

2 SHB 1741 - S COMM AMD

3 By Committee on Law & Justice

4 SCOPE RAISED, RULED OUT OF S/O; 4 14/93

5 On page 3, after line 18, insert the following:

6 "Sec. 4. RCW 46.20.285 and 1990 c 250 s 43 are each amended to  
7 read as follows:

8 The department shall forthwith revoke the license of any driver for  
9 the period of one calendar year unless otherwise provided in this  
10 section, upon receiving a record of the driver's conviction of any of  
11 the following offenses, when the conviction has become final:

12 (1) For vehicular homicide the period of revocation shall be two  
13 years;

14 (2) Vehicular assault;

15 (3) Driving a motor vehicle while under the influence of  
16 intoxicating liquor or a narcotic drug, or under the influence of any  
17 other drug to a degree which renders the driver incapable of safely  
18 driving a motor vehicle, upon a showing by the department's records  
19 that the conviction is the second such conviction for the driver within  
20 a period of five years. Upon a showing that the conviction is the  
21 third such conviction for the driver within a period of five years, the  
22 period of revocation shall be two years;

23 (4) Any felony in the commission of which a motor vehicle is used;

24 (5) Failure to stop and give information or render aid as required  
25 under the laws of this state in the event of a motor vehicle accident  
26 resulting in the death or personal injury of another or resulting in  
27 damage to a vehicle that is driven or attended by another;

28 (6) Perjury or the making of a false affidavit or statement under  
29 oath to the department under Title 46 RCW or under any other law  
30 relating to the ownership or operation of motor vehicles;

31 (7) Reckless driving upon a showing by the department's records  
32 that the conviction is the third such conviction for the driver within  
33 a period of two years;

34 (8) A violation of the federal or state Uniform Controlled  
35 Substances Act."

1 Renumber the sections following consecutively and correct internal  
2 references accordingly.

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5 SCOPE RAISED; RULED OUT OF S/O; 4/14/93

6 On page 4, line 33, after "RCW 46.20.308;" strike "or" and insert  
7 "~~(or)~~"

8 On page 4, line 34, after "RCW 46.20.265" insert "; or (g) six  
9 months after the individual applies for the issuance or reinstatement  
10 of the driver's license if the individual does not have a driver's  
11 license or the driver's license of the individual is suspended at the  
12 time the individual is convicted of a violation of the federal or state  
13 Uniform Controlled Substances Act"

14 **SHB 1741** - S COMM AMD  
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16 **ADOPTED 4/14/93**

17 On page 10, after line 38, insert the following:

18 "NEW SECTION. **Sec. 8.** A new section is added to chapter 46.61 RCW  
19 to read as follows:

20 (1)(a) The court shall confiscate from every person who is  
21 convicted of a second violation of RCW 46.61.502 or 46.61.504 within a  
22 five-year period the Washington state vehicle registration and vehicle  
23 license plates of the vehicle the person was driving at the time of the  
24 violation, if the person is the owner of the vehicle, and if the person  
25 is not the owner of the vehicle, the court shall confiscate the  
26 Washington state vehicle registration and vehicle license plates of a  
27 vehicle owned by the person, if any. The person shall have seven days  
28 to surrender the Washington state vehicle registration and vehicle  
29 license plates.

30 (b) The Washington state vehicle registration and vehicle license  
31 plates shall be held for a period of ninety days from the date of  
32 surrender.

1 (c) The court shall immediately notify the department of licensing  
2 of the confiscation and the duration of the confiscation. No Washington  
3 state vehicle registration or vehicle license plates may be reissued  
4 for the vehicle by the department to the person during the period of  
5 confiscation.

6 (d) No confiscation under this section affects the right of any  
7 person to transfer or acquire title in the vehicle, or the right of any  
8 person other than the arrested driver to become the registered owner of  
9 the vehicle.

10 (e) In any case provided for in this section, where a Washington  
11 state vehicle registration or vehicle license is to be confiscated, the  
12 confiscation shall be stayed and shall not take effect until after the  
13 determination of any appeal from the conviction which may lawfully be  
14 taken, but in case the conviction is sustained on appeal the  
15 confiscation takes effect as of the date that the conviction becomes  
16 effective for other purposes.

17 (2)(a) On a third or subsequent conviction for a violation of RCW  
18 46.61.502 or 46.61.504 within a five-year period the motor vehicle the  
19 person was driving at the time of the violation, if the person is the  
20 owner of the vehicle, shall be seized by a law enforcement officer of  
21 this state upon process issued by the court issuing the conviction.

22 (b) Proceedings for forfeiture shall be deemed commenced by the  
23 seizure. The law enforcement agency under whose authority the seizure  
24 was made shall cause notice to be served within fifteen days following  
25 the seizure on the owner of the vehicle seized and the person in charge  
26 thereof and any person having any known right or interest therein,  
27 including any community property interest, of the seizure and intended  
28 forfeiture of the seized vehicle. The notice of seizure may be served  
29 by any method authorized by law or court rule including but not limited  
30 to service by certified mail with return receipt requested. Service by  
31 mail shall be deemed complete upon mailing within the fifteen-day  
32 period following the seizure.

33 (c) If no person notifies the seizing law enforcement agency in  
34 writing of the person's claim of ownership or right to possession of  
35 the vehicle within forty-five days of the seizure, the vehicle seized  
36 shall be deemed forfeited.

37 (d) If any person notifies the seizing law enforcement agency in  
38 writing of the person's claim of ownership or right to possession of  
39 the vehicle within forty-five days of the seizure, the person or

1 persons shall be afforded a reasonable opportunity to be heard as to  
2 the claim or right. The hearing shall be before the chief law  
3 enforcement officer of the seizing agency or the chief law enforcement  
4 officer's designee, except where the seizing agency is a state agency  
5 as defined in RCW 34.12.020(4), the hearing shall be before the chief  
6 law enforcement officer of the seizing agency or an administrative law  
7 judge appointed under chapter 34.12 RCW, except that any person  
8 asserting a claim or right may remove the matter to a court of  
9 competent jurisdiction if the value of the vehicle involved is more  
10 than five hundred dollars. The court to which the matter is to be  
11 removed shall be the district court when the value of the vehicle is  
12 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
13 before the seizing agency and any appeal therefrom shall be under Title  
14 34 RCW. In a court hearing between two or more claimants to the  
15 vehicle, the prevailing party shall be entitled to a judgment for costs  
16 and reasonable attorneys' fees. The burden of producing evidence shall  
17 be upon the person claiming to be the lawful owner or the person  
18 claiming to have the lawful right to possession of the vehicle. The  
19 seizing law enforcement agency shall promptly return the vehicle to the  
20 claimant upon a determination by the administrative law judge or court  
21 that the claimant is the present lawful owner or is lawfully entitled  
22 to possession thereof.

23 (e) When a vehicle is forfeited under this chapter the seizing law  
24 enforcement agency may:

25 (i) Retain it for official use or upon application by any law  
26 enforcement agency of this state release such vehicle to such agency  
27 for the exclusive use of enforcing the provisions of this chapter;

28 (ii) Sell the vehicle; or

29 (iii) Remove it for disposition in accordance with law.

30 (f)(i) When a vehicle is forfeited, the seizing agency shall keep  
31 a record indicating the identity of the prior owner, if known, a  
32 description of the vehicle, the disposition of the vehicle, the value  
33 of the vehicle at the time of seizure, and the amount of proceeds  
34 realized from disposition of the vehicle.

35 (ii) Each seizing agency shall retain records of forfeited vehicles  
36 for at least seven years.

37 (iii) Each seizing agency shall file a report including a copy of  
38 the records of forfeited vehicles with the state treasurer each  
39 calendar quarter.

1 (iv) The quarterly report need not include a record of forfeited  
2 vehicles that are still being held for use as evidence during the  
3 investigation or prosecution of a case or during the appeal from a  
4 conviction.

5 (g) Forfeited vehicles and net proceeds shall be retained by the  
6 seizing law enforcement agency exclusively for the expansion and  
7 improvement of law enforcement activity. Money retained under this  
8 section may not be used to supplant preexisting funding sources.

9 (h) A forfeiture of a motor vehicle encumbered by a bona fide  
10 security interest is subject to the interest of the secured party."

11 Renumber the remaining sections consecutively and correct any  
12 internal references accordingly.

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14 By Committee on Law & Justice

15 SCOPE APPLIES; OUT OF S/O 4/14/93

16 In line 2 of the title, after "46.20.207," insert "46.20.285,"

17 **ADOPTED 4/14/93**

18 In line 4 of the title, after "46.20 RCW;" insert "adding a new  
19 section to chapter 46.61 RCW;"

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