

HOUSE BILL REPORT

2SSB 5341

As Reported By House Committee On:
Judiciary

Title: An act relating to driving while under the influence of intoxicating liquor or drugs.

Brief Description: Providing for forfeiture of a vehicle upon conviction for driving while under the influence of intoxicating liquor or drugs.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Quigley, McCaslin, Vognild, Winsley, Deccio, von Reichbauer, M. Rasmussen, Roach and Oke).

Brief History:

Reported by House Committee on:
Judiciary, February 25, 1994, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 17 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Eide; Forner; J. Kohl; Long; Morris; H. Myers; Riley; Schmidt; Scott; Tate and Wineberry.

Staff: Bill Perry (786-7123).

Background: When a person is convicted of DUI for the second time within a five-year period, the court may direct law enforcement to seize the motor vehicle the convicted person was driving at the time of the second DUI offense. The seizure automatically commences proceedings for forfeiture.

If the offense for which a person is charged with DUI occurs within five years of a previous conviction for DUI, the court is required to inform the person of the prohibition against selling the vehicle he or she owns and was driving at the time of the offense. The court will also immediately send notice of the charge to the Department of Licensing (DOL). The court is required to notify the DOL of the subsequent conviction, acquittal, or other termination of the charge.

When the DOL receives notice of the DUI charge, it is required to withhold issuance of a certificate of ownership for the vehicle the person who is charged with DUI was driving at the time of the offense. The DOL is not required to withhold issuance of a certificate of ownership for such vehicle if the applicant is the holder of a bona fide security interest or the lessor of the vehicle.

It has been suggested that due to technical problems with the current law deriving in part from a lack of automation in the DOL, the law dealing with the seizure and forfeiture of vehicles connected with driving while intoxicated needs to be revised.

Summary of Amended Bill: A person who is arrested for DUI and has a previous conviction for DUI within the last five years is prohibited from transferring, selling or encumbering his or her interest in the motor vehicle the person was driving at the time of the violation until acquittal or dismissal of the charge, or until 60 days after conviction. However, a leased vehicle may be transferred to the lessor and a rented vehicle may be transferred to the rental agency. A vehicle encumbered by a bona fide security interest may be transferred to the secured party.

On a second or subsequent conviction for DUI, when the offense was committed within five years of the previous conviction for DUI, the vehicle the person was driving at the time of the offense is subject to seizure and forfeiture if the person has a financial interest in the vehicle.

The person claiming to be the legal owner of the vehicle has the burden of producing evidence that the vehicle should not be forfeited.

A law enforcement agency must first satisfy any bona fide security interest in a vehicle the agency may have seized before it sells the vehicle or retains it for official use.

Amended Bill Compared to Second Substitute Bill: The amendment makes grammatical and clarifying changes.

Fiscal Note: Available.

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

Testimony For: The bill corrects some problems encountered with last year's act. It will provide law enforcement with a workable tool.

Testimony Against: None.

Witnesses: Lisa Thatcher, Washington State Auto Dealers
(pro).