

SENATE BILL REPORT

SB 5791

As of January 8, 2024

Title: An act relating to the evaluation of the effectiveness of oral fluid roadside information in the enforcement of driving under the influence laws.

Brief Description: Concerning the evaluation of the effectiveness of oral fluid roadside information in the enforcement of driving under the influence laws.

Sponsors: Senators Padden and Lias.

Brief History:

Committee Activity: Transportation: 1/09/24.

Brief Summary of Bill

- Requires the Washington State Patrol to establish a pilot program to evaluate the outcomes and effectiveness of oral fluid roadside information used as part of driving under the influence law enforcement.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Brandon Popovac (786-7465)

Background: Impaired Driving and Implied Consent. A person is guilty of driving under the influence (DUI) or physical control of a motor vehicle under the influence of intoxicating liquor or any drug offense if the person drives or is in physical control of a vehicle with a blood or breath alcohol concentration of 0.08 percent or higher, or is under the influence of or affected by liquor or any drug.

By driving a vehicle in Washington, drivers give implied consent to a breathalyzer test or field sobriety test as part of law enforcement pre-arrest screening for impaired driving. A driver may refuse either test resulting in possible arrest or driver license suspension.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Oral Fluid Roadside Testing. Oral fluid roadside screening devices test the saliva of an individual for the presence of specific drugs. A positive result indicates drug presence above a certain cut-off level and not a quantifiable drug level, and relatively recent drug use. A positive result obtained through such a screening device is preliminary and requires further testing to establish impairment. It provides a tool for law enforcement to develop probable cause and decide when to pursue laboratory-based confirmation testing or call a drug recognition expert.

Oral fluid confirmation testing may be conducted in a laboratory to obtain more accurate and detailed information, such as quantifiable drug levels, that can be used in an evidentiary capacity.

Approximately two dozen countries and over a dozen states have implemented or are prepared to implement oral fluid roadside testing. Washington State neither statutorily prohibits nor authorizes the use of oral fluid roadside testing and specimens in DUI cases.

Summary of Bill: The Washington State Patrol (WSP) must establish a pilot program to evaluate the outcomes and effectiveness of oral fluid roadside information used as part of the enforcement of DUI laws.

By March 1, 2025, WSP must select and initiate a minimum of ten locations as part of the field sobriety evaluation used in the investigation of suspected violations of DUI laws. WSP must establish specific requirements for such locations including:

- selection of the most valid and reliable oral fluid test instrument to be used;
- training for the law enforcement officers allowed to administer the test; and
- required measures to protect personally identifying information and test results.

WSP must submit a report detailing the results of the pilot program to the appropriate committees of the Legislature by June 30, 2026.

Appropriation: None.

Fiscal Note: Requested on January 4, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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