
14 offense under chapter 9A.36 RCW only if the assault involves domestic
15 violence as defined in RCW 10.99.020;

16 (v) An escape under chapter 9A.76 RCW; or
17 ((ii) There is reasonable suspicion a person in the vehicle has
18 committed or is committing a)) (vi) A driving under the influence
19 offense under RCW 46.61.502;

20 (b) The pursuit is necessary for the purpose of identifying or
21 apprehending the person;

22 (c) The person poses ((an imminent threat to the safety of)) a
23 serious risk of harm to others and the safety risks of failing to
24 apprehend or identify the person are considered to be greater than
25 the safety risks of the vehicular pursuit under the circumstances;
26 and

27 (d) (i) Except as provided in (d)(ii) of this subsection, the
28 ((officer has received authorization to engage in the pursuit from))
29 pursuing officer notifies a supervising officer ((and)) immediately
30 upon initiating the vehicular pursuit; there is supervisory
31 ((control)) oversight of the pursuit((. The)); and the pursuing
32 officer, in consultation with the supervising officer ((must

~~consider), considers alternatives to the vehicular pursuit ((The supervisor must consider))~~, the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle ((and the vehicular pursuit must be terminated if any of the requirements of this subsection are not met));

(ii) For those jurisdictions with fewer than 10 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer ((will request)) requests the on-call supervisor be notified of the pursuit according to the agency's procedures ((The)), and the pursuing officer ((must consider)) considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle. ((The officer must terminate the vehicular pursuit if any of the requirements of this subsection are not met.))

(2) ((A pursuing)) In any vehicular pursuit under this section:

(a) The pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit ((and comply));

(b) The supervising officer, the pursuing officer, or dispatcher shall notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit or called upon to assist with the vehicular pursuit, and the pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable;

(c) The pursuing officer must be able to directly communicate with other officers engaging in the pursuit, the supervising officer, if applicable, and the dispatch agency, such as being on a common radio channel or having other direct means of communication;

(d) As soon as practicable after initiating a vehicular pursuit, the pursuing officer, supervising officer, if applicable, or responsible agency shall develop a plan to end the pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or

1 other tire deflation devices, or other department authorized pursuit
2 intervention tactics; and

3 (e) The pursuing officer must have completed an emergency vehicle
4 operator's course, must have completed updated emergency vehicle
5 operator training in the previous two years, where applicable, and
6 must be certified in at least one pursuit intervention option.

7 (3) A vehicle pursuit not meeting the requirements under this
8 section must be terminated.

9 ((+3))) (4) A peace officer may not fire a weapon upon a moving
10 vehicle unless necessary to protect against an imminent threat of
11 serious physical harm resulting from the operator's or a passenger's
12 use of a deadly weapon. For the purposes of this subsection, a
13 vehicle is not considered a deadly weapon unless the operator is
14 using the vehicle as a deadly weapon and no other reasonable means to
15 avoid potential serious harm are immediately available to the
16 officer.

17 ((+4))) (5) For purposes of this section, "vehicular pursuit"
18 means an attempt by a uniformed peace officer in a vehicle equipped
19 with emergency lights and a siren to stop a moving vehicle where the
20 operator of the moving vehicle appears to be aware that the officer
21 is signaling the operator to stop the vehicle and the operator of the
22 moving vehicle appears to be willfully resisting or ignoring the
23 officer's attempt to stop the vehicle by increasing vehicle speed,
24 making evasive maneuvers, or operating the vehicle in a reckless
25 manner that endangers the safety of the community or the officer.

26 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of
28 the state government and its existing public institutions, and takes
29 effect immediately."

SB 5352 - S AMD 215

By Senator Dhingra

ADOPTED 03/08/2023

30 On page 1, line 1 of the title, after "Relating to" strike the
31 remainder of the title and insert "permitting peace officers to
32 engage in a vehicular pursuit only when there is reasonable suspicion
33 to believe that a person in the vehicle has committed or is

1 committing a violent offense as defined in RCW 9.94A.030, a sex
2 offense under RCW 9.94A.030, a vehicular assault offense under RCW
3 46.61.522, an assault in the first, second, third, or fourth degree
4 offense under chapter 9A.36 RCW only if the assault involves domestic
5 violence as defined in RCW 10.99.020, an escape under chapter 9A.76
6 RCW, or a driving under the influence offense under RCW 46.61.502,
7 and imposing training requirements on pursuing officers, and
8 modifying safety and supervision requirements on vehicular pursuits;
9 amending RCW 10.116.060; and declaring an emergency."

EFFECT: (1) Modifies the evidentiary threshold required for engaging in a vehicular pursuit by allowing an officer to conduct the vehicular pursuit if the officer has reasonable suspicion that a person has or is committing specified crimes.

(2) Limits vehicular pursuits to situations where the subject of the vehicular pursuit poses a serious risk of harm to others.

(3) Modifies certain vehicular pursuit requirements related to supervisory authorization and control, and establishes new requirements related to direct communication with specified entities, development of a plan to end the pursuit, and the pursuing officer's training and certification.

(4) Provides an emergency clause.

--- END ---