

SENATE BILL REPORT

SB 5383

As Reported by Senate Committee On:
Transportation, February 5, 2024

Title: An act relating to pedestrians crossing and moving along roadways.

Brief Description: Concerning pedestrians crossing and moving along roadways.

Sponsors: Senators Saldaña, Lias, Nguyen, Valdez and Wilson, C..

Brief History:

Committee Activity: Transportation: 2/13/23, 2/23/23 [DPS, DNP]; 1/23/24, 2/05/24 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Provides that on a roadway of 35 miles per hour or less, a police officer may only stop a pedestrian for a violation of certain laws regulating the crossing of or movement along roadways by pedestrians if the pedestrian is in violation of suddenly leaving a curb or place of safety to move into the path of a vehicle so that it is impossible for the driver to stop—impossible to stop standard.
- Removes the requirement that a pedestrian moving along a roadway must walk on or move along the shoulder of the roadway facing traffic when sidewalks are not provided or are inaccessible and regardless of the presence of shoulders.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Second Substitute Senate Bill No. 5383 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Lias, Chair; Lovick, Vice Chair; Shewmake, Vice Chair; Cleveland, Hansen, Kauffman, Lovelett, Nobles, Valdez and Wilson, C..

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

Minority Report: Do not pass.

Signed by Senators Holy, Assistant Ranking Member; Fortunato, Hawkins, MacEwen and Padden.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; Wilson, J..

Staff: Brandon Popovac (786-7465)

Background: Pedestrians Crossing Roadways. Pedestrians are required to obey the instructions of official traffic control devices unless otherwise directed by a traffic or police officer. Pedestrians facing a steady yellow or red signal, or a yellow or red arrow signal, may not enter the roadway unless otherwise directed by a pedestrian control signal. Pedestrians facing a steady or flashing "DON'T WALK" or hand symbol may not enter the roadway.

Pedestrians may not cross a roadway between adjacent intersections at which traffic-control signals are in operation except in a marked crosswalk, or cross a roadway intersection diagonally unless authorized by official traffic control devices. Pedestrians may also not cross a roadway at an unmarked crosswalk where an official sign prohibits such crossing.

Pedestrians crossing a roadway at any point other than within a marked or unmarked crosswalk at an intersection must yield the right-of-way to all vehicles on the roadway. Pedestrians crossing a roadway where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield the right-of-way to all vehicles on the road.

No pedestrian may suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle that is so close it is impossible for the driver to stop (impossible to stop standard).

Pedestrians Moving Along Roadways. When sidewalks are provided and are accessible it is unlawful for a pedestrian to walk or move along an adjacent roadway. When sidewalks are not available a pedestrian moving along a roadway must walk or move on the shoulder when available and face traffic when a shoulder facing traffic is available. When a shoulder is not available, a pedestrian must walk or move as near as practicable to the outside edge of the roadway facing traffic. When walking or moving along an adjacent roadway a pedestrian must exercise due care to avoid colliding with a vehicle on the roadway.

Municipal Transit Vehicles. A municipal transit vehicle is defined as a motor vehicle, streetcar, train, trolley vehicle, and any other device, which is:

- capable of being moved within, upon, above, or below a public highway;
- owned or operated by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state; and

- used for the purpose of carrying passengers together with incidental baggage and freight on a regular schedule.

Fully Controlled Limited Access Highways. A fully controlled limited access highway is defined in rules adopted by the Washington State Department of Transportation as a highway controlled to give preference to through traffic by providing access connections with selected public roads only, and by prohibiting crossings where no other reasonable means of access exists. All nonmotorized traffic is prohibited on state highways established and constructed as fully controlled limited access facilities, which must contain signage advising of such prohibition.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Second Substitute): On a roadway with a posted speed limit of 35 miles per hour or less:

- a police officer may only stop a pedestrian for a violation of certain state laws regulating crossing or moving along roadways by a pedestrian if the pedestrian is in violation of the impossible to stop standard; and
- a police officer may only stop a pedestrian for a violation of similar local ordinances regulating crossing or moving along roadways unless the pedestrian is in violation of the impossible to stop standard at the state or equivalent local level.

A pedestrian retains the duty of exercising due care for their safety, while the driver of a vehicle retains the duty of exercising due care for the safety of pedestrians in the roadway.

Municipal transit vehicles are added as a vehicle type within the impossible to stop standard.

When sidewalks are not provided or are inaccessible, and regardless of the presence of shoulders, a pedestrian walking or otherwise moving along a roadway is not required to walk on or move along the shoulder of the roadway facing traffic but must exercise due care to avoid colliding with any vehicle on the roadway.

Enforcement of unlawful crossing of or moving along a fully controlled limited access highway is preserved.

By July 1, 2025, and until July 1, 2029, the Administrative Office of the Courts must annually report state and local infraction data for pedestrian violations of crossing or moving along a roadway to the appropriate committees of the Legislature.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Second Substitute):

- Removes the prohibition on police officers stopping pedestrians for crossing or

- moving along any roadway in violation of the impossible to stop standard.
- Provides that on a roadway of 35 miles per hour or less, a police officer may only enforce laws regulating the crossing or moving along such roadway by a pedestrian if the pedestrian is in violation of the impossible to stop standard.

Appropriation: None.

Fiscal Note: Available.

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 on Original Bill (Regular Session 2023): *The committee recommended a different version of the bill than what was heard.* PRO: The bill is about the right to walk freely and safely on public rights-of-way. Pedestrians should have more priority for crossing the roadway. Ticketing unhoused individuals moving along the roadway does not make us safer and can become a barrier for this demographic. Fifty percent of those ticketed are unhoused or those simply trying to catch the bus. The bill removes potential inequitable traffic outcomes. Black pedestrians are ticketed four times more than others. Police stops for jaywalking are often checks for open warrants in a stop-and-frisk style of policing. Pedestrians already know when it is safe to cross the roadway. The bill helps police focus on more needed services. More than half of counties have 10 to 30 percent of jaywalking tickets. Current pedestrian infrastructure is not supportive of safe roadway crossings. Alternative actions, like improving sidewalks and lowering speed limits, would be more beneficial and preferred. Highly discretionary stops are more prevalent in low-income areas and used to execute certain warrants. Current jaywalking ticket penalties are high and may result in eventual criminal penalties if not paid timely. The bill will allow persons with disabilities to cross roadways where it is more convenient and accessible. Having to cross at a signalized intersection can add a lot of additional travel time.

CON: Trends in traffic fatalities are up and highly disproportionate in BIPOC communities. Since 2017, many traffic fatalities have occurred outside of a crosswalk. The immediate danger standard is outcome oriented and jeopardizes both drivers and pedestrians. There is an expectation that more people will jaywalk under the bill. Highways are designed for cars. State laws already contain permissions to cross the roadway. Traffic safety courses would need to be modified.

OTHER: This bill works to accomplish the goal of equity, but safety will be diminished. The bill does not go far enough to clear up liability and puts emphasis of liability on drivers. There are general concerns on right-of-way maintenance costs. Sixty percent of traffic fatalities over previous five years occurred outside of crosswalks. The bill would allow pedestrians to ignore tunnels or traffic signals. We need to focus on enforcement rather than changing the underlying traffic laws. Pedestrians need to use the facilities meant to keep

them safe. Other state have amended their jaywalking laws with a focus on enforcement.

Persons Testifying (Transportation): PRO: Senator Rebecca Saldaña, Prime Sponsor; Laurence Leveen; Cristina Mateo, WA Build Back Black Alliance - (WBBA); Bryce Yadon, Transportation Choices Coalition; Ethan Campbell, Transportation Choices Research Partner; Aidan Carroll, Stop The Sweeps; DeAndre Anderson; Jaime Torres; Michael Leach, Move Redmond; Magda Baker, Washington Defender Association.

CON: Taylor Gardner, WA Assn of Sheriffs and Police Chiefs; David-Henry Sedelmeier, Driving School owner.

OTHER: Brandy DeLange, Association of Washington; Mark McKechnie, Washington Traffic Safety Commission.

Persons Signed In To Testify But Not Testifying (Transportation):

No one.

Staff Summary of Public Testimony On Proposed Second Substitute (Transportation) (Regular Session 2024): *The committee recommended a different version of the bill than what was heard.* PRO: The bill is known as the Free to Walk bill. Stakeholder coalitions see this bill as an important step in pedestrian safety. The coalition has worked with law enforcement and local governments on updating last year's language. Current jaywalking laws impact kids trying to get to school, and penalizes pedestrians where there are no sidewalks, which makes them more vulnerable in the dark. The state has rising fatalities and injuries for pedestrians. Drivers have the responsibility to be as safe as possible. Some people have no other choice but to walk to their destinations. The city of Seattle is already deprioritizing jaywalking laws. Ticketing the unhoused or children for jaywalking does not improve traffic safety. Some kids are not afforded the opportunity to get educated on laws addressing facing traffic when there are no sidewalks. The BIPOC and unhoused communities are disproportionately impacted by jaywalking laws. Jaywalking infractions are highest in certain metro areas. Law enforcement interactions are unnecessary in this regard; discretion on both sides is preferred. Jaywalking is still illegal under the bill, but simply limits enforcement. Safe infrastructure is often lacking for appropriate movement along roadways. Some crossings at regulated intersections are still prone to pretextual stops. A new research report documents the use of jaywalking laws in Washington State, revealing concerns with jaywalking laws are not new, there are over 13,000 stops annually, infractions occur in all but five counties, and 41 percent of infractions are for the unhoused. Pedestrians are capable of making safe choices even with limitations on the roadways.

CON: The bill as written is confusing. Rules on pedestrian and driver right-of-way is already covered in law. State roadways are not safe right now with increased fatalities and injuries. This is not a time to reduce safety oriented policies. Many drivers are unable to stop a car when encountering jaywalkers. The bill places the safety of both drivers and pedestrians at risk. It increases liability for drivers driving safely on the roadways, and

undermines the rule of law. The bill will not allow law enforcement to explain inaction in enforcement. Sidewalks and crosswalks are safe and should always be used.

OTHER: Enforcement of jaywalking laws should be maintained in roadway construction projects. Cities are still concerned with potential liability issues. If jaywalking behavior increases, road design and maintenance will be impacted and revenues are already limited for such maintenance. Reducing speed limits on roadways is a preferred strategy. There are safety concerns with the bill given the state's record-high traffic deaths in the last two years, with many occurring outside of crosswalks and with posted speeds over 30mph. The bill's new strategy does not make sense from a safety perspective.

Persons Testifying (Transportation): PRO: Senator Rebecca Saldaña, Prime Sponsor; Bryce Yadon, Transportation Choices Coalition; Ethan Campbell, TCC Research Partner; DeAndre Anderson, Self; Albert Sardinas, WBBA.

CON: David Sedelmeier; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs.

OTHER: Michele Willms, Associated General Contractors (AGC); Brandy DeLange, Association of Washington Cities; Mark McKechnie, Washington Traffic Safety Commission.

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