

**SENATE BILL REPORT**

**2SSB 5341**

**AS PASSED SENATE, FEBRUARY 8, 1994**

**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)

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Second Substitute Senate Bill No. 5341 be substituted therefor, and the second substitute bill do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Quigley, Roach, Schow and Spanel.

**Staff:** Lidia Mori (786-7755)

**Hearing Dates:** February 4, 1993; February 10, 1993; January 11, 1994; January 25, 1994

**HOUSE COMMITTEE ON JUDICIARY**

**BACKGROUND:**

When a person is convicted of DWI 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 DWI offense. The seizure automatically commences proceedings for forfeiture.

If the offense for which a person is charged with DWI occurs within five years of a previous conviction for DWI, 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 DWI charge, it is required to withhold issuance of a certificate of ownership for the vehicle the person who is charged with DWI 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 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 for purposes of enforcement.

**SUMMARY:**

A person who is arrested for DWI and has a previous conviction for DWI 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, dismissal or 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 DWI, when the offense was committed within five years of the previous conviction for DWI, 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 shall have 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.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

This bill corrects some problems encountered by SB 5815, which passed last year. It will provide law enforcement with a workable tool.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Lisa Thatcher, WA State Auto Dealers; Tim Schellberg, WA State Sheriffs & Police Chiefs; Jack Nevin, WA Assoc. of Prosecuting Attorneys; Judge Kip Stilz, WA State District & Municipal Court Judges Assoc.

**HOUSE AMENDMENT(S):**

It is clarified that any person who is prohibited from transferring, selling or encumbering his or her interest in a vehicle and does so, is guilty of a misdemeanor.