

Friend Of The Court Brief

Regarding:

Illegal Use Of Unmarked Vehicles By Law Enforcement

In Washington State

Revised For 2015

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Any person may submit this brief, in complete and unaltered form, as evidence in any Washington State legal case involving unmarked police vehicles.

Contents:

1. Introduction
2. Marking Requirements For Local Law Enforcement
3. Marking Requirements For State Law Enforcement
4. Official Plate Requirements For State Law Enforcement
5. Requirements To Stop
6. Case Law
7. Changes To Eluding Statute
8. Penalties Provided
9. Legislative Research
10. Effect On Public Safety
11. Conclusions And Recommendations To Courts And The Legislature

Attachments:

1. State V. Ritts Decision
2. Page 27 of the DOT document titled “Work Zone Traffic Control Guidelines”
3. Legislative Research and Bill File Documents

1. Introduction

With few exceptions, the law in Washington State provides that it is illegal for law enforcement to use an unmarked vehicle for purposes other than “undercover or confidential investigative.” Despite this, we see unmarked cars being used for traffic enforcement and other purposes all the time.

The implications of this practice are far more serious than the occasional ticket. There are reasons why the legislature has deemed that law enforcement should be readily identifiable to the public, primarily having to do with public safety.

The RCW’s relevant to this issue are written in a vague and sometimes misleading fashion. It is easy for the average person or even seasoned legal veteran to be misled into believing there are exemptions permitting the use of unmarked cars for general patrols, but examination of each exemption reveals that this is not the case.

The purpose of this brief is to assist whomever it may concern with understanding the true purpose and the legislative intent behind the relevant laws, and each of the exemptions contained within those laws.

2. Marking Requirements For Local Law Enforcement

[RCW 46.08.065](#) is the law that establishes marking requirements for publicly owned vehicles. Section 1 of this law reads:

(1) It is unlawful for any public officer having charge of any vehicle owned or controlled by any county, city, town, or public body in this state other than the state of Washington and used in public business to operate the same upon the public highways of this state unless and until there shall be displayed upon such automobile or other motor vehicle in letters of contrasting color not less than one and one-quarter inches in height in a conspicuous place on the right and left sides thereof, the name of such county, city, town, or other public body, together with the name of the department or office upon the business of which the said vehicle is used. This section shall not apply to vehicles of a sheriff's office, local police department, or any vehicles used by local peace officers under public authority for special undercover or confidential investigative purposes. This subsection shall not apply to: (a) Any municipal transit vehicle operated for purposes of providing public mass transportation; (b) any vehicle governed by the requirements of subsection (4) of this section; nor to (c) any motor vehicle on loan to a school district for driver training purposes. It shall be lawful and constitute compliance with the provisions of this section, however, for the governing body of the appropriate county, city, town, or public body other than the state of Washington or its agencies to adopt and use a distinctive insignia which shall be not less than six inches in diameter across its smallest dimension and which shall be displayed conspicuously on the right and left sides of the vehicle. Such insignia shall be in a color or colors contrasting with the vehicle to which applied for maximum visibility. The name of the public body owning or operating the

vehicle shall also be included as part of or displayed above such approved insignia in colors contrasting with the vehicle in letters not less than one and one-quarter inches in height. Immediately below the lettering identifying the public entity and agency operating the vehicle or below an approved insignia shall appear the words "for official use only" in letters at least one inch high in a color contrasting with the color of the vehicle. The appropriate governing body may provide by rule or ordinance for marking of passenger motor vehicles as prescribed in subsection (2) of this section or for exceptions to the marking requirements for local governmental agencies for the same purposes and under the same circumstances as permitted for state agencies under subsection (3) of this section

Section 1 establishes that a city or county patrol vehicle must be clearly marked on the sides, with lettering or insignia, and specifically provides that "it is unlawful" not to be in compliance.

The sentence that is cited by sheriff's and local departments as being the exemption that permits them to use unmarked cars is the one that reads: This section shall not apply to vehicles of a sheriff's office, local police department, OR any vehicles used by local peace officers under public authority for special undercover or confidential investigative purposes. They claim that the "or" in the sentence separates it into two distinct categories of vehicles, the first being "vehicles of a sheriff's office, local police department," and the second being "any vehicles used by local peace officers under public authority," and that the "special undercover or confidential investigative purposes" requirement only applies to the second category.

However, as any English instructor can tell you, the "or" in that sentence is a conjunction that joins those two parts of that sentence into one category of vehicles, all of which the "special undercover or confidential investigative purposes" requirement applies to. If this sentence actually designated two separate categories of vehicles, they would be noted with an (A) and a (B) as is done in the very next sentence of that law, which reads: "This subsection shall not apply to: (a) Any municipal transit vehicle operated for purposes of providing public mass transportation; (b) any vehicle governed by the requirements of subsection (4) of this section..."

A proper reading of that sentence would go as follows: This section shall not apply to vehicles of a sheriff's office, local police department, or any vehicles used by local peace officers under public authority FOR special undercover or confidential investigative purposes.

Furthermore, legislative research regarding HB 172, the bill that created the current version of RCW 46.08.065, reveals quotes in the bill file documents that clearly illustrate that the legislative intent of the wording of this exemption is that vehicles of a sheriff's office, local police department, and vehicles used by local peace officers, are all one category. One such quote reads:

“A vehicle marking exemption for vehicles used by sheriffs, local police; and local peace officers is continued but is limited to vehicles used for undercover or confidential investigative purposes.”

Similar quotes abound throughout the documents, which are attached to this brief.

3. Marking Requirements For State Law Enforcement

Section 2 of RCW 46.08.065 is the section of the law that applies to State-owned vehicles, including Washington State Patrol vehicles. It reads as follows:

(2) Except as provided by subsections (3) and (4) of this section, passenger motor vehicles owned or controlled by the state of Washington, and purchased after July 1, 1989, must be plainly and conspicuously marked on the lower left-hand corner of the rear window with the name of the operating agency or institution or the words "state motor pool," as appropriate, the words "state of Washington -- for official use only," and the seal of the state of Washington or the appropriate agency or institution insignia, approved by the department of general administration. Markings must be on a transparent adhesive material and conform to the standards established by the department of general administration. For the purposes of this section, "passenger motor vehicles" means sedans, station wagons, vans, light trucks, or other motor vehicles under ten thousand pounds gross vehicle weight.

Section 2 above establishes that a State Patrol car must have an identifying sticker in the rear window. While in truth this does little to establish the identity of a car to the person being pulled over, or to a person who does not have a view of the rear of the patrol car, it is nonetheless the requirement of the law, and it is one of only two legally required means for a citizen to identify the vehicle as a real police car. Despite this, both marked and unmarked State Patrol cars with no sticker can be found on highways in the state everywhere.

Section 3 of RCW 46.08.065 below establishes what the exemptions to Section 2 are. It reads:

(3) Subsection (2) of this section shall not apply to vehicles used by the Washington state patrol for general undercover or confidential investigative purposes. Traffic control vehicles of the Washington state patrol may be exempted from the requirements of subsection (2) of this section at the discretion of the chief of the Washington state patrol.

"Undercover" Exemption

This section (3) provides an exemption to RCW 46.08.065(2) for vehicles used for “general undercover or confidential investigative” purposes. Traffic enforcement on public highways cannot be construed as undercover work. While no definition of the term "undercover" has been found in the RCW or WAC, the following was noted in State v. Argueta:

"The rules of statutory construction require that we give undefined words their common and ordinary meaning. To ascertain the common and ordinary meaning of a term, we may use a dictionary." State V. Argueta

The following results appear in an online search of the definition of "undercover".

adjective: **undercover**

1.

(of a person or their activities) involved in or involving secret work within a community or organization, especially for the purposes of police investigation or espionage.

"an undercover police operation"

Full Definition of *UNDERCOVER*

: acting or executed in secret; *specifically*: employed or engaged in spying or secret investigation <an *undercover* agent>

un•der•cov•er (ˌʊn dər kʌv ər)

adj.

1. Performed or occurring in secret: *an undercover investigation*.

2. Engaged or employed in spying or secret investigation: *undercover FBI agents*.

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Updated in 2009.

un•der•cov•er (ˌʊn dər kʌv ər, ˌʊn dər kʌv-)

adj.

1. clandestine or secret.

2. engaged in securing confidential information.

[1850–55]

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adjective

(Of a person or their activities) involved in or involving secret work within a community or organization, especially for the purposes of police investigation or espionage: *an undercover police operation*

"Undercover" means surreptitious investigation. As soon as the police lights are turned on to perform a stop, the car is no longer undercover, it is a patrol car performing a stop. An "undercover" car can legally spot illegal conduct, but a marked car must be called to make the stop. If traffic stops really are construable as "undercover", then anything police do is so construable, and there are simply no marking requirements.

"Traffic Control Vehicles" Exemption

Section 3 of RCW 46.08.065 also provides an exemption for "traffic control vehicles", and this has been cited by State Patrol officials as the exemption that permits use of unmarked vehicles for traffic enforcement. However "traffic control" vehicles are a completely different animal from "traffic enforcement" vehicles. They have yellow flashing lights and are used by DOT and the State Patrol for controlling traffic in work or accident zones, not for patrol. Patrol vehicles, marked and unmarked, can be used as traffic control vehicles provided they have yellow lights, but this exemption does not apply in the traffic enforcement capacity.

"Traffic Control Vehicles" are defined in WAC as follows:

WAC 204-65-050 Traffic control vehicles. Vehicles that are publicly or privately owned and used in conjunction with officially sanctioned or sponsored motor vehicle traffic control or movement may display lighted, digital or electrically powered signs to assist in the efficient control of traffic movement on public roadways. Such signs shall be designed, worded and directed so as to limit misinterpretation and confusion by the motoring public.

A search of definitions for "traffic control" also makes it clear that this is a common term readily understood to mean the managing and directing of the flow of traffic. No definitions can be found anywhere that include law enforcement activity.

Even if that exemption did apply, as some State Patrol personnel have claimed, it would not apply to the official license plate requirement that is detailed further below in 46.08.066.

Department of General Administration Exemptions

Section 3 of 46.08.065 continues to read as follows:

The department of general administration shall adopt general rules permitting other exceptions to the requirements of subsection (2) of this section for **other** vehicles used for law enforcement, confidential public health work, and public assistance fraud or support investigative purposes, for vehicles leased or rented by the state on a casual basis for a period of less than ninety days, and those provided for in RCW 46.08.066(3). The exceptions in this subsection, subsection (4) of this section, and those provided for in RCW 46.08.066(3) shall be the only exceptions permitted to the requirements of subsection (2) of this section.

This section has been cited as permitting the Department of General Administration to allow exemptions for law enforcement. Omitted in these citations are that this section permits such exemptions for "other" vehicles used for law enforcement. That is to say, vehicles "other" than what has already been described in this section of law. "Passenger

motor vehicles" have already been described and their requirements set forth. Examples of "other" vehicles would include aircraft and watercraft.

4. Official Plate Requirements For State Law Enforcement

[RCW 46.08.066](#) is the law that establishes requirements regarding official license plates, and granting exemptions permitting confidential license plates. The "law enforcement" exemptions in Section 1 of this law have been cited by WSP and several other agencies as permitting use of confidential plates on WSP cars used for traffic enforcement. However the wording of that section reads as follows:

(1) The department may issue confidential license plates to:

(a) Units of local government and agencies of the federal government for law enforcement purposes only;

This exemption does not apply to State-owned vehicles, including WSP. Section 2 of this law governs confidential plate use on State-owned vehicles, and it reads as follows:

(2) The use of confidential license plates on other vehicles owned or operated by the state of Washington by any officer or employee of the state is limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

This section permits confidential plates on WSP vehicles only for confidential, investigative, or undercover work. Traffic enforcement and patrols cannot be construed as any of these. Unfortunately however, the same State Patrol cars that have no identifying sticker typically have such a confidential plate.

It should be noted that WSP is required to certify to DOL that such plates will be used in accordance with law. Every time they make such a certification for a plate that will be used for patrol, they are making a false certification.

5. Requirements To Stop

There are laws that require citizens to yield or stop for police or emergency vehicles, and those laws are sometimes cited as authority to use unmarked vehicles to conduct stops. They include the following:

[RCW 46.61.021](#) details the obligation of a citizen to stop when signaled by a police officer. It reads:

[RCW 46.61.021](#)

[Duty to obey law enforcement officer — Authority of officer.](#)

(1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

A duty to stop imposed upon a citizen does not constitute authorization for law enforcement to use unmarked vehicles for purposes not permitted in law. The means of signaling and the vehicle being operated must be legal in order for the stop to be legal, any citations issued valid, and the officer free from legal liability for violating the law.

Section 5 of [RCW 46.37.190](#) reads:

(5) The use of the signal equipment described in this section and [RCW 46.37.670](#), except the signal preemption devices used by public transit vehicles and department of transportation, city, or county maintenance vehicles that are not used in conjunction with emergency equipment, shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in [RCW 46.61.210](#), [46.61.370](#), and [46.61.350](#).

This section requires a driver to yield and stop for any emergency vehicle with flashing lights, but that in itself does not authorize the use of vehicles other than legally marked police vehicles for purposes other than those prescribed in law, such as traffic stops.

6. Case Law

The case of State V. Ritts established the definition of a legally marked police vehicle in case law, at least where city and county vehicles are concerned. The decision contains the following quotes:

(State V. Ritts) “All public vehicles including police cars must be marked on the sides with identifying lettering or logo. [RCW 46.08.065](#). Undercover sheriff's office and police vehicles are exempt from this requirement. [RCW 46.08.065\(1\)](#).”

“Appropriate marking is described in [RCW 46.08.065](#) as identifying lettering or logo. The undercover exemption of [RCW 46.08.065\(1\)](#) waives the administrative marking requirement to permit the sheriff's department to operate unmarked cars for investigations.”

This particular case concerned an incident of eluding that involved a pursuing unmarked Sheriff's Department vehicle. It makes clear that the exemption for undercover vehicles does not apply for other purposes, despite how that exemption is misrepresented by law enforcement officials.

While the State Patrol marking requirements differ from those of County and City police vehicles, the wording of the exemptions for “undercover and confidential investigative” vehicles in both sections of the law is similar enough that one can infer that the undercover exemptions for State Patrol vehicles cannot apply for traffic enforcement either.

7. Changes To The Eluding Statute

RCW 46.61.024 is the eluding statute referred to in State V. Ritts. It provided, at the time of that decision, that:

“It is a class C felony to willfully fail to immediately stop and to drive recklessly after receiving a visual or audible signal to stop from a uniformed police officer whose vehicle is ‘appropriately marked showing it to be an official police vehicle.’” (RCW 46.61.024 Previous Version)

“Appropriately marked” was defined in State V. Ritts as complying with marking requirements in RCW 46.08.065, at least in cases involving Sheriff’s or local police cars.

In another case, State V. Argueta, which involved a State Patrol vehicle, “appropriately marked” was still defined as lettering or a logo, even though RCW 46.08.065 (2) only requires a sticker in the rear window for State-owned vehicles. The reason given is as follows:

“...a small decal in the rear window does nothing to assure the driver being pursued that the pursuing vehicle is a police vehicle and not someone impersonating an officer, which is the purpose of requiring appropriate markings.” (State V. Argueta)

After these two decisions were rendered, law enforcement successfully lobbied for changes to the eluding statute. The new marking requirement, for purposes of the eluding statute, is as follows:

RCW 46.61.024 (current version) “The officer giving such a signal shall be in uniform and the vehicle shall be equipped with lights and sirens.”

The current requirement for the eluding statute that an officer be in uniform, driving a vehicle with lights and a siren, has been cited by law enforcement officials as the reason they can conduct traffic stops with vehicles not marked in compliance with RCW 46.08.065. In point of fact, the State Patrol’s own regulation regarding what an officially marked vehicle is reads as follows:

WSP Regulation: Officially Marked Patrol Vehicle

1. An officially marked patrol vehicle is a vehicle issued by the department equipped with emergency lights and siren and operated by a WSP officer.

This definition is very similar to, and likely drawn from, the current eluding statute, even though this regulation does not even require the officer to be in uniform. Neither the eluding statute nor this regulation even require blue emergency lights that signify law enforcement. A person can now be charged with eluding for fleeing any vehicle whatsoever that displays a red flashing light.

The eluding law and the marking requirement law are now in conflict because of this change. While a person could (debatably) be convicted of eluding such a vehicle, under 46.08.065 and 46.08.066 the stop itself is still illegal, and the officer conducting the stop still bears the legal liability for doing so.

It should be noted that the eluding statute also requires an element of reckless driving. That makes this statute irrelevant to issues relating to general traffic enforcement, and the marking requirements thereof.

It should also be noted that legislative research was conducted on HB 1076, the bill that amended the eluding statute. In the bill file documents, no mention is made of the conflict being created with the marking requirement statute, despite the fact that the bill was testified for by numerous law enforcement officials, who were well aware of the marking requirement and impending conflict in the law. This research is further detailed below.

8. Penalties Provided

The following section of law provides penalties for violations of RCW 46.08.065 and 46.08.066:

[RCW 46.08.067](#)

[Publicly owned vehicles — Violations concerning marking and confidential license plates.](#)

[A violation of any provision of RCW 46.08.065 as now or hereafter amended or of RCW 46.08.066 shall subject the public officer or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay or termination of employment in the case of repeated or continuing noncompliance.](#)

[RCW 46.64.048](#) provides penalties for anyone who directs a violation of traffic laws, and this law applies to law enforcement officials who order or permit subordinate officers to use vehicles that are not marked in compliance with the law.

[RCW 46.64.048](#)

[Attempting, aiding, abetting, coercing, committing violations, punishable.](#)

[Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared by this title to be a traffic infraction or a crime, whether individually or in connection with one or more other persons or as principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcefully, or willfully induces, causes, coerces, requires, permits or directs others to violate any provisions of this title is likewise guilty of such offense.](#)

This section of law makes every police chief, sheriff, and State Patrol official who orders the use of these vehicles guilty of the same offense, and subject to the same penalties.

The following sections applies to officials who falsely certify to members of the public or other officials that the use of unmarked vehicles for non-undercover purposes is legal:

RCW 42.20.050 Public Officer Making False Certificate

Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he or she knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor.

This section makes such false certification a gross misdemeanor. Written examples of such false certification, which include willful misrepresentations of the relevant laws of the types detailed in this brief, are available on request that originate from WSP, Pierce County Sheriff's Office, Pierce County Prosecutor's Office, and the Department Of Licensing. False certifications made to the media can also be found that originate from the Spokane County Sheriff and the Spokane County Prosecutor.

Every one of these instances constitutes a gross misdemeanor crime with a penalty of up to one year.

9. Legislative Research

Research was conducted into the origins of the current marking requirement laws. The bill file documents relating to HB 172, the bill that created the current law, were examined and copied. These documents contain numerous quotes detailing the legislative intent behind the law. They include the following:

“Specifies the conditions under which the requirement for identification may be waived as being confidential or undercover investigative purposes”

“The use of confidential license plates is limited to confidential law enforcement...”

“The motor vehicle utilization audit included a review of state agency compliance with the marking requirements established by the Legislature. The audit found that the requirements of ROW 46.08.065 were not being followed by state agencies in the marking of state vehicles.”

“A vehicle marking exemption for vehicles used by sheriffs, local police; and local peace officers is continued but is limited to vehicles used for undercover or confidential investigative purposes.”

“Under House Bill No. 172, Washington State Patrol vehicles used for general undercover or confidential investigative purposes would be exempt from the marking requirement.”

“Violations of this act shall subject the public officer or employee concerned to disciplinary action by appointing authority. Disciplinary action may include suspension without pay or termination of employment.”

Examination of these bill documents for HB 172 reveals that the legislative intent behind the current version of RCW 46.08.065 is clear.

Examination of the bill documents for HB 1076, the bill that amended the eluding statute to require only that a pursuing vehicle have lights, siren, and uniformed officer, reveals that no consideration, or even mention, was given to the conflict being created with the marking requirement law, despite the number of law enforcement representatives lobbying for it who knew of the conflict being created. This is likely because raising the issue would have made legislators realize they would have to amend the marking requirement laws as well, to essentially remove all marking requirements.

These bill file documents are attached to this brief, with the relevant portions highlighted.

10. Effect On Public Safety

Over the years, a number of incidents have occurred that illustrate the public safety reasons why law enforcement is supposed to be readily identifiable to the public. One reason is the threat of impersonators, who are greatly encouraged by the rampant use of unmarked vehicles. A Google news search of the term “Police impersonator” will reveal that this is an omnipresent threat, with multiple cases ongoing at any given time. A second reason is the danger of real officers being mistaken for impersonators or other criminals.

In August of 2010, a Spokane Valley pastor named Wayne Scott Creach responded to an unknown vehicle on his property. It was parked in a dark, suspicious place where there was an ongoing problem with burglary and theft. The driver was a Sheriff’s deputy driving an unmarked vehicle. Creach didn’t know that however until after he had been seen approaching while armed. The situation needlessly escalated from there, ending with Creach being killed. As Creach was using a flashlight, a properly marked vehicle would have enabled him to identify the car from a distance and would have averted this situation, which ended with a Deputy killing a property owner on his own property.

In September of 2010 in Spokane, a Christopher Clough claimed to be a police officer who was investigating rapes. He then handcuffed and raped a 19-year-old woman whom he had gotten into his “unmarked” car.

In October of 2010, a police impersonator driving an “unmarked” Cadillac Escalade with flashing lights pulled over and accosted several young women in the area of Gonzaga University in broad daylight. This impersonator remains at large.

Ted Bundy, the mass murderer who got his start in Washington State, impersonated a police officer at times to help him kidnap victims.

Kenneth Bianchi, who along with his cousin Angelo Buono were known as the Hillside Stranglers in LA, grew up in Washington State and murdered two young women here. He and his cousin impersonated undercover police in an “unmarked car” in Los Angeles to acquire ten female victims, one as young as twelve.

The dangers of misidentification are not limited to citizens. In 1987, two Los Angeles sheriff’s deputies, in full uniform and in an unmarked car with no official plate, were pulled from their car and prostrated at gunpoint by two LAPD officers who believed they were impersonators. Police officials arrived in time to prevent anything tragic, but during the wait, the two prone deputies were hatching a plan to draw, roll and shoot the LAPD officers out of fear that the LAPD officers themselves were imposters.

A similar incident can be seen here: <http://www.youtube.com/watch?v=yZNKzbvTN-A> In this incident, a plainclothes officer who had conducted a stop in an unidentifiable vehicle had a gun drawn on him by a uniformed Highway Patrol officer. The highway patrol officer was on alert for impersonators because there were ongoing incidents of impersonators in "unmarked" cars committing carjackings. This incident begs the question, if police can't always tell real from fake, how do they expect us to?

Also, while some law enforcement officials have described Crown Victoria’s as being readily identifiable as law enforcement vehicles, a black Crown Victoria with a spotlight was also owned by one Christopher Monfort when he was arrested for killing one Seattle police officer and wounding another. It was likely a former police vehicle, many of which are sold to the public, and are not discernible from unmarked cars.

11. CONCLUSION AND RECOMMENDATIONS

Given the clear illegality of the use of unmarked cars beyond the purposes prescribed in law, and the dangers to both the public and police that are created by their use, some obvious questions arise. Why do they do it? And how do they get away with it?

There is unfortunately no real enforcement mechanism for RCW 46.08.065. The law provides for disciplinary action, but that action has to be imposed by the same agency commanders who are ordering the use of these vehicles. The law also does not specify if an offending officer has to be cited by another officer and convicted in traffic court before the penalties can be imposed. Furthermore, no traffic case involving this issue has risen to a court of record and settled the issue, and police are clearly unwilling to simply read the law and abide by it without having to be compelled. They prefer instead to willfully misrepresent the law to the public to justify their actions. In short, police across

the state are violating these laws freely because they can do so, and they can get away with it. This does not speak highly to the level of respect the average lawman has for the law. Additionally, the manner in which they misrepresent the law to the public demonstrates intent to violate the law, which is a required element for a charge of Official Misconduct under RCW 9A.80.010.

The misuse of unmarked vehicles has been going on for far too long, and people are paying far too high of a price for it. The legislative intent of these laws is made crystal clear by the attached bill file documents, and that intent is being disregarded by law enforcement across the state.

In consideration of this, the following recommendations are made to any court that such a case is brought before:

1. Any citation that is issued from an unmarked vehicle should be dismissed. The use of these cars for traffic enforcement is illegal in all cases, and every citation issued from such vehicles is void as such.
2. In any case that involves illegal use of unmarked vehicles or confidential plates, the court should order that the penalties provided for in 46.08.067 should be imposed on both the offending officers and anyone in the chain of command who is likewise liable. The penalties provided in law are meaningless if they cannot actually be imposed.
3. Willful or repeated violations of the marking requirement laws, by individual officers or commanding officers who order the violations, and especially in cases where the law is willfully misrepresented to the public by police authorities, should be addressed by the court with a charge of Official Misconduct.
4. In cases where law enforcement officials falsely certify before the court that use of unmarked cars and confidential plates is legal for non-undercover purposes, the court should address this with a charge of Public Officer Making False Certificate under 42.20.050.

(Continued)

The following recommendations are made to the Washington State Legislature:

1. Violations of RCW 46.08.065 and 46.08.066 by law enforcement need to be raised to a low-level misdemeanor. A provision should be made requiring prosecution and imposition of penalties in any case where evidence of guilt is created by a citation or charge against a defendant being dismissed due to such violations, or a complaint with evidence being filed. The current requirement that offending agencies must punish themselves is what has led to the current state of law enforcement statewide disregarding the will of the legislature in this area. Marking requirements need to be enforcable upon law enforcement without the help of law enforcement.
2. Some police departments are using cars with only the minimally-required 6" diameter logo on the sides of the vehicle, often not even placed on the door where a person being stopped could see it when the door opens. Logos should be required to be full-sized and legible from a distance, and placed on the door where a person being stopped can see it when an officer exits his vehicle.
3. The marking requirements for WSP vehicles need to be revamped. A rear-window sticker gives no assurance to a motorist being stopped, but does tip off speeders. It is recommended that the requirements for the rear-window sticker be done away with, and possibly the official plate requirement as well, and in their place create a requirement for a full-size logo in contrasting colors on the side doors. This will allow WSP to operate "slick" cars that are more difficult to spot by speeders and aggressive drivers coming up from behind, but will allow people being stopped to readily identify them as real police vehicles. Completely unmarked cars could still be used for observation, i.e. "undercover" work, but a legally marked unit must be called to make the actual stop.
4. Stops conducted at night should require a vehicle equipped with a lightbar on top, unless the stop is done in a well-lighted area. Even clear markings on the sides can be very difficult to see past all the lights, and an impersonator can take advantage of that by simply prowling a dark road.
5. It should be encoded in law that a person being stopped, who is uncertain the police car is real, has a right to turn on their emergency flashers and proceed to a safe location before stopping. This would not apply in cases where the officer has made sure the driver has had the opportunity to see the markings on the sides of the vehicle or has otherwise positively identified himself. While this is the most recommended course of action in this situation, some motorists have had guns drawn on them by police who became extremely hostile after the car failed to immediately stop.
6. An exemption should be created in the ban on cellphone use while driving for people who need to call 911 to verify a police car is real.
7. Undercover police cars with no markings for identification should have no superior right to trespass on private residential or business property than any other civilian-owned vehicle.

**973 P.2d 493 (1999)
94 Wash.App. 784**

**STATE of Washington, Appellant,
v.
Mark Snowden RITTS, Respondent.**

No. 17280-5-III.

Court of Appeals of Washington, Division 3, Panel Six.

March 23, 1999.

494*494 Ann C. Shannon, Deputy Prosecuting Attorney, Colfax, WA, for
Appellant.

Howard M. Neill, Aitken, Schauble, Patrick, Neill & Ruff, Pullman, WA, for
Respondent.

SWEENEY, J.

It is a felony to ignore an order or command to stop by a law enforcement officer in a marked police car. The trial court dismissed a charge of attempted felony eluding against Mark Ritts because the police car he attempted to elude was not "marked" with identifying lettering on the doors, although it was equipped with flashing lights and siren. We affirm.

FACTS

The facts are undisputed. About midnight on September 7, 1997, a Whitman County deputy sheriff responded to a crime in progress emergency call. En route to the scene, Deputy Chapman observed Mark Ritts' white pickup—the only other vehicle on the road— driving away from the scene in the opposite lane. He radioed to Sergeant Kelley, who was following in an unmarked green Ford Bronco, to get the license plate number.

Sergeant Kelley was in police uniform. The Bronco was equipped with alternating high beam and headlights (wig-wags), siren, red and blue strobe lights mounted at the top of the windshield and inside the front grill, and blue and yellow flashers in the rear 495*495 window. It was not "marked" with lettering or a logo on the doors.

As Sergeant Kelley approached, Mr. Ritts first braked hard, then took off at high speed. Sergeant Kelley turned around and gave chase. After about two miles with Sergeant Kelley driving about 75 yards behind Mr. Ritts, doing about 95 m.p.h., Mr. Ritts and his passenger abandoned the truck in a field and ran. The passenger later admitted he and Mr. Ritts saw the officer behind them, got scared and fled.

Mr. Ritts was charged with attempting to elude a police officer in violation of RCW 46.61.024. It is a class C felony to willfully fail to immediately stop and to drive recklessly after receiving a visual or audible signal to stop from a uniformed police officer whose vehicle is "appropriately marked showing it to be an official police vehicle." RCW 46.61.024.

He moved to dismiss the charge for failure to prove the signal to stop came from a marked police car. The court agreed that Sergeant Kelley's unmarked Bronco did not meet the statutory requirement that the police vehicle be "appropriately marked showing it to be an official police vehicle." Concluding that the State did not prove the elements of RCW 46.61.024, the court dismissed the charge.

DISCUSSION

The dismissal rests on the trial court's construction of RCW 46.61.024. The question presented is whether the flashing lights and siren "appropriately marked" the undercover Bronco as a police vehicle, absent a police logo or lettering on the sides. Statutory construction involves a question of law which we review de novo. [*State v. Bright*, 129 Wash.2d 257, 265, 916 P.2d 922 \(1996\)](#); [*State v. Barajas*, 88 Wash.App. 387, 389, 960 P.2d 940 \(1997\)](#), review denied, 134 Wash.2d 1026 (1998).

All public vehicles including police cars must be marked on the sides with identifying lettering or logo. RCW 46.08.065. Undercover sheriff's office and police vehicles are exempt from this requirement. RCW 46.08.065(1).

All emergency vehicles, not just police cars, are equipped with and may display emergency lights and siren. RCW 46.37.190(4); RCW 46.37.380(2); WAC 204-88-030(1); WAC 204-88-060(1). Only law enforcement vehicles may display blue lights. WAC 204-88-060(2). When any emergency vehicle displays emergency signals, drivers must yield and stop. RCW 46.37.190(5); RCW 46.61.210. However, violation of RCW 46.61.210 is a civil infraction, not a criminal offense. RCW 46.63.020; [*City of Bremerton v. Spears*, 134 Wash.2d 141, 150, 949 P.2d 347 \(1998\)](#).

The State contends that the eluding statute, RCW 46.61.024, does not expressly incorporate the lettering or logo requirements of RCW 46.08.065. [*State v. Trowbridge*, 49 Wash.App. 360, 362, 742 P.2d 1254 \(1987\)](#). Moreover, the Bronco, as an undercover sheriff's vehicle, was exempt from the marking requirements of

RCW 46.08.065. The State concludes that the fact the Bronco was unmarked is thus irrelevant. Because activation of its emergency equipment unmistakably identified the Bronco as a police vehicle, it was not possible for Mr. Ritts to mistake Sergeant Kelley's car for anything other than a police car. In the State's view, the court erroneously imported the marking requirements of RCW 46.08.065 into the eluding statute. The court's statutory interpretation was correct.

RCW 46.61.024 is a criminal statute. A criminal statute that has two possible interpretations is strictly construed in favor of the defendant, especially if it carries a penalty of imprisonment. [*State v. Lively*, 130 Wash.2d 1, 14, 921 P.2d 1035 \(1996\)](#); [*State v. Fitzpatrick*, 5 Wash.App. 661, 666, 491 P.2d 262 \(1971\)](#), review denied, 80 Wash.2d 1003 (1972).

Unambiguous statutory language is not subject to interpretation; the meaning is derived entirely from the subject matter and context. [*State v. Sunich*, 76 Wash.App. 202, 206, 884 P.2d 1 \(1994\)](#). We may not read unwritten language into a statute. [*State v. Malone*, 106 Wash.2d 607, 610, 724 P.2d 364 \(1986\)](#). Statutes are to be construed so as to avoid rendering any word or 496*496 provision meaningless. [*State v. Contreras*, 124 Wash.2d 741, 747, 880 P.2d 1000 \(1994\)](#).

The eluding statute expressly requires that the signal to stop come from a uniformed officer whose vehicle is appropriately marked showing it to be an official police vehicle. RCW 46.61.024. Appropriate marking is described in RCW 46.08.065 as identifying lettering or logo. The undercover exemption of RCW 46.08.065(1) waives the administrative marking requirement to permit the sheriff's department to operate unmarked cars for investigations. However, the criminal statute cannot be read to waive the requirement that the police vehicle be marked.

The plain language of RCW 46.61.024 expressly requires both a signal and a marked car. It does not require one or the other. If either the presence of signaling equipment or the nature of the signal itself renders a police vehicle appropriately marked, the language requiring appropriate identifying marking is superfluous. The statutory language includes no exception for unmarked undercover vehicles, with or without flashing lights.

In *Trowbridge*, relied on by the State, the statute was held satisfied when an unmarked vehicle actually gave chase after the signal to stop had been given by a uniformed officer whose vehicle was marked with the letters and stripes of an official police vehicle. [*Trowbridge*, 49 Wash.App. at 363, 742 P.2d 1254](#).

That did not happen here. Although the Bronco's emergency lights, including a blue light, were flashing, the statute requires a signal to stop by a uniformed officer whose vehicle is marked.

Mr. Ritts' admission that he knew his pursuer was a law enforcement officer does not relieve the State of proving the elements of the eluding statute. [State v. Hudson](#), 85 Wash.App. 401, 405, 932 P.2d 714 (1997). In *Hudson*, the police car was clearly marked, but the court reversed a felony eluding conviction because there was no evidence that the officers were in uniform. Even though the officers' clothing would not have been discernable at the point when the defendant fled, all the elements of the statute were still required to be proved.

That is the case here. The undercover vehicle pursuing Mr. Ritts was not appropriately marked as a police vehicle. Therefore, the State failed to prove the elements of RCW 46.61.024. This may not be the result the Legislature intended by this statute, but it is nonetheless the result required by the present wording of the statute. We are constrained to therefore affirm the order of dismissal.

SCHULTHEIS, C.J., and KURTZ, J., concur.

ROLLING SLOWDOWN

Traffic Control Plan (TCP) 12

A rolling slowdown is a legitimate form of traffic control commonly practiced by the WSP, contractors and highway maintenance people. Their use is valuable for emergency, or **very** short duration, closures (e.g. to pick debris from the roadway, to push a blocking disabled to the shoulder, or to pull power lines across the roadway). The **traffic control vehicles** form a moving blockade which reduces traffic speeds and creates a large gap in traffic, or clear area, allowing very short term work to be accomplished without totally stopping the traffic.

Other traditional forms of traffic control should be considered first. If the closure is to be a scheduled operation, then the Regional Traffic Office needs to be contacted to request a site specific, approved, Traffic Control Plan (TCP). The gap in traffic created by the rolling slowdown, and other traffic issues, would be addressed on an approved TCP. Also, use of WSP is encouraged whenever possible.

In the event of debris in the roadway, a blocking disabled vehicle, or other emergency, the use of experience and resources at hand, along with sound judgment and common sense, will suffice in lieu of an approved, site specific, TCP. TCP 12 on page 28 has been designed to present the basic information for performing a safe and effective rolling slowdown.

Equipment availability is a prime consideration. Before starting this operation, ensure there is at least one **traffic control vehicle (with flashing amber lights)** per lane to be slowed, **and** one vehicle to cover every point of access onto the 'rolling slowdown' segment of roadway. (Only during emergencies should less than one traffic control vehicle per lane be considered.) Truck mounted PCMS boards stating "Rolling Slowdown In Progress" are very helpful. **Be sure that every crew member participating is well briefed and knows what is needed from them. Good communications for this operation are essential!**

The **traffic control vehicles** leading the rolling slowdown must enter the roadway far enough upstream from the work operation site to allow a clear area in front of them to develop. The **traffic control vehicles** will work into position so that each lane is controlled. As in every other form of traffic control, sight distance is important, so that drivers are not surprised. While traveling at a fixed and reduced rate of speed, a gap in traffic must be created which is long enough to provide the estimated time needed for the work to be done.

A separate **traffic control vehicle**, "chaser vehicle", shall follow the slowest, or last, vehicle ahead of the blockade. When that last vehicle passes, the crew can begin the work operation.

All ramps and entrances to the roadway between the moving blockade and work operation must be temporarily closed using traffic control personnel. Each of those ramps must remain closed until the "all clear" signal is given by the crew doing the work, **or**, until the front of the moving blockade passes the closed on-ramp(s).

Radio communications between the work crew and the moving blockade are needed so the speed of the blockade can be adjusted, if necessary, to increase or decrease the closure time.

Release traffic only after you have confirmation that all workers and their vehicles are clear of the roadway.

Legislative Bill Documents

Concerning

RCW 46.08.065 (police vehicle marking) and RCW 46.61.024 (eluding police vehicle)

Below are documents from the legislative bill files relating to HB 172, which established the current laws regarding police vehicle marking requirements, HB 1076, which amended the law on eluding police vehicles to require only that a vehicle have lights, siren, and uniformed officer driving in order to charge a person with eluding, and SB 2468, which created the original law regarding eluding police vehicles and required that the vehicle be properly marked.

Highlighted in the section on HB 172 are the portions that demonstrate the legislative intent that the only exceptions to the marking requirements for law enforcement vehicles be for undercover or confidential investigative purposes.

The section on HB 1076 shows that no consideration was ever given to the conflict being created with RCW 46.08.065 by amending the law to allow a person to be charged with eluding a police vehicle that is not legally marked to begin with. This section includes the hearing sign-in rosters, which show that the change was heavily supported by law enforcement officials, who are well aware of the marking requirements, and none of them ever raised this potential conflict.

The section on SB 2468 demonstrates the intent of the original eluding law that a person could only be charged with eluding if they knew they were being stopped by a real police vehicle, which had to be properly marked.

BILL ANALYSIS

BILL NO. EHB 172 (cf SB 2152) DATE: March 5, 1975

SPONSOR: Representatives Bagnariol, Curtis, Shinpoch and Polk
(By Legislative Budget Committee Request to implement
performance audit recommendations)

SHORT TITLE: Public vehicles, identity

REPORTED BY: Committee on State Government

ANALYZED BY: Tony Cook, Staff Counsel

ISSUES:

- (1) Should the state policy on identification of public vehicles be clarified and expanded to provide for uniformity of such markings?
- (2) Should the requirements for the use of confidential plates and unmarked vehicles be detailed and codified?

OBJECT:

To provide for uniformity of markings on public vehicles and to control and limit the use of confidential plates and unmarked cars.

EVALUATION:

Present law:

RCW 46.08.065 provides that publicly owned vehicles other than law enforcement vehicles shall be marked with the name of the owning or controlling agency painted on the side of the vehicle. Distinctive insignia may be used as a substitute when approved by the State Commission on Equipment for the vehicles of departments and offices of the state.

Effect of the bill:

Changes the requirement for name identification from "painting" to "displaying" to permit the use of decals and changes the letter size from two inches to one and one-quarter inches in height. Specifies the conditions under which the requirement for identification may be waived as being confidential or undercover investigative purposes and such other purposes as are approved by the appropriate governing body of a local agency or the Department of General Administration.

The Department of General Administration with consent of the Automotive Policy Board is authorized to allow the use of special insignia rather than the state seal for state vehicles and the governing body of any local government may adopt and use such insignia. In both cases, the name of the public body owning and operating the vehicle must be included as part of the insignia in colors contrasting with the vehicle and in letters not less than one and one-quarter inches in height.

Motorcycles are also required to be marked by letters of contrasting color but not of any required size.

The use of confidential license plates is limited to confidential law enforcement, public health, and public assistance purposes and the use of statewide elected officials on official business. The chief of the Washington State Patrol is given authority to provide for the use of confidential plates and unmarked cars for state officials, public officers or employees for their personal security. The state treasurer is specifically provided the use of an unmarked car for transportation of state funds or securities. Violations of provisions of the act subject the violator to disciplinary action including suspension or termination of employment.

Grandfather clauses are included for any distinctive insignia which was approved by the state Commission on Equipment on or before January 1, 1975 if it conforms to the standards of the act. In addition any vehicle properly marked before the effective date of the act need not be remarked until July 1, 1977.

NOTE: References are made throughout the bill to the "Automotive Policy Board". This board is proposed to be created by section 6 of House Bill 105. It would consist of the Commissioner of Public Lands, the State Attorney General, the Secretary of the Department of Social and Health Services, the Director of the Department of Motor Vehicles and a representative of four year institutions of higher education designated by a majority vote of the presidents of those institutions. If HB 105 does not pass, it would be preferable to strike the references to the Automotive Policy Board; thus granting authority to perform the designated functions directly by the Department of General Administration or the Washington State Patrol without consultation with the board.

BILL ANALYSIS

BILL NO. EHB 172 (cf SB 2152) (as amended) DATE: April 16, 1975
SPONSOR: Representatives Bagnariol, Curtis, Shinpoch and Polk
(By Legislative Budget Committee Request to implement
performance audit recommendations)
SHORT TITLE: Public vehicles, identity
REPORTED BY: Committee on State Government
ANALYZED BY: Tony Cook, Staff Counsel

ISSUES:

- (1) Should the state policy on identification of public vehicles be clarified and expanded to provide for uniformity of such markings?
- (2) Should the requirements for the use of confidential plates and unmarked vehicles be detailed and codified?
- (3) Should exempt plates for government agencies be issued in blocks for reallocation by such agencies and the fee for such plates increased?
- (4) Should government agencies be required to renew their license tabs annually?

EVALUATION:

Present law:

RCW 46.08.065 provides that publicly owned vehicles other than law enforcement vehicles shall be marked with the name of the owning or controlling agency painted on the side of the vehicle. Distinctive insignia may be used as a substitute when approved by the State Commission on Equipment for the vehicles of departments and offices of the state.

The licenses on publicly owned vehicles are required to be renewed annually.

Effect of the bill:

Changes the requirement for name identification from "painting" to "displaying" to permit the use of decals and magnetic signs and changes the letter size from two inches to one and one-quarter inches in height. Specifies the conditions under which the requirement for identification may be waived as being confidential or undercover investigative purposes. Also exempts transit vehicles and cars loaned to school districts for driver training.

The Department of General Administration with consent of the Automotive Policy Board is authorized to allow the use of special insignia rather than the state seal for state vehicles and the governing body of any local government may adopt and use such insignia. In both cases, the name of the public body owning and operating the vehicle must be included as part of the insignia in colors contrasting with the vehicle and in letters not less than one and one-quarter inches in height.

Motorcycles are also required to be marked by letters of contrasting color but not of any required size.

The use of confidential license plates is limited to confidential law enforcement, public health, and public assistance purposes and the use of statewide elected officials on official business. The chief of the Washington State Patrol may recommend that the director of motor vehicles provide for the use of confidential plates and unmarked cars for state officials, public officers or employees for their personal security. The state treasurer is specifically provided the use of an unmarked car for transportation of state funds or securities. Violations of provisions of the act subject the violator to disciplinary action including suspension or termination of employment.

Grandfather clauses are included for any distinctive insignia which was approved by the state Commission on Equipment on or before January 1, 1975 if it conforms to the standards of the act. In addition any vehicle properly marked before the effective date of the act need not be remarked until July 1, 1977.

Provides that the department may issue government plates in blocks rather than individually. Increases the fee for such plates from one to two dollars.

Exempts government owned vehicles from annual license renewal, limits the replacement fee to specified requirements and completely exempts foreign nation vehicles from replacement fees.

Fiscal effect:

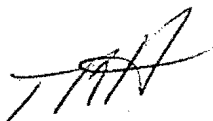
The identification provisions of the bill are estimated to produce a \$74,685.00 savings for the biennium. The licensing provisions are estimated to produce a biennium revenue loss of \$101,040 and an expenditure reduction of \$21,829 to the department of motor vehicles with a substantial savings to other state and local agencies (Dept. of Highways estimates that state agencies will save \$59,995; counties \$130,376; and cities \$70,410 for the biennium).

State of Washington
Legislative Budget Committee
Olympia, Washington

January 31, 1975

MEMORANDUM

TO: Representative Helen Sommers, Chairwoman
House Committee on State Government

FROM: Thomas R. Hazzard, Legislative Auditor 

SUBJECT: House Bill No. 172
(Marking of publicly owned motor vehicles)

SUMMARY

This bill represents the outcome of the first major review of public motor vehicles marking and identification requirements since the current law was originally enacted in 1937. The bill is intended to provide better public visibility of government owned vehicles and to provide a means for more efficiently marking vehicles operated by the state and by units of local government. It also sets forth proposed legislative policy positions as to the utilization of "confidential" license plates by state government officials and employees as well as their use by units of local government and federal government agencies. The bill also includes specific penalty provisions (Section 3) to encourage compliance with the statute. The bill is intended to implement recommendations 6(a), 6(b) and 7 of the recent Legislative Budget Committee performance audit covering utilization of passenger motor vehicles used in conducting state business.

MAJOR FEATURES OF BILL

Regular marking. Under present legislative policies as set forth in RCW 46.08.065, all motor vehicles operated on the public highways by state agencies or units of local government are to have painted on the left side of the vehicle in letters at least two inches high, the words "STATE OF WASHINGTON" or the name of the appropriate city, county or other unit of local government plus the name of the state agency or local government agency using the vehicle.

The motor vehicle utilization audit included a review of state agency compliance with the marking requirements established by the Legislature

Representative Helen Sommers
Page Two
January 31, 1975

under RCW 46.08.065.* The audit found that the requirements of RCW 46.08.065 were not being followed by state agencies in the marking of state vehicles.** House Bill No. 172 is intended to allow use of more modern and less costly methods of marking public vehicles. The bill reduces the size of the required lettering (from two inches to one and one-quarter inches) and allows the use of decals and other marking methods in addition to painted identification. It has been estimated that the new marking requirements will cost substantially less per vehicle to install and remove relative to the marking requirements of the existing law.

The bill does propose markings on both sides of the vehicle, in lieu of on the left side only as at present. It also will extend the law to cover vehicles under agency control. (This is intended to cover vehicles under long-term lease, loan, or similar arrangements tantamount to ownership.) A vehicle marking exemption for vehicles used by sheriffs, local police, and local peace officers is continued but is limited to vehicles used for undercover or confidential investigative purposes.

Insignia Alternative. The current statute also allows use of a distinctive insignia (including substantially the same information) as an alternative to the "regular" marking requirements. Under existing law, insignia are subject to approval by the state commission on equipment. The proposed new language continues permission to use distinctive insignia as an alternative to "regular" marking but for units of local government approval authority is shifted from the state commission on equipment to the governing body of the county, city or other local government unit concerned. As to state agencies, approval authority is shifted to the Department of General Administration and the automotive policy board. Existing state agency insignia would be automatically approved for continued use (if approved by state commission on equipment on or before January 1, 1975) and if they contain the information and lettering size required by the proposed law.

Marking Exemptions. Under the existing law, no marking exemptions are provided other than a blanket exemption for the Washington State Patrol and for local sheriffs' offices and local police departments. Under House Bill No. 172, Washington State Patrol vehicles used for general undercover or confidential investigative purposes would be exempt from the marking requirement. State Patrol traffic vehicles may also be exempted at the

* Performance Audit No. 74-2, Passenger Motor Vehicles Used in Conducting State Business, July 19, 1974, pp. 44-45

** Ibid. page 54

Representative Helen Sommers
Page Three
January 31, 1975

Chief's discretion. Other exemptions would be permitted covering vehicles used for law enforcement, confidential public health work, public assistance fraud/support investigations. Exemptions are also permitted for vehicles under temporary lease, for vehicles used by statewide elected officials, where needed for employee security purposes, and for vehicles used for the transportation of money and securities by the State Treasurer.

State Agencies Vehicle Covered. The present law covers all state agencies. The scope of this coverage apparently extends to include commodity commissions and possibly such entities as the Washington State School Directors Association. Under the language of the proposed bill, commodity commissions would be excluded and coverage of the law limited to those agencies financed in whole or in some part from funds appropriated by the Legislature. No change in the types of motor vehicles covered is intended under the bill. Special language covering motorcycles is included in the new bill to recognize the limited space available for marking purposes.

Confidential Plates. There is no statute, legislative guidelines or other published policy governing the use of confidential plates.* Theoretically, the director of motor vehicles could authorize their use on all publicly owned motor vehicles without violating any law or other legislative guideline.

Under the proposal in House Bill No. 172, the use of such plates by local government agencies (and federal agencies) would be limited to law enforcement purposes. State agency use would be restricted to confidential investigative or undercover work of state law enforcement agencies, confidential public health work and confidential public assistance fraud or support investigations. For personal security reasons, the Chief of the Washington State Patrol (with the approval of the automotive policy board) could authorize use of confidential plates and an unmarked car. In addition, the office of the State Treasurer is authorized to use an unmarked state car and confidential license plates, where required, to transport state funds or negotiable securities to or from his office. State officials elected on a statewide basis may also secure one set of confidential plates for use on official business.

* Confidential plates are regular passenger car license plates used on publicly owned motor vehicles which bear no distinguishing symbols, letters or numbers to distinguish them from plates regularly assigned to privately owned motor vehicles.

Representative Helen Sommers
Page Four
January 31, 1975

Administrative Penalties. Violation of the provisions of the proposed bill subjects the public officer or employee to disciplinary action by the appropriate appointing authority or employing agency.

"Grandfather" clause - any vehicle properly marked under existing law would not need to be remarked to conform to new marking requirements until July 1, 1977.

Fiscal Impact. The data presently available to the Legislative Budget Committee staff indicates the cost of conforming to the statutory standards of the new law will be no more than under the current law and could be substantially less. A set of two decals conforming to the new standards will cost about \$2.50.

A section by section analysis of the highlights of House Bill No. 172 is attached as Appendix One.

TRH/sc

Attachment: Highlights of HB 172

APPENDIX ONE

SECTION BY SECTION HIGHLIGHTS

Public Motor Vehicle Identification Bill

HOUSE BILL NO. 172

Section

ONE Subsection (1) amends existing law to delete material dealing with state-owned vehicles. (Material relating to state shifted to subsequent subsections.) Marking requirements extended to vehicles controlled by local governments (i.e., long-term lease). Size of required letters reduced (two inches to 1-1/4 inch) which corresponds with proposed state requirement. Use of distinctive insignia by local government agencies may be permitted by appropriate overall local governing body. Use of unmarked vehicles by police agencies limited to undercover or confidential investigative purposes.

Subsection (2). All vehicles owned or controlled by state agencies financed in whole or in part from appropriated funds to be plainly marked on both sides with the agency name (or state motor pool, as appropriate) with minimum letter size of 1-1/4 inch and the state seal at least six inches in diameter. The words "For Official Use Only" are to appear immediately below seal or authorized insignia.

Subsection (3). With the consent of the automotive policy board, the Department of General Administration may approve agency use of a distinctive insignia in lieu of the state seal required in subsection (2). Must be at least six inches across in smallest dimension and in a color contrasting to vehicle color. The words "State of Washington" must be displayed above the insignia in letters at least one and one-quarter inches high in a color contrasting to the vehicle.

Subsection (4). A distinctive agency insignia approved by state commission on equipment on or before January 1, 1975 may be continued in use if it otherwise conforms to the standards imposed by subsections (2) and (3).

Subsection (5). Marking requirements do not apply to state patrol vehicles used for general undercover or confidential investigative purposes. Traffic control vehicles may also be exempted. Other exceptions to marking requirements shall be permitted for law enforcement work, confidential public health work, public assistance fraud or support investigations, public officials elected on a statewide basis, personal security of public officials and employees, transportation of public funds or securities by the Office of the State Treasurer and for vehicles leased on short term basis. (Only exceptions to be permitted.)

Subsection (6). Publically owned motorcycles to be conspicuously marked in letters of a contrasting color with the name of both the operating government entity and the department or office on whose business the motorcycle is used.

- TWO Use of confidential plates by federal and local government agencies limited to law enforcement work. Use of confidential plates by state limited to same areas (law enforcement, confidential public health work, confidential public assistance fraud or support investigations, necessary personal security purposes, statewide elected officials, state transport of public funds and negotiable securities) as areas where use of unmarked cars is permitted. Director of Motor Vehicles may issue rules governing applications for confidential plates. Legislative Auditor shall examine listings of confidential plate utilization by using governmental unit and report thereon to Legislature and Legislative Budget Committee.
- THREE Violations of this act shall subject the public officer or employee concerned to disciplinary action by appointing authority. Disciplinary action may include suspension without pay or termination of employment.
- FOUR Vehicles properly marked under current law need not be remarked to conform to new requirements until July 1, 1977.

State of Washington
Legislative Budget Committee
April 23, 1975

MEMORANDUM

TO: Senator Daniel Marsh and
Senator Charles Newschwander

FROM: Thomas R. Hazzard, Legislative Auditor *THOR*

SUBJECT: Engrossed House Bill No. 172

The Senate State Government Committee has amended and moved out Engrossed House Bill No. 172 with a "Do Pass" recommendation. As you recall, this bill, as recommended by the Legislative Budget Committee, had three major features: (1) strengthening the long-standing legislative policy (since 1937) calling for the conspicuous marking of publicly-owned vehicles; (2) establishing legislative policy guidelines on the use of confidential plates by state agencies and other governmental entities (no limits provided by law at present); and (3) providing for penalties for failure to comply with the law to assist in the enforcement of legislative policy directives.

The bill is also intended to provide for the more efficient and economical methods of marking publicly-owned or controlled vehicles to comply with the legal standards established by the Legislature. The committee staff solicited cost estimates relative to the cost of conforming with the present statute. The estimated cost of marking a vehicle under the current law was about \$11 per vehicle. (painted markings required by current statute). Both sides of the vehicle can be marked for about \$3 under methods allowed by House Bill No. 172.

Several amendments were made by the Senate State Government Committee which will clarify the scope and impact of the bill. An exemption was provided for mass transit vehicles and such other motor vehicles as may be loaned to school districts for driver training purposes. The legend "for official use only" will be applied to local government vehicles as well as state agency vehicles, and explicit language was incorporated requiring the vehicle markings to be kept in a legible condition at all times. Other language as to the issuance of confidential plates for security reasons by the Director of the Department of Motor Vehicles, with the advice by the Chief of the State Patrol, was clarified.

A further amendment was requested by Representative Ehlers which in essence added the provisions of House Bill No. 39 to our committee bill. These amendments had the affect of eliminating the need for public agencies (state, county, city, etc.) to obtain, install and display annually updated license plate tabs on publicly-owned motor vehicles.

The proponents of the last amendment state that in addition to savings by the Department of Motor Vehicles through elimination of the cost of issuing the tabs yearly, all state agencies, cities and counties would save the yearly registration fees for all except newly registered vehicles, the cost of processing the request for tabs, receiving and installing the tabs. The additional one dollar fee proposed for each original registration, \$2.60 versus \$1.60 (current fee), would only partially offset the revenue losses, however.

As shown below, the cost saving to all levels of government within the state will be \$926,868 over the six-year period. This cost savings is partially offset by a six-year revenue loss by the Departments of Highways and Motor Vehicles of \$322,460. Cost savings data was arrived at as follows: labor time includes all the time it takes to renew a motor vehicle registration from receiving the renewal form to putting the new tabs on the license plate and is estimated at 15 minutes per vehicle. In all but a few cases, the work would presumably be done by several persons. Labor costs are estimated to average five dollars per hour.

The fiscal impact as estimated by the Departments of Highways and Motor Vehicles is summarized below:

| <u>Expenditure Impact on State and Local Governments</u> | | | | |
|--|-------------------------------|--------------|---|----------------------------|
| | <u>DMV Admin. Savings</u> | <u>+</u> | <u>Other State County, City Savings</u> | <u>Total Savings</u> |
| FY 1976 | \$ 4,666 | | \$ 128,149 | \$ 132,815 |
| FY 1977 | 17,435 | | 132,632 | 150,067 |
| 1975-77 Bien. | 22,101 | | 260,781 | 282,882 |
| 6-yr. Total | 96,577 | | 830,291 | 926,868 |
| <u>Revenue Loss</u> | | | | |
| | <u>FY 76</u> | <u>FY 77</u> | <u>1975-77 Biennium</u> | <u>Six-Year Impact</u> |
| Motor Veh. Fund | \$(44,930) | \$(46,500) | \$(91,430) | \$(291,780) |
| Highway Safety Fund | (4,720) | (4,890) | (9,610) | (30,680) |
| | \$(49,650) | \$(51,390) | \$(101,040) | \$(322,460) |

ENGROSSED HOUSE BILL NO. 172,

by Representatives Bagnariol, Curtis, Shinpoch and Polk (by
Legislative Budget Committee request):

Standardizing the marking of public vehicles.

Senate Committee on State

Government report: Do Pass as Amended

(DIGEST AFTER HOUSE 2ND READING)

Prescribes required standards of design and display for identification and marking of vehicles owned by the state and local governmental units, excluding vehicles used by law enforcement authorities for prescribed undercover or special investigative purposes.

Limits issuance of confidential licenses to (1) agencies for law enforcement purposes only; (2) state officials elected on a state-wide basis on request for use on official business; (3) for use on unmarked publicly owned cars when necessary for the personal security of any state official, other public officer, or public employee for official business for the period of time required for such security; and (4) the state treasurer's office for transportation of state funds or negotiable securities to or from the treasurer's office.

Requires the legislative auditor to examine or require filing of the total number of such plates issued to each agency. Requires reports of the use of such plates to the legislative budget committee and to the legislature.

Subjects violators to disciplinary action.

(DIGEST OF ADOPTED SENATE AMENDMENTS)

(following the enacting clause) Prescribes required standards of design and display for identification and marking of vehicles owned by the state and local governmental units, excluding vehicles used by law enforcement authorities for prescribed undercover or special investigative purposes, municipal transit vehicles, and cars loaned to schools for driver training.

Limits issuance of confidential licenses to (1) agencies for law enforcement purposes only; (2) state officials elected on a state-wide basis on request for use on official business; (3) for use on unmarked publicly owned cars when necessary for the personal security of any state official, other public officer, or public employee for official business for the period of time required for such security; and (4) the state treasurer's office for transportation of state funds or negotiable securities to or from the treasurer's office.

Requires that the legislative auditor examine or require filing of the total number of such plates issued to each agency.

Public vehicles, identity

ANALYSIS AS ENACTED

ISSUE:

Uniform marking standards should be applied to all cars owned by the State and units of local government.

Use of confidential license plates needs to be limited to law enforcement purposes and situations where personal security justifies their use.

Publicly-owned vehicles should be exempt from annual license review.

SUMMARY:

Establishes uniform standard for lettering and insignia on publicly-owned vehicles. Exempted are law enforcement vehicles used for investigative purposes and transit. The goal is to establish uniformity and clear markings.

Procedures are established for sharply limiting the number of confidential license plates in use. Use will be limited to law enforcement and situations where consideration of personal security of a public official justifies their use.

Publicly-owned vehicles are exempted from annual license renewal.

The anticipated savings should be \$74,685 for 1975-77 biennium.

| | | | | |
|------------------------|----|---|-----|------------------------------|
| HOUSE: | 97 | 0 | | Effective: September 8, 1975 |
| SENATE: | 43 | 4 | (a) | C 169 L 75 1st ex. sess. |
| HOUSE FREE CONFERENCE | | | | |
| REPORT ADOPTED: | 91 | 0 | | |
| SENATE FREE CONFERENCE | | | | |
| REPORT ADOPTED: | 46 | 0 | | |

HOUSE BILL REPORT

ESHB 1076

As Passed House:
February 26, 2003

Title: An act relating to attempting to elude a pursuing police vehicle.

Brief Description: Revising provisions relating to attempting to elude a pursuing police vehicle.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, McDonald, O'Brien, Moeller, Chase, Haigh, Carrell, Simpson and Kagi).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/29/03, 2/7/03 [DPS].

Floor Activity:

Passed House: 2/26/03, 97-0.

Testimony For: (Original bill) State courts have reversed convictions based upon the fact that a police car was not properly marked; this bill would prevent this outcome. Courts have interpreted the current law as requiring door decals, which do not have anything to do with providing drivers with notice that a police vehicle is following. Police often use unmarked cars now because they help to slow down traffic and are needed for traffic enforcement. This bill addresses the concern of police impersonation by allowing drivers to continue driving in a non-reckless manner until they find a safe place to stop. Drivers can also drive away if they realize the person is not a police officer. The bill does not change the culpability standard, it just updates the language.

(Substitute bill) The modifications address the concerns about the original bill.

Testimony Against: (Original bill) Eliminating the requirements of having a properly marked car and having a police officer in uniform increases the concern over police impersonations. A pulled over driver is vulnerable, and this bill will increase agitation over pulling over. A possible constitutional issue exists over creating a reasonable person standard for the affirmative defense, as opposed to actual knowledge. This bill makes it a crime to elude an imposter police officer.

Testified: (In support) Representative Lovick, prime sponsor; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Glenn Cramer, Washington State Patrol; and Tom McBride, Washington Association of Prosecuting Attorneys.

(With concerns) Peter Teets, Department of Licensing; and Sherry Appleton, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

A driver commits the crime of attempting to elude a pursuing police vehicle when the driver willfully fails or refuses to immediately stop his or her car and drives in a manner indicating wanton or willful disregard for the lives or property of others after being given a visual or audible signal to stop by a police officer. The signal to stop may be given by hand, voice, emergency light, or siren. Further, the police officer giving the signal must be in uniform and driving a vehicle appropriately marked showing it to be an official police vehicle.

The crime of attempting to elude a police vehicle is a seriousness level I class C felony. A class C felony can have a maximum sentence of five years of incarceration, a fine of \$10,000 or both. For a first time offender convicted of a seriousness level I class C felony, the standard sentence range is zero to 60 days incarceration. In addition to any fine or incarceration, a person convicted of attempting to elude a police vehicle has his or her driver's license revoked for one year.

Reckless driving is also a criminal offense on its own, absent an attempt to elude a police officer. Reckless driving is defined as driving "in willful or wanton disregard for the safety of persons or property," and is punishable as a gross misdemeanor.

Summary of Substitute Bill:

The definition of attempting to elude a pursuing police vehicle is amended. Driving in a "reckless" manner replaces the requirement of driving in a "wanton or wilful disregard for the lives or property of others." The requirement that the pursuing vehicle be appropriately marked as a police vehicle is also eliminated.

An affirmative defense is added based upon the behavior of a reasonable person. A driver can assert the defense that a reasonable person would not believe that the signal to stop was given by a police officer, and that continuing to drive after being signaled to stop was reasonable given the circumstances.

Substitute Bill Compared to Original Bill:

Reinserts the requirement that a police officer signaling for the driver to stop must be in uniform. Eliminates the increased length of time that driving privileges are suspended as a result of a conviction, and eliminates the requirement that suspensions be tolled while the offender is incarcerated.

Appropriation: None.

Fiscal Note: Available.

Fiscal Note: Available.

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

Testimony For: (Original bill) State courts have reversed convictions based upon the fact that a police car was not properly marked; this bill would prevent this outcome. Courts have interpreted the current law as requiring door decals, which do not have anything to do with providing drivers with notice that a police vehicle is following. Police often use unmarked cars now because they help to slow down traffic and are needed for traffic enforcement. This bill addresses the concern of police impersonation by allowing drivers to continue driving in a non-reckless manner until they find a safe place to stop. Drivers can also drive away if they realize the person is not a police officer. The bill does not change the culpability standard, it just updates the language.

(Substitute bill) The modifications address the concerns about the original bill.

Testimony Against: (Original bill) Eliminating the requirements of having a properly marked car and having a police officer in uniform increases the concern over police impersonations. A pulled over driver is vulnerable, and this bill will increase agitation over pulling over. A possible constitutional issue exists over creating a reasonable person standard for the affirmative defense, as opposed to actual knowledge. This bill makes it a crime to elude an imposter police officer.

Testified: (In support) Representative Lovick, prime sponsor; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Glenn Cramer, Washington State Patrol; and Tom McBride, Washington Association of Prosecuting Attorneys.

(With concerns) Peter Teets, Department of Licensing; and Sherry Appleton, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Traditionally marked police vehicles are not effective in stopping aggressive drivers because the police vehicles are too identifiable. The affirmative defense will provide greater protection for innocent drivers who suspect that they are being stopped by a person impersonating an officer.

Testimony Against: None.

Testified: PRO: Representative Lovick, prime sponsor; Tom McBride, WAPA; Dave McEachan, Whatcom County Prosecuting Attorney; Glenn Cramer, WSP; Larry Erickson, WASPC; Rick Jensen, Trooper's Association.

When property is removed from current use classification, back taxes, plus interest, must be paid. For open space categories, back taxes represent the tax benefit received over the most recent seven years. For designated forest land, back taxes are equal to the tax benefit in the most recent year multiplied by the number of years in the program (but not more than 10). There are some exceptions to the requirement for payment of back taxes. For example, back taxes are not required on the transfer of the land to an entity using the power of eminent domain or in anticipation of the exercise of that power.

In 2001 the Legislature restored an exception for payment of back property taxes when property is sold or transferred within two years of the death of an owner of at least 50 percent interest in the property. This exception only applies to properties that have been in current use programs continuously since 1993.

In 2001 the Legislature eliminated the distinction between classified and designated forest land in the timber tax program. Many technical changes were made to the statutes to implement this change and to update related statutes.

Summary: The date on the death certificate will be used to implement the exception to payment of back property taxes related to the death of an owner.

Language is restored in the timber tax law that limits the reference to "applicable rules" to only those rules adopted under Title 76 RCW (Forests and Forest Products).

A statute that applies to the repealed classified forest land is repealed.

Votes on Final Passage:

House 93 0

Senate 49 0

Effective: July 27, 2003

ESHB 1076

C 101 L 03

Revising provisions relating to attempting to elude a pursuing police vehicle.

By House Committee on Criminal Justice & Corrections (Originally sponsored by Representatives Lovick, McDonald, O'Brien, Moeller, Chase, Haigh, Carrell, Simpson and Kagi).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: It is a criminal offense to intentionally refuse to stop when ordered to do so by a police officer. The gravity of the offense depends upon the circumstances. It is a misdemeanor offense for a person to willfully fail to stop when ordered by a law enforcement officer, but the offense can increase to a felony if the

driver willfully refuses to stop while attempting to elude a police vehicle.

A driver commits the crime of attempting to elude a pursuing police vehicle when the driver willfully fails or refuses to immediately stop his or her car and drives in a manner indicating wanton or willful disregard for the lives or property of others after being given a visual or audible signal to stop by a police officer. The signal to stop may be given by hand, voice, emergency light, or siren. Further, the police officer giving the signal must be in uniform and driving a vehicle appropriately marked showing it to be an official police vehicle.

The crime of attempting to elude a police vehicle is a seriousness level I class C felony. A class C felony can have a maximum sentence of five years of incarceration, a fine of \$10,000, or both. For a first time offender convicted of a seriousness level I class C felony, the standard sentence range is zero to 60 days incarceration. In addition to any fine or incarceration, a person convicted of attempting to elude a police vehicle can have his or her driver's license revoked for one year.

Reckless driving is also a criminal offense on its own, absent an attempt to elude a police officer. Reckless driving is defined as driving "in willful or wanton disregard for the safety of persons or property" and is punishable as a gross misdemeanor.

Summary: The definition of attempting to elude a pursuing police vehicle is amended. Driving in a "reckless" manner replaces the requirement of driving in a "wanton or willful disregard for the lives or property of others." The requirement that the pursuing vehicle be appropriately marked as a police vehicle is replaced with the requirement that the vehicle be equipped with lights and sirens.

An affirmative defense is added based upon the behavior of a reasonable person. A driver can assert the defense that a reasonable person would not believe that the signal to stop was given by a police officer and that continuing to drive after being signaled to stop was reasonable given the circumstances.

Votes on Final Passage:

House 97 0

Senate 49 0 (Senate amended)

House 96 1 (House concurred)

Effective: July 27, 2003

EHB 1079

PARTIAL VETO

C 95 L 03

Expanding the definition of resident student for higher education purposes.

By Representatives Kenney, Cox, Fromhold, Jarrett, McIntire, Chandler, Miloscia, Quall, Sullivan, Veloria,

Senate Committee Services - Testimony/Attendance Roster

Committee: JUDICIARY

Bill number ESHB 1076

Date: March 20, 2003

Short Title: Attempting to elude a pursuing police vehicle

If you are from out of town and wish to testify, please mark the box to the right of your name.

| Name | Organization | Mailing Address (No "on file," please) | Phone/E-mail | Testifying? (Yes/No) | If so, Pro/Con |
|--|------------------------|--|-------------------|-------------------------|-------------------|
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Tom McBride <input type="checkbox"/> | WAPA | 206 16th Ave SE | 753-2175 | Yes | Pro |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Dave McEachern <input type="checkbox"/> | Whitman Co. Pros. Ofr. | " | " | Yes | und. Pro |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Glenn Cunningham <input type="checkbox"/> | WSP | PO Box 2600 | 753-5299 | Yes | Pro |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Larry V. Erickson <input type="checkbox"/> | WASPC | on file | 496-2380 | Yes | Pro |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Rice Jensen <input type="checkbox"/> | Troopers Assoc | OCY | 357-7911 | No | Pro |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Please Print | | Street City Zip | Phone: E-mail: | | |
| Please Print | | Street City Zip | Phone: E-mail: | | |

TESTIMONY/ATTENDANCE ROSTER

QJC

Committee:

Bill No.:

HB 1076

Date/Time: *Jan. 29, 2003 1:30 p.m.*

Short Title: *Revising provisions relating to attempting to elude a pursuing police vehicle*

| Name | Wish to Testify? (Yes/No) | If so, Indicate Pro/Con | Organization | Mailing Address (Fill out completely) Do Not Say "On File" | Telephone |
|---|------------------------------|-------------------------|-----------------------------------|--|---------------------|
| Please Print <i>Larry A. Evers</i> | <i>y</i> | <i>Pro</i> | <i>WASP</i> | Street <i>3060 Walkway Dr</i> City, Zip e-mail <i>Larry, WA,</i> | <i>360 786-2380</i> |
| Please Print <i>Glen Cramer</i> | <i>y</i> | <i>Pro</i> | <i>WSP</i> | Street City, Zip e-mail <i>P.O.B 4-2600</i> | <i>753-5299</i> |
| Please Print <i>Shirley Appleton</i> | <i>y</i> | <i>Con- PERMS</i> | <i>WA/WACOL</i> | Street City, Zip e-mail <i>on file</i> | <i>on file</i> |
| Please Print <i>PETER TEETS</i> | <i>more QUESTIONS</i> | | <i>DOL</i> | Street <i>1125 WASHINGTON ST SE</i> City, Zip e-mail <i>PTETS@DOL.WA.GOV</i> | <i>902-3738</i> |
| Please Print <i>Tom McBride</i> | <i>Yes</i> | <i>Pro</i> | <i>Int. Assoc. of Flor. Attys</i> | Street City, Zip e-mail <i>206 50th Ave SE</i> | <i>753-2125</i> |
| Please Print | | | | Street City, Zip e-mail | |
| Please Print | | | | Street City, Zip e-mail | |
| Please Print | | | | Street City, Zip e-mail | |

BILL REPORT
(As Passed by Committee)

HOUSE OF REPRESENTATIVES
Olympia, Washington

Bill No.

SB 2468

☐ Original Companion Measure
☒ Amended No. _____
☐ Substitute

Elude pursuing police cars
Brief Title (From Status of Bills)

Senators Walgren, Clarke, and Van Hollebeke
Sponsor (Note if Agency, Committee, Agency or Executive Request)

Reported by Committee on Judiciary

Committee Recommendation: Majority 6 Minority 0
(If a Minority Report is filed, list last names below)

April 5, 1979
Date
Mitch Olejko/David
Cheal - 753-4826

Staff Contact
(Name & Phone No.)

Fiscal Impact:

☐ Yes (see fiscal note)
☒ No

Majority Report Signed By: Newhouse, Rich Smith, Chandler, Knowles, Sherman,
and Tilly

Minority Report Signed By: n/a

ISSUE: Whether to create a new felony of willfully attempting to elude a
police officer?

SUMMARY OF BILL (with amendments, if any): This bill creates a new class C
felony of eluding a police officer which offense has the following elements:
(1) The driver of a motor vehicle must willfully fail or refuse to stop
his vehicle when signaled to stop by a law enforcement officer; and (2) The
person must then attempt to elude the pursuing police vehicle in a manner
indicating a willful and wanton disregard for the property of others.

The signal given by the officer may be by hand, voice, emergency light, or
siren. The officer giving the signal must be in uniform and the officer's
vehicle must be marked as a police car.

Under current law, the various offenses which may be committed by a person
who could be charged under the bill are all misdemeanors.

ARGUMENTS PRESENTED FOR:

Persons who attempt to elude marked
police vehicles often operate their
automobiles in a reckless manner which
endangers the life and property of
others. Under current law, a variety
of offenses (reckless driving, failure
to stop when signaled) may be charged in
connection with such a chase but the offenses
are all misdemeanors. The bill is narrowly
drawn so that it would apply only when the person
knew he was eluding a police vehicle.

PRINCIPAL PROPONENTS:

Washington State Patrol
WSLEA

ARGUMENTS PRESENTED AGAINST:

None.

PRINCIPAL OPPONENTS:

None.

SB 2468

SPONSORS: Senators Walgren, Clarke and Van Hollebeke

COMMITTEE: Judiciary

Penalizing attempts to elude pursuing police cars.

ISSUE:

Under current law there is no separate criminal offense for driving a motor vehicle in an attempt to elude a pursuing police car. A person engaging in such conduct will normally be charged with reckless driving or speeding or, in some cases, reckless endangerment, none of which are classified as felonies.

SUMMARY:

The crime of driving a motor vehicle to elude a pursuing police vehicle is created and classified as a class C felony. To be guilty of the offense, the driver must willfully refuse to stop his car after a visual or audible request from law enforcement and continue to drive in disregard of the lives and property of others. The law enforcement officer making the request must be in uniform and the vehicle must be marked as an official law enforcement vehicle.

| | | | |
|------------|----|---|--------------------------|
| Senate: | 46 | 0 | Effective: Sept. 1, 1979 |
| House: (a) | 95 | 0 | C 75 L 79 1st ex. sess. |
| S. Concur: | 46 | 0 | |

SB 2474

SPONSORS: Senators North and Bottiger

COMMITTEE: Energy and Utilities

Updating references to the state building codes.

ISSUE:

The existing state building code is based upon 1973 industry standards. It has been suggested that these standards are obsolete and that the code is in need of revision.

The state Department of Labor and Industries is presently required by statute to prescribe and enforce rules and regulations which protect the public by assuring that all factory built housing or commercial structures are structurally sound and that plumbing, heating, and electrical components are reasonably safe.

Currently there is no provision in the state building code for statewide thermal and lighting construction standards.

SUMMARY:

The state building code is updated from 1973 industry standards presently referred to in existing

law. The 1976 editions of the Uniform Building Code (UBC) and Related Standards, the Uniform Mechanical Code (UMC), the Uniform Fire Code (UFC), and the Uniform Plumbing Code (UPC) are adopted by reference in the State Building Code.

The State Building Code Advisory Council is required to report its recommendations to the Legislature by January 12, 1981, regarding thermal and lighting construction standards. The Council is granted the authority to promulgate rules for adopting a statewide thermal efficiency and lighting code to the extent necessary to comply with federal regulations. The code is required to take into account regional climatic conditions, and must take effect prior to June 30, 1980. The code must be presented to the Senate and House Committees on Energy and Utilities at the time it is proposed as a draft rule.

The rules and regulations of the Department of Labor and Industries must now be consistent with the standards set forth in the 1976 editions of the UBC, UPC, UMC, and the 1975 National Electrical Code.

| | | | |
|-------------|----|---|--------------------------|
| Senate: (a) | 41 | 3 | Effective: Sept. 1, 1979 |
| House: (a) | 97 | 1 | C 76 L 79 1st ex. sess. |
| S. Concur: | 42 | 2 | |

SB 2479

SPONSORS: Senators Bausch, Odegaard and Van Hollebeke

(By Department of Commerce and Economic Development Request)

COMMITTEE: Financial Institutions and Insurance

Increasing amount of certain investments that banks may hold.

ISSUE:

Small business investment companies are federally created organizations which allow investors desiring to open small businesses to obtain federal aid during the initial startup period. Present law allows state chartered commercial banks to invest one percent of their paid-in capital and surplus in small business investment companies while national banks may invest up to five percent.

Because of the current limitation upon such investments, very few state chartered banks have found it profitable to invest in a small business investment company. As a result, a potentially helpful source of small business capital has not materialized.

SUMMARY:

State chartered commercial banks are allowed to invest up to five percent of their paid-in capital and

SENATE BILL 2466

The proposed legislation amends RCW 4.24.115 and proscribes certain "exculpatory" contractual provisions as against public policy and therefore void and unenforceable.

The mandatory language set forth in the bill identifies a second category of exculpatory clauses sometimes found in agreements between owners and contractors, for example, and makes such clauses void and unenforceable. The practical effect of the proposed amendatory language, in general, will be to allow actions for recovery against the wrongdoer for his conduct notwithstanding a contractual provision which modifies or waives the liability of the wrongdoer for his actions.

The practical operation and effect of the proposed legislation and the ills sought to be corrected should become clear from the testimony presented to the committee.

SENATE BILL 2467

The proposed legislation amends RCW 46.20.342 and proscribes the operation of a motor vehicle on any public highway of this state when the license of the operator is currently suspended or revoked in Washington or any other state.

The new language, on its face, is self-explanatory. Suffice to say, that a certain degree of cooperation between the licensing authorities of the several states will be promoted to the end that unqualified operators of motor vehicles who travel interstate will be penalized for their unlawful conduct.

SENATE BILL 2468

The proposed legislation adds a new section to Chapter 46.61 RCW and makes certain conduct, namely, failure of any driver to stop his or her motor vehicle in response to a visual or audible signal to stop given by a law enforcement official, a Class C felony.

The language of the bill is narrowly drawn to accomplish its very clear purpose. In addition, violation of this section must be premised upon persuasive evidence that the law enforcement officer in fact gave such a signal to stop to the alleged offender and that such signal was willfully ignored. Although, as in every case, there exists the possibility of abuse by law enforcement officials, the specific objective of the legislation appears satisfactorily set forth.

I trust this will be of assistance to you. Should you have any questions, please don't hesitate to contact me.

Are Crown Victoria's really readily identifiable as police vehicles?

Pictured below are two identical black Crown Victoria's with spotlights. One is owned by the Seattle Police Department, the other was owned by Christopher Monfort.

