Judiciary Committee

HB 2391

Title: An act relating to blood or breath tests of persons involved in fatal motor vehicle accidents.

Brief Description: Authorizing blood or breath tests of persons involved in fatal motor vehicle accidents.

Sponsors: Representatives Campbell, Flannigan, McCune, Williams, Nixon, McDonald, Morrell, Moeller, Rodne, Springer, Tom, Green and Ericks.

Brief Summary of Bill

- Requires breath or blood alcohol testing of all drivers involved in fatal car accidents.

- Requires the test results to be submitted to the Washington State Patrol to be analyzed as part of the WSP's accident reports.

Hearing Date: 1/11/06

Staff: Trudes Tango (786-7384).

Background:

I. Breath or blood alcohol concentration (BAC) testing
Under the implied consent laws, a driver is presumed to have given consent to a blood or breath alcohol test if the driver is arrested for driving under the influence of alcohol or drugs (DUI). If the driver refuses the BAC test, he or she is subject to sanctions such as administrative loss of his or her driver's license.

Under certain circumstances, a driver's consent is not required. A BAC test may be administered without the driver's consent if he or she is unconscious or arrested for vehicular homicide or vehicular assault or if he or she is arrested for DUI in which there was an accident resulting in serious bodily injury to another person.

II. Special needs exception to the Fourth Amendment
The Fourth Amendment prohibits unreasonable searches and seizures. A search or seizure is reasonable only if it is done pursuant to a warrant based on probable cause or if it falls into one of the well-established exceptions to the warrant requirement. The U.S. Supreme Court has recognized one such exception when "special needs, beyond the normal need for law

enforcement, make the warrant and probable cause requirement impracticable." *Skinner v. Railway Labor Executives' Assoc.*, 109 S.Ct. 1402 (1989).

The "special need" asserted by the state must serve a purpose other than to collect evidence for criminal prosecution. When evaluating the constitutionality of a "special needs" search, courts will balance the interests of the state against the individual's privacy interest.

III. Accident investigations

When an officer investigates a motor vehicle accident in which there has been an injury or property damage, the officer must submit an accident report to the Washington State Patrol (WSP). The WSP must collect data and analyze all accident reports. The WSP publishes statistical information showing the number of accidents, the location, the frequency, whether any driver was distracted at the time, and other information to help determine the cause of accidents. The accident reports and WSP analysis are available to various agencies, such as the department of transportation, the traffic safety commission, and other entities.

Summary of Bill:

The legislature declares that the state has a compelling interest in understanding the causes of and preventing fatal car accidents. The state's compelling interest creates a special need beyond normal law enforcement to collect breath or blood alcohol content from drivers involved in fatal car accidents.

All drivers involved in car accidents in which there is a death or reasonable likelihood of death must submit to a breath or blood alcohol concentration (BAC) test. The driver's consent is not required. The officer must order the test regardless of whether the person was driving as part of his or her official or employment duties or as a private citizen.

Law enforcement must forward the BAC results to the Washington State Patrol (WSP). The WSP must collect the BAC tests as part of its analysis of accident reports.

Appropriation: None.

Fiscal Note: Requested on January 4, 2006.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.