

SENATE BILL REPORT

SB 5135

As Reported By Senate Committee On:
Law & Justice, March 3, 1997

Title: An act relating to the impoundment and immobilization of vehicles being operated by persons who have a suspended or revoked driver's license.

Brief Description: Impounding vehicles driven by a person with a suspended or revoked license.

Sponsors: Senators Roach, Fairley, Johnson, Winsley and Oke.

Brief History:

Committee Activity: Law & Justice: 1/28/97, 3/3/97 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5135 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Haugen, Long and McCaslin.

Staff: Martin Lovinger (786-7443)

Background: A large number of arrests, jail bookings, and criminal filings are for driving with a suspended or revoked license. The costs associated with enforcing the laws against driving with a suspended license (DWLS) are significant and have a great impact on the operating budgets for police, jails and courts. Studies have shown that besides causing substantial law enforcement costs, drivers without licenses and without insurance are involved in causing a disproportionate number of accidents, including fatal accidents. This further negatively impacts the public through higher insurance rates for validly licensed drivers.

Despite the existence of criminal penalties for driving with a suspended license, it is estimated that as many as 75 percent of drivers with suspended licenses drive anyway. In fact, it is common for suspended drivers who have been stopped and cited with DWLS to continue driving while the criminal charge is pending, sometimes even driving away from the place where the police stop occurred.

Some local jurisdictions in other states have had great success in decreasing the number of accidents and DWLS charges by aggressively enforcing a law authorizing the police to impound the vehicles of those cited for DWLS. It is felt that a law permitting the impoundment of the vehicles of drivers who are driving with suspended licenses can effectively reduce the number of suspended drivers on the roads of Washington by providing an immediate consequence for unlawful driving, by reducing the suspended driver's access to a vehicle, and by increasing the accountability of registered owners of vehicles.

Summary of Substitute Bill: Impoundment of the vehicle is authorized, pursuant to local ordinance, whenever the driver is found to have a suspended or revoked license. The consequences depend on three factors: (1) the underlying reason for the suspension; (2) the record of prior DWLS convictions; and (3) whether the driver has an ownership interest in the vehicle.

If the offense is DWLS 3, which is usually a suspension due to failure to pay traffic fines or comply with other licensing requirements, then the vehicle may be released upon payment of the tow charges. If the driver is also the owner, then release of the vehicle is contingent upon the payment of any outstanding fines. If the driver had a prior DWLS in the past five years, the vehicle may be held for up to 15 days.

If the offense is DWLS 1 or DWLS 2, which are primarily for serious traffic crimes such as vehicular homicide and drunk driving or for chronic offenses, the vehicle may be held for up to 15 days and then released upon payment of the tow charges. If the driver is also the registered owner, then any outstanding fines must be paid prior to release. If the driver had a prior DWLS 1 or 2 within the past five years and is an owner of the vehicle, then the vehicle is subject to forfeiture.

Under any circumstances, the vehicle can only be released to an authorized person who has a valid driver's license and liability insurance.

Forfeiture proceedings are similar to those provided for repeat drunk drivers, except that the forfeiture must be commenced by giving notice to the tow truck operator, the vehicle owner, the person driving the vehicle when it was impounded, and any person having a security interest in the vehicle. Once the tow truck operator receives notice of the intended forfeiture, the vehicle may not be released except upon written order of the chief of police, an administrative law judge, or a court. At the forfeiture proceedings, an abstract of the driving record of the driver may be admitted and is prima facie evidence that the driver was convicted of each offense shown on the record. A certified vehicle registration for the vehicle sought to be forfeited is admissible without further foundation. The forfeiture proceedings have no collateral estoppel effect on a subsequent criminal prosecution. The community property interest of an innocent spouse in a vehicle to be forfeited must be protected.

Municipal, as well as district courts, have jurisdiction to hear impound challenges. An exception from the current requirement that courts must award damages of at least \$50 per day for an improper impoundment is created for police who rely in good faith and without gross negligence on Department of Licensing records which indicate that a driver's license is suspended at the time of the impound.

The definition of abandoned vehicle— is changed to require that the vehicle must be in the tow truck operator's possession for 120 consecutive hours instead of 96.

The security interest provisions for vehicles are changed to allow 20 calendar days instead of eight business days to get the papers and fee to the Department of Licensing.

A transitional ownership record is created to provide timely notification to avoid abandonment of a vehicle with a security interest which has not been perfected yet.

It is clarified that when a vehicle owner knowingly permits an unlicensed driver to drive the owner's vehicle, the owner is guilty of a misdemeanor and not an infraction.

Substitute Bill Compared to Original Bill: All references to immobilization are deleted. The community property interest of an innocent spouse in a vehicle to be forfeited under this act are protected. The towing law and secured interest provisions relating to sales of vehicles are changed to protect the secured interest in vehicles forfeited or abandoned as a result of impoundment under this act. It clarifies who is responsible for impoundment fees. A written order for placing of hold and a written release from agency that ordered the impound and hold are required.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Taking away the vehicle is the single most effective way to deal with suspended drivers. Most suspended drivers have no insurance to pay for the injuries and damage they cause. Support for ability to impound is widespread among law enforcement, because current law is not effective. A disproportionate number of serious injuries in auto accidents are caused by suspended drivers, often by drivers who have just recently been cited for driving with a suspended or revoked license. Other jurisdictions have had great success with similar laws. Impoundment laws have been shown to have a long-term positive effect on suspended drivers.

Testimony Against: None.

Testified: Ed Crawford, Kent Police Chief (pro); Dr. Cindy Horton, victim from Wenatchee (pro); Mark Sidran, Seattle City Attorney (pro); Capt. Marsh Pugh, WA State Patrol (pro); Evan Simpson, Harborview Medical Center Director of Public Affairs (pro).