

# 2013 Washington State Traffic Safety Related Legislation

## Washington Traffic Safety Commission – October 2, 2013

*The following information is only intended to provide a brief summary of new legislation. It is based on highlights from the final bill language, or bill reports prepared by legislative staff members and is not intended to be a complete or legal interpretation of bills enacted in 2013. Readers must refer to the applicable bill numbers or RCWs to properly interpret changes to state law.*

### 1. HB 1045; C 264 L 13

**Brief Description:** Authorizing certain local authorities to establish maximum speed limits on certain non-arterial highways.

**Summary:**

A city or town is not required to conduct an engineering and traffic investigation if the city or town reduces the speed limit on a non-arterial highway within a residence or business district to 20 miles per hour. This waiver applies, however, only if the city or town has developed procedures for establishing such lower speed limits. The requirement is also waived if the city or town seeks to cancel a lower speed limit that had been established through these procedures. In that case, the cancellation must occur within one year of the initial establishment of the 20-mile-per-hour limit. Finally, cities and towns must consult the manual on uniform traffic control devices when establishing speed limits pursuant to these procedures.

**Effective:** July 28, 2013

### 2. SHB 1334 – C 174 L 13

**Brief Description:** Concerning conversion kits on motorcycles.

**Summary:**

The definition of a "motorcycle" in the motor vehicle code is revised to mean a motor vehicle designed to travel on not more than three wheels not including any stabilizing conversion kits.

The definition of a "motorcycle" in the Motorcycle Skills Education Program is updated to be the same as the motor vehicle code definition and to clarify that it excludes off-road motorcycles.

The use of stabilizing conversion kits on motorcycles is authorized. A person operating a motorcycle with a stabilizing conversion kit must have a valid driver's license specially endorsed for a three-wheeled motorcycle.

**Effective:** July 28, 2013

### 3. SHB 1752 0 C 224 L 13

**Brief Description:** Modifying requirements for the operation of commercial motor vehicles in compliance with federal regulations.

#### **Summary:**

##### *Background Checks.*

The DOL must investigate the conviction records of employees who conduct knowledge and skills examinations, or who will conduct such examinations. The DOL must do such checks annually.

##### *Definitions.*

The definition of a "commercial vehicle" includes those vehicles that have a gross vehicle weight of 26,001 pounds or more, alone or in combination with towed units. Additionally, the definition of a "serious traffic violation," which carries a mandatory license disqualification period of 60 days, is expanded to include driving while using a hand-held mobile telephone and texting while driving. Finally, the definition of a "tank vehicle" covers only those vehicles carrying a tank or tanks with an aggregate capacity greater than 1,000 gallons, unless that tank is empty and temporarily attached to a flatbed trailer.

##### *Commercial Learner's Permit.*

A new applicant must obtain a commercial learner's permit (CLP) prior to obtaining a CDL; however, a CLP holder may not take the CDL examination within 14 days of receiving his or her CLP. Such a permit may include endorsements and restrictions. A permit applicant must take an endorsement knowledge exam and is prevented from operating the vehicle under certain circumstances. An operator with either a "P" or "S" permit endorsement may not operate a vehicle with passengers other than an examiner or trainee, and an operator with an "N" permit endorsement may operate only vehicles with empty tanks. Any fees collected for CLP applications or examinations must be deposited in the Highway Safety Fund. A CLP holder is subject to the same disqualification provisions as a CDL holder.

##### *CLP Application.*

An applicant for a CLP must meet certain federal requirements. First, the applicant must certify that: (1) he or she is not subject to any disqualification; (2) the motor vehicle in which the person takes the driving skills test is representative of the type of motor vehicle he or she expects to operate; and (3) he or she does not have a driver's license from more than one state. Additionally, the person must identify the type of vehicle he or she expects to operate, and provide his or her social security number, proof of citizenship, and proof that the state to which the application is made is his or her state of domicile.

The CDL holders seeking to renew their license must also meet the same requirements.

##### *Classes, Endorsements, and Restrictions.*

New terminology is used to refer to each class: Class A is known as a "combination vehicle;" Class B is a "heavy straight vehicle;" and Class C is a "small vehicle." The new "P" endorsement allows a driver to operate any vehicle with passengers, except a school bus.

Valid restrictions include being restricted from operating: (1) a motor vehicle equipped with a manual transmission; (2) a commercial motor vehicle in interstate travel; (3) a class A passenger vehicle; (4) both class A and class B passenger vehicles; and (5) a tractor-trailer motor vehicle.

*Traffic Infractions.*

A person is guilty of a traffic infraction, which may become part of the driver's record, if he or she uses a mobile telephone, including sending, reading, or writing a text message, while driving a commercial vehicle. It is not an infraction, however, if the vehicle is parked to the side of, or off of, a highway and has stopped in a location where it can safely remain stationary, if such use was necessary to communicate with emergency services personnel, or if the telephone is used in a hands-free mode. The use of two-way or citizens band radio services is not restricted.

**Effective:** July 28, 2013 (Sections 2, 15, 16, and 17)  
July 8, 2014

**4. ESSB 5024 – C 306 L 13  
2013 – 2015 TRANSPORTATION BUDGET**

**Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

- The commission shall develop and implement, in collaboration with the Washington state patrol, a target zero team pilot program in Yakima and Spokane counties. The pilot program must demonstrate the effectiveness of intense, high visibility driving under the influence enforcement in Washington state. The commission shall apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program.
- \$20,000,000 of the highway safety account—federal 17 appropriation is provided solely for federal funds that may be obligated to the commission pursuant to 23 U.S.C. Sec. 164 during the 2013-2015 fiscal biennium.
- The commission may continue to oversee pilot projects implementing the use of automated traffic safety cameras to detect speed violations within cities west of the Cascade mountains that have a population over one hundred ninety-five thousand. For the purposes of pilot projects in this subsection, no more than one automated traffic safety camera may be used to detect speed violations within any one jurisdiction. (a) The commission shall comply with RCW 46.63.170 in administering the pilot projects. (b) By January 1, 2015, any local authority that is operating an automated traffic safety camera to detect speed violations must provide a summary to the transportation committees of the legislature concerning the use of the cameras and data regarding infractions, revenues, and costs.

**5. SB 5263 – C 139 L 13**

**Brief Description:** Concerning motorcycles overtaking and passing pedestrians and bicyclists.

**Summary:** The operator of a motorcycle may overtake and pass a pedestrian or bicyclist that is occupying the same lane as the operator; provided that the motorcycle overtakes and passes the pedestrian or bicyclist while maintaining a safe passing distance of at least three feet.

**Effective:** July 28, 2013.

**6. SSB 5274 – C33 L 13**

**Brief Description:** Concerning private motorcycle skills education programs.

**Summary:**

DOL must allow private motorcycle skills education programs to offer motorcycle safety education courses without a subsidy from the state. These privately provided, unsubsidized motorcycle skills education courses are not subject to the price caps.

DOL must review and certify that a private motorcycle skills education course offered without subsidy meets the equivalent educational standards as the subsidized courses. DOL's contract with an unsubsidized provider must allow DOL to periodically audit the private provider to ensure that the educational standards continue to meet those of the subsidized programs.

**Effective:** July 1, 2013.

## **7. ESB 5616 – C 299 L 13**

**Brief Description:** Concerning the use of farm vehicles on public highways.

**Summary:** A farm exempt vehicle may be used incidentally on public highways within 25 miles of the farm where it is principally used to travel between farms or other locations to engage in activities that support farming operations.

Farm exempt decals must be visible from the rear of the vehicle.

**Effective:** July 28, 2013.

## **8. SB 5797 – C 257 L 13**

**Brief Description:** Encouraging the establishment of effective specialty and therapeutic courts.

**Summary:** Specialty court and therapeutic court are defined as specialized pretrial or sentencing dockets in select criminal cases where agencies coordinate work to provide treatment for a defendant who has particular needs. The Legislature encourages the Supreme Court to adopt any administrative orders and court rules of practice and procedure it deems necessary to support the establishment of effective specialty and therapeutic courts.

It is clarified that jurisdictions, rather than counties, may establish and operate drug courts, mental health courts, and DUI courts. Any jurisdiction that establishes a DUI court, drug court, and a mental health court may combine the functions of these courts into a single therapeutic court.

Municipalities may enter into cooperative agreements with counties or other municipalities that have DUI courts to provide DUI court services.

Any jurisdiction establishing a specialty court must endeavor to incorporate the treatment court principles of best practices as recognized by state and national treatment court agencies and organizations, and may seek state or federal funding as it becomes available for the establishment, maintenance, and expansion of specialty and therapeutic courts and for the provision by participating agencies of treatment for participating defendants.

Specialty and therapeutic courts must continue to: (1) obtain the consent of the prosecuting authority in order to remove a charged offender from the regular course of prosecution and punishment; and (2) comply with sentencing requirements as established in state law.

The Superior Court Judges' Association and the District and Municipal Court Judges' Association are encouraged to invite other appropriate organizations and convene a workgroup to examine the structure of all specialty and therapeutic courts in Washington. The Legislature requests that the workgroup submit recommendations for the structure of specialty and therapeutic courts in the law and court rules, incorporating principles of best practices as recognized by state and national treatment court agencies and organizations, and making specialty and therapeutic courts more

effective and prevalent throughout the state. The Legislature requests that the workgroup's recommendations be available prior to the beginning of the 2014 legislative session, and respectfully requests the Supreme Court to consider any recommendations from the workgroup pertaining to necessary changes in court rules.

**Effective:** August 1, 2013.

## **9. E2SSB 5912 – C 35 L 13 E 2**

**Brief Description:** Concerning driving under the influence of intoxicating liquor or drugs.

### **Summary:**

#### **Arrest Without a Warrant.**

A police officer must arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without warrant when the officer has probable cause to believe that the person violated the DUI or PC laws and has a prior offence for DUI or PC within ten years (rush file).

#### **Ignition Interlocks.**

As a condition of release from custody before arraignment or trial, a defendant who has a prior DUI, PC, vehicular homicide, or vehicular assault offense must be ordered to have a functioning IID installed with proof filed with the court within five business days of the date of release, or comply with the 24/7 Sobriety monitoring program, or both. IID restrictions must remain in effect until DOL receives a declaration, in the four prior consecutive months (1) there have been no attempts to start the vehicle with a breath concentration of .04 or more unless a subsequent test performed within ten minutes registers a lower breath alcohol concentration and the digital image confirms that the same person gave both samples; (2) a review of the digital image confirms that, after a failure to take a random test, the vehicle was not occupied by the driver at the time of the missed test; or (3) failure to pass a random retest with a breath concentration of .025 or lower unless a subsequent test performed within ten minutes registers a lower breath alcohol concentration and the digital image confirms that the same person gave both samples.

#### **Sentencing.**

##### *No Prior DUI or PC Offenses.*

Forty-eight consecutive hours (instead of two days) of a sentence of two to 364 days must not be suspended or deferred for a person with no prior DUI or PC offenses and who either refuses a breath or blood test or has a BAC of at least 0.15 percent unless it would impose a substantial risk to the offender's health or wellbeing.

##### *One Prior DUI or PC Offense.*

If available, EHM can be replaced with community-based treatment for six months, if indicated by an alcohol assessment, along with 24/7 sobriety program monitoring.

##### *Two or Three Prior DUI or PC Offenses*

If available, the offender must be ordered to have six months of 24/7 sobriety program monitoring and, if indicated by an alcohol assessment, community-based treatment.

##### *Felony DUI/PC.*

If a defendant's present conviction is for a felony DUI or PC offense, then all predicate crimes for the offense must be included in the offender score. The definition of a predicate offense is expanded to include cases where a deferred sentence was imposed in a prosecution for a negligent driving in the first degree, reckless driving, or reckless endangerment offense, when the original charge, which was pled down to a lesser charge, was filed as a DUI, PC, equivalent ordinance, vehicular homicide, or vehicular assault offense.

The Department of Corrections (DOC) must supervise offenders convicted of vehicular homicide, vehicular assault, or felony DUI or PC regardless of risk classification.

Impaired Driving Offense With a Child In the Vehicle. If a person is convicted of DUI or PC and the offense was committed while a passenger under the age of 16 was in the vehicle, additional incarceration must be ordered as:

- 24 hours if the person has no prior offenses;
- five days if the person has one prior offense within seven years; and
- ten days if the person has two or three prior offenses within seven years.

Driving on the Wrong Side of the Road.

When setting penalties for DUI and PC offenses, the court must particularly consider whether during the commission of the offense, the defendant was driving in the opposite direction of the normal flow of traffic on a multiple-lane highway with a posted speed limit of 45 miles per hour or greater. For felony DUI and PC offenses, driving in the opposite direction of the normal flow of traffic on a multiple-lane highway with a posted speed limit of 45 miles per hour or greater can be an aggravating circumstance.

Civil Forfeiture.

The court must consider whether a vehicle is subject to forfeiture in DUI, PC, and ignition interlock violation cases if a forfeiture has not already occurred.

Commercial Driver's License. A person is disqualified from driving a commercial motor vehicle for a minimum of one year if a report is received by DOL that the person was convicted of driving a motor vehicle with any measureable amount of THC in the person's system. Law enforcement must also issue an out-of-service order against a person who drives or is in physical control of a commercial vehicle while having THC in the person's system.

Operating an Employer's Vehicle.

DOL may not waive and no employer may exempt an ignition interlock requirement within the first 30 days following installation of an IID after a first offense or for the first 365 days after an IID has been installed for second or subsequent convictions.

Courts.

Municipalities are authorized to establish DUI courts and to provide DUI court services. Courts are prohibited from deferring sentences for DUI or PC of intoxicating liquor or any drug. If a court orders EHM to include an alcohol detection breathalyzer, an alternate alcoholic monitoring device may alternatively be required. If the court determines that a wireless alcohol monitoring device is reasonably available, the court may require that device during the period of EHM.

Statewide 24/7 Sobriety Program.

The statewide 24/7 sobriety program pilot project is established and administered by the Washington Association of Sheriffs and Police Chiefs (WASPC), effective January 1, 2014. Up to three counties and two cities may be selected to participate in the pilot project. Selections are made through a request for proposal process. Criteria are enumerated. The cities selected must not be within counties selected for the project. Other local jurisdictions are encouraged to establish 24/7 programs as soon as practicable. WASPC reports findings and results biennially.

WASPC may adopt policies and procedures for the administration of the 24/7 sobriety program to (1) provide for procedures and apparatuses for testing; (2) establish fees and costs for participation to be paid by the participants; and (3) require the submission of reports and information by law enforcement agencies within this state.

The 24/7 sobriety account is created to defray the costs of operating the program. The account can receive funds from a variety of sources, including activation and users fees. Funds from the account are used to defray reoccurring costs of the program. Participants' payment of fees are collected contemporaneously or in advance to fund the program and may not be waived or reduced. Each county, through its sheriff, may participate in the 24/7 sobriety program. If a sheriff is unwilling or unable to participate in the 24/7 sobriety program, the sheriff may designate an entity willing to provide the service. It is the intent of the legislature that the program be implemented statewide by January 1, 2017.

The court may condition any bond, pretrial release, granting of a suspended imposition of sentence, suspended execution of sentence, probation, or release upon participation in the 24/7 sobriety program and payment of associated costs and expenses.

A participant who violates the terms of participation must be taken into custody and held for an appearance before a judge on the next judicial day. Penalties for violations are specified.

#### Ignition Interlock Certification Form.

WSP is authorized to create, by rule, the statement for certifying ignition interlock devices. As a result, the ignition interlock certification form referencing the federal register and the federal standards is removed from WSP's statute.

#### Marijuana and THC.

Marijuana and THC are added to a number of statutes dealing with DUI, PC, and negligent driving.

#### Ignition Interlock Program.

Any officer conducting field inspections of ignition interlock devices under the ignition interlock program must report violations by program participants to the court. The WSP may not be held liable for any damages resulting from any act or omission in conducting activities under the ignition interlock program, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

During the 2013-2015 fiscal biennium, funds provided for the ignition interlock program at the WSP must be used to provide field officers to work directly with manufacturers, service centers, technicians, and participants in the program, but may include one non-commissioned staff not for administrative support. The funds must be used to supplement and not supplant other funds being used to fund the ignition interlock program.

#### Impaired Driving Work Group.

An impaired driving work group is established to study effective strategies to reduce vehicle related deaths and serious injuries that are a result of impaired driving incidents. The work group must report its findings and recommendations to the Legislature by December 1, 2013.

**Effective:** September 28, 2013  
January 1, 2014 (Sections 27, 28, and 30 - 32)