

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5352

68th Legislature
2023 Regular Session

Passed by the Senate April 17, 2023
Yeas 26 Nays 22

President of the Senate

Passed by the House April 10, 2023
Yeas 57 Nays 40

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5352** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5352

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senators Lovick, MacEwen, Cleveland, Conway, Gildon, Holy, Hunt, Mullet, Rolfes, Salomon, Short, Torres, Van De Wege, Warnick, and L. Wilson

Read first time 01/13/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to permitting peace officers to engage in a
2 vehicular pursuit only when there is reasonable suspicion to believe
3 that a person in the vehicle has committed or is committing a violent
4 offense as defined in RCW 9.94A.030, a sex offense under RCW
5 9.94A.030, a vehicular assault offense under RCW 46.61.522, an
6 assault in the first, second, third, or fourth degree offense under
7 chapter 9A.36 RCW only if the assault involves domestic violence as
8 defined in RCW 10.99.020, an escape under chapter 9A.76 RCW, or a
9 driving under the influence offense under RCW 46.61.502, and imposing
10 training requirements on pursuing officers, and modifying safety and
11 supervision requirements on vehicular pursuits; amending RCW
12 10.116.060; and declaring an emergency.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14 **Sec. 1.** RCW 10.116.060 and 2021 c 320 s 7 are each amended to
15 read as follows:

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

18 (a) ~~((i))~~ There is ~~((probable cause))~~ reasonable suspicion to
19 believe that a person in the vehicle has committed or is committing
20 ~~((a))~~:

21 (i) A violent offense ~~((or))~~ as defined in RCW 9.94A.030;

1 (ii) A sex offense as defined in RCW 9.94A.030 (~~(, or an)~~);
2 (iii) A vehicular assault offense under RCW 46.61.522;
3 (iv) 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;

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

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

12 (c) The person poses ~~((an imminent threat to the safety of))~~ a
13 serious risk of harm to others and the safety risks of failing to
14 apprehend or identify the person are considered to be greater than
15 the safety risks of the vehicular pursuit under the circumstances;
16 and

17 (d) (i) Except as provided in (d) (ii) of this subsection, the
18 ~~((officer has received authorization to engage in the pursuit from))~~
19 pursuing officer notifies a supervising officer ~~((and))~~ immediately
20 upon initiating the vehicular pursuit; there is supervisory
21 ~~((control))~~ oversight of the pursuit ~~((The))~~; and the pursuing
22 officer, in consultation with the supervising officer ~~((must~~
23 ~~consider))~~, considers alternatives to the vehicular pursuit ~~((The~~
24 ~~supervisor must consider))~~, the justification for the vehicular
25 pursuit and other safety considerations, including but not limited to
26 speed, weather, traffic, road conditions, and the known presence of
27 minors in the vehicle ~~((, and the vehicular pursuit must be terminated~~
28 ~~if any of the requirements of this subsection are not met))~~;

29 (ii) For those jurisdictions with fewer than ~~((10))~~ 15
30 commissioned officers, if a supervisor is not on duty at the time,
31 the pursuing officer ~~((will request))~~ requests the on-call supervisor
32 be notified of the pursuit according to the agency's procedures ~~((The))~~,
33 and the pursuing officer ~~((must consider))~~ considers
34 alternatives to the vehicular pursuit, the justification for the
35 vehicular pursuit, and other safety considerations, including but not
36 limited to speed, weather, traffic, road conditions, and the known
37 presence of minors in the vehicle. ~~((The officer must terminate the~~
38 ~~vehicular pursuit if any of the requirements of this subsection are~~
39 ~~not met.))~~

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

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

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

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

18 (d) As soon as practicable after initiating a vehicular pursuit,
19 the pursuing officer, supervising officer, if applicable, or
20 responsible agency shall develop a plan to end the pursuit through
21 the use of available pursuit intervention options, such as the use of
22 the pursuit intervention technique, deployment of spike strips or
23 other tire deflation devices, or other department authorized pursuit
24 intervention tactics; and

25 (e) The pursuing officer must have completed an emergency vehicle
26 operator's course, must have completed updated emergency vehicle
27 operator training in the previous two years, where applicable, and
28 must be certified in at least one pursuit intervention option.
29 Emergency vehicle operator training must include training on
30 performing the risk assessment analysis described in subsection
31 (1)(c) of this section.

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

34 ~~((3))~~ (4) A peace officer may not fire a weapon upon a moving
35 vehicle unless necessary to protect against an imminent threat of
36 serious physical harm resulting from the operator's or a passenger's
37 use of a deadly weapon. For the purposes of this subsection, a
38 vehicle is not considered a deadly weapon unless the operator is
39 using the vehicle as a deadly weapon and no other reasonable means to

1 avoid potential serious harm are immediately available to the
2 officer.

3 ~~((4))~~ (5) For purposes of this section, "vehicular pursuit"
4 means an attempt by a uniformed peace officer in a vehicle equipped
5 with emergency lights and a siren to stop a moving vehicle where the
6 operator of the moving vehicle appears to be aware that the officer
7 is signaling the operator to stop the vehicle and the operator of the
8 moving vehicle appears to be willfully resisting or ignoring the
9 officer's attempt to stop the vehicle by increasing vehicle speed,
10 making evasive maneuvers, or operating the vehicle in a reckless
11 manner that endangers the safety of the community or the officer.

12 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of
14 the state government and its existing public institutions, and takes
15 effect immediately.

--- END ---