

1 **SSB 5266 - H AMD Adopted 575 Adopted 4-19-91**
2 **By Representative Ferguson**

3 **On page 15, after line 27, insert the following:**

4 " NEW SECTION. **Sec. 12.** A new section is added to chapter
5 46.16 RCW to read as follows:

6 (1) A motor vehicle owned and operated by a person whose
7 driver's license is in a suspended or revoked status or whose
8 privilege to operate a motor vehicle is suspended or revoked in
9 this or any other state is subject to seizure and forfeiture and no
10 property right exists in the vehicle except as follows:

11 (a) No vehicle used by a person as a common carrier in the
12 transaction of business as a common carrier is subject to seizure
13 and forfeiture under this section unless it appears that the owner
14 or other person in charge of the vehicle is a consenting party or
15 privy to a violation of this section;

16 (b) No vehicle is subject to seizure and forfeiture under this
17 section by reason of an act or omission established by the owner of
18 the vehicle to have been committed or omitted without the owner's
19 knowledge or consent;

20 (c) A forfeiture of a vehicle encumbered by a bona fide
21 security interest is subject to the interest of the secured party
22 if the secured party neither had knowledge of nor consented to the
23 act or omission; and

1 (d) When the owner of a vehicle has been arrested under this
2 chapter the vehicle in which the person is arrested is not subject
3 to forfeiture unless it is seized or process is issued for its
4 seizure within ten days of the owner's arrest.

5 (2) A vehicle subject to forfeiture under this section may be
6 seized by a law enforcement officer of this state upon process
7 issued by a superior court having jurisdiction over the vehicle.
8 Seizure of a vehicle without process may be made if:

9 (a) The seizure is incident to an arrest or a search under a
10 search warrant;

11 (b) The vehicle subject to seizure has been the subject of a
12 prior judgment in favor of the state in a criminal injunction or
13 forfeiture proceeding based upon this section;

14 (c) A law enforcement officer has probable cause to believe
15 that the vehicle is directly or indirectly dangerous to health or
16 safety; or

17 (d) The law enforcement officer has probable cause to believe
18 that the vehicle was used or is intended to be used in violation of
19 this section.

20 (3) In the event of seizure under subsection (2) of this
21 section, proceedings for forfeiture are commenced by the seizure.
22 The law enforcement agency under whose authority the seizure was
23 made shall cause notice to be served within fifteen days following
24 the seizure on the owner of the vehicle seized and the person in
25 charge of it and any person having any known right or interest in
26 it, including any community property interest, of the seizure and

1 intended forfeiture of the seized vehicle. The notice of seizure
2 may be served by any method authorized by law or court rule
3 including but not limited to service by certified mail with return
4 receipt requested. Service by mail is complete upon mailing within
5 the fifteen-day period after the seizure.

6 (4) If no person notifies the seizing law enforcement agency
7 in writing of the person's claim of ownership or right to
8 possession of the vehicle within forty-five days of the seizure,
9 the vehicle is deemed forfeited.

10 (5) If a person notifies the seizing law enforcement agency in
11 writing of the person's claim of ownership or right to possession
12 of the vehicle within forty-five days of the seizure, the person or
13 persons shall be given a reasonable opportunity to be heard as to
14 the claim or right. The hearing shall be before the chief law
15 enforcement officer of the seizing agency or the chief law
16 enforcement officer's designee. A person asserting a claim or
17 right may remove the matter to a court of competent jurisdiction if
18 the value of the vehicle involved is more than five hundred
19 dollars. The court to which the matter is to be removed shall be
20 the district court when the value is ten thousand dollars or less.
21 A hearing before the seizing agency and any appeal from the
22 decision shall be under Title 34 RCW. In a court hearing between
23 two or more claimants to the vehicle, the prevailing party is
24 entitled to a judgment for costs and reasonable attorneys' fees.
25 The burden of producing evidence is upon the person claiming to be

1 the lawful owner or the person claiming to have the lawful right to
2 possession of the vehicle. The seizing law enforcement agency
3 shall promptly return the vehicle to the claimant upon a
4 determination by the hearing officer or court that the claimant is
5 the present lawful owner or is lawfully entitled to possession of
6 the vehicle.

7 (6) When a vehicle is forfeited under this section the seizing
8 law enforcement agency may:

9 (a) Retain it for official use or, upon application by any law
10 enforcement agency of this state, release the vehicle to the agency
11 for the exclusive use of enforcing this title;

12 (b) (i) Sell the vehicle, in which case the proceeds shall be
13 used for payment of all proper expenses of the investigation
14 leading to the seizure and of the proceedings for forfeiture and
15 sale, including expenses of seizure, storage, advertising, actual
16 costs of the prosecuting or city attorney, and court costs. Money
17 remaining after the payment of all expenses shall be distributed as
18 follows:

19 (A) Seventy-five percent shall be deposited in the general
20 fund of the state, county, or city of the seizing law enforcement
21 agency;

22 (B) Twenty-five percent shall be remitted to the state
23 treasurer for deposit in the highway safety fund established in RCW
24 46.68.060;

25 (ii) Money deposited according to this section must be

1 deposited within ninety days of the date of final disposition of
2 either the administrative seizure or the judicial seizure; or

3 (c) Request the appropriate sheriff or director of public
4 safety to take custody of the vehicle and remove it for disposition
5 in accordance with law."

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7 By Representative Ferguson

8 On page 1, line 3 of the title, after "46.20.342;" insert
9 "adding a new section to chapter 46.16 RCW;"

10 EFFECT: Specifies situations when seizure of a vehicle is
11 permissible without process.