

Initiative Measure No. 2113

Filed May 25, 2023

AN ACT Relating to restoring the authority of a peace officer to engage in a vehicular pursuit when there is reasonable suspicion a person has violated the law and the officer follows appropriate safety standards; and amending RCW 10.116.060.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 10.116.060 and 2023 c 235 s 1 are each amended to read as follows:

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

(a) There is reasonable suspicion (~~(to believe that)~~) a person (~~(in the vehicle has committed or is committing:~~

- ~~(i) A violent offense as defined in RCW 9.94A.030;~~
- ~~(ii) A sex offense as defined in RCW 9.94A.030;~~
- ~~(iii) A vehicular assault offense under RCW 46.61.522;~~
- ~~(iv) An assault in the first, second, third, or fourth degree offense under chapter 9A.36 RCW only if the assault involves domestic violence as defined in RCW 10.99.020;~~
- ~~(v) An escape under chapter 9A.76 RCW; or~~
- ~~(vi) A driving under the influence offense under RCW 46.61.502))~~

has violated the law;

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

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

(d) (i) Except as provided in (d) (ii) of this subsection, the pursuing officer notifies a supervising officer immediately upon initiating the vehicular pursuit; there is supervisory oversight of the pursuit; and the pursuing officer, in consultation with the supervising officer, considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle;

(ii) For those jurisdictions with fewer than 15 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

(2) In any vehicular pursuit under this section:

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

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

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

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

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

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

(4) A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. For the purposes of this subsection, a vehicle is not considered a deadly weapon unless the operator is using the vehicle as a deadly weapon and no other reasonable means to avoid potential serious harm are immediately available to the officer.

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

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