

HOUSE BILL REPORT

HB 1387

As Reported By House Committee On:
Judiciary

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

Brief Description: Forfeiting vehicles used by repeat drunk drivers.

Sponsors: Representatives Riley, Ogden, Roland, Brown, Campbell, Dunshee, Cothorn, G.

Cole, Flemming, Kremen, Locke, Sheldon, Orr, J. Kohl, Lisk and Jacobsen.

Brief History:

Reported by House Committee on:
Judiciary, March 2, 1993, DP.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: The crime of DWI is a gross misdemeanor with a maximum penalty of one year in jail and a \$2,000 fine. Mandatory minimum criminal penalties plus alcohol assessment, schooling or treatment requirements, and the loss of driving privileges also apply. These penalties escalate with successive convictions.

For a first conviction, the mandatory minimum penalty is one day in jail and a \$250 fine. For a second conviction within five years, the mandatory minimum is seven days in jail and a \$500 fine, except that if at the time of the second offense, the driver was without a license because of a previous offense, the minimum penalty is 90 days in jail and a \$200 fine.

For a first conviction, the driver's license is suspended for 90 days or until age 19, whichever is longer. For a second conviction within five years, the license is revoked for one year. For a third conviction within five years, the license is revoked for two years.

Summary of Bill: Upon a second conviction for DWI within a five-year period, the vehicle driven by the offender is subject to seizure and forfeiture.

When a person who has had a conviction for DWI within the previous five years is charged with DWI, the court is to notify the Department of Licensing (DOL). When DOL receives such a notice, it is to withhold issuance of a certificate of ownership of the vehicle that was driven by the person charged with DWI, until it receives notice of dismissal or acquittal on the charges. It is a misdemeanor for a person to sell or otherwise transfer the ownership of a vehicle driven by a person currently charged with a second DWI.

Procedures, standards, and exceptions for seizing and forfeiting vehicles are the same as for the seizure and forfeiture of property under the Uniform Controlled Substances Act. These provisions include the following:

- o An exception for vehicles owned by a person who did not know of or consent to the offense;
- o Forfeitures are subject to bona fide security interests;
- o The seizing law enforcement agency is to give at least 15 days notice to the owner of the vehicle and anyone with a known interest in the vehicle of the impending forfeiture proceeding;
- o The forfeiture hearing is before the seizing agency's chief officer, unless the value of the vehicle is more than \$500, in which case the proceeding is in a court of competent jurisdiction;
- o The burden of proving ownership or other interest in the vehicle is on the person making the claim;
- o Upon forfeiture, the seizing agency may retain, trade or sell the vehicle; and
- o The seizing agency is to remit 10 percent of the net value of forfeited vehicles to the state drug enforcement account. Net value is the appraised value minus appraisal costs, or the sale price minus

sale costs and costs of satisfying any bona fide security interest.

Fiscal Note: Not requested.

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

Testimony For: Taking problem drinkers' cars away from them may be the best way to get those people off the road.

Testimony Against: None.

Witnesses: Matt Thomas, Washington Association of Prosecuting Attorneys (pro); Adam Kline, Mothers Against Drunk Drivers (pro); Gordon Walgren, Car and Truck Renting and Leasing Association; and Nancy Kelly, Department of Licensing.