

**SENATE BILL REPORT**

**SSB 5266**

**AS PASSED SENATE, MARCH 12, 1991**

**Brief Description:** Restructuring penalties for driving while suspended.

**SPONSORS:** Senate Committee on Law & Justice (originally sponsored by Senators Thorsness, McMullen, Owen and A. Smith).

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5266 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

**Staff:** Richard Rodger (786-7461)

**Hearing Dates:** February 14, 1991; February 15, 1991

**HOUSE COMMITTEE ON JUDICIARY**

**BACKGROUND:**

State law contains a variety of crimes related to driving without a license. These crimes vary both as to the way in which they may be committed and as to the way they may be punished. Generally, punishments are more severe for repeat offenders, and for offenders who are driving while they have already had their licenses suspended or revoked for previous offenses.

A task force of judges, prosecutors, defense attorneys, the State Patrol and the Department of Licensing has recommended some restructuring of the statutes relating to driving without a license.

**SUMMARY:**

The crime of driving with a suspended or revoked license is restructured into three degrees.

The first-degree crime is a gross misdemeanor with mandatory minimum penalties that escalate with repeat offenses and that may not be suspended or deferred. The crime involves driving without a license when the driver has already been found to be an habitual offender.

The second-degree crime is also a gross misdemeanor, but without the mandatory minimum penalties of the first-degree crime. This degree of the crime involves driving while a license has been suspended or revoked for various offenses,

other than being found to be an habitual offender. This degree does not cover instances in which a driver is apprehended after the period of suspension or revocation has passed but before the driver's license has been reinstated.

The third-degree crime is a misdemeanor without mandatory minimum penalties. This degree of the crime involves driving without a license following a period of suspension or revocation but before the driver has had his or her license reinstated. The department may not extend the license suspension period for this offense.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**Effective Date:** Section 9 takes effect April 1, 1992.

**TESTIMONY FOR:**

A task force developed this legislation to make the law easier to apply and to give proportionality to the separate offenses. These crimes usually involve economic circumstances that the offenders have a difficult time avoiding. This bill will lessen the burden on persons who are unable to obtain their licenses for economic reasons.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Judge Robert McBeth, District and Municipal Court Judges Assn. (pro); Captain Tim Ericson, WSP (pro)

**HOUSE AMENDMENT(S):**

A motor vehicle, driven by a person whose driver's licence is suspended or revoked, is subject to seizure and forfeiture.

There are four exceptions to the forfeiture provisions:

- 1) The violation occurred on a common carrier without the owner's consent or knowledge;
- 2) The act or omission causing the violation occurred without the owner's knowledge or consent;
- 3) The violation occurred on a vehicle encumbered by a security interest and occurred without the secured party's knowledge or consent; or
- 4) The owner of the vehicle was arrested and the vehicle was not seized or process issued within 10 days of the arrest.

The owner of the vehicle and any persons having a known right or interest in the vehicle are notified of the seizure within 15 days. Persons who claim a right to ownership or possession

of the vehicle must notify the seizing law enforcement agency within 45 days to obtain a hearing on the forfeiture. The vehicle shall be promptly returned upon a determination that the claimant is the present lawful owner or is lawfully entitled to possession of the vehicle.

When a vehicle is forfeited, the seizing law enforcement agency may retain the vehicle for official use or sell the vehicle. If the vehicle is sold, the proceeds shall be applied to the expenses incurred in the seizure and forfeiture of the vehicle. Any money remaining after payment of the expenses shall be distributed as follows: 1) 75 percent to the general fund of the state, county, or city of the seizing law enforcement agency, and 2) 25 percent to the state highway safety fund.