

SENATE BILL REPORT

SB 5341

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 10, 1993

Brief Description: Providing for confiscation of registration and license plates and forfeiture of the vehicle upon conviction for driving while under the influence of intoxicating liquor or drugs.

SPONSORS: Senators A. Smith, Quigley, McCaslin, Vognild, Winsley, Deccio, von Reichbauer, M. Rasmussen, Roach and Oke

SENATE COMMITTEE ON LAW & JUSTICE

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

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

Staff: Lidia Mori (786-7755)

Hearing Dates: February 4, 1993; February 10, 1993

BACKGROUND:

Washington law requires an officer to confiscate the Washington State vehicle registration when the officer arrests a person for driving without a valid driver's license or driving while the license is suspended or revoked. The officer is also directed to mark the vehicle's Washington State license plates in accordance with procedures prescribed by the Washington State Patrol. Any officer who sees a vehicle being operated with marked plates may stop the vehicle for the sole purpose of determining whether the driver is operating it with a valid driver's license. The officer, upon determining that a person is driving without a valid driver's license, or with a license that has been expired for 90 days or more, or while the license is suspended or revoked may immediately impound the vehicle. Any penalties, fines, or forfeitures owed by the person driving the vehicle must be satisfied before the vehicle will be released unless the person driving the vehicle was not the owner.

The Surgeon General's Workshop on Drunk Driving in 1988 recommended the passage of asset forfeiture laws so that states may confiscate the offender's vehicle on second and subsequent DWI offenses. The Surgeon General believed that such laws could serve as a strong DWI deterrent to this population.

In 1989, the Portland City Council approved an ordinance that authorizes police to seize vehicles when the driver was driving with a suspended license due to a DWI conviction. The

city of Portland Bureau of Police report that this law has made a significant impact in reducing drunk driving. Of the 222 cars that were forfeited, 76 percent of them involved repeat drunk drivers.

At least 14 states have various vehicle forfeiture laws pertaining to DWI offenses.

SUMMARY:

When a person is convicted of a charge of driving while under the influence of intoxicating liquor or any drug, the court is directed to confiscate the Washington State vehicle registration and license plates of the vehicle that the person was driving at the time of the offense. If the person is not the owner of the vehicle, the court will require the person to surrender, within seven days, the vehicle registration and license plates of a vehicle owned by the person, if any. The license plates and vehicle registration will be held for 90 days from the date of surrender. No Washington State vehicle registrations or license plates may be issued to the person by the Department of Licensing during this period of confiscation. The confiscation is suspended while any lawful appeal is pursued.

On a second or subsequent conviction for driving while under the influence of intoxicating liquor or drug within a five-year period, a law enforcement officer is directed to seize the vehicle the person was driving at the time of the offense if owned by that person. Notice is required to be served within 15 days of the seizure on the owner and any person having any known right or interest in the vehicle, including a community property interest. The vehicle is determined to be forfeited if no one notifies the law enforcement agency within 45 days of the seizure. A person who claims ownership or right to possession of the vehicle is entitled to a hearing and the vehicle is required to be returned to the claimant if the court or administrative law judge determines that the person has a lawful right to possession.

The forfeited vehicle may be retained for official use by any law enforcement agency in this state or it may be sold or disposed of according to law.

EFFECT OF PROPOSED SUBSTITUTE:

When a person is convicted of a second charge of driving while under the influence of intoxicating liquor or drug within a five-year period, the court is directed to confiscate the Washington State vehicle registration and license plates of the vehicle that the person was driving at the time of the offense.

On a third or subsequent conviction for driving while under the influence of intoxicating liquor or drug within a five-year period, a law enforcement officer is directed to seize the vehicle the person was driving at the time of the offense, if owned by that person.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR:

This measure may seem drastic but it is necessary to save lives. There is a need to be careful about community property interests when requiring a vehicle to be forfeited.

TESTIMONY AGAINST: None

TESTIFIED: Adam Kline, MADD; Steve Lind, Washington Traffic Safety Commission; Mark Thompson, Thurston County Prosecuting Attorney; Pat Cooper, Pierce County Prosecuting Attorney; Matt Thomas, Washington Association of Prosecuting Attorneys