

SENATE BILL REPORT

ESSB 6431

As Passed Senate, February 16, 1998

Title: An act relating to impoundment and forfeiture of vehicles operated by persons driving or in actual physical control of a vehicle while under the influence of intoxicating liquor.

Brief Description: Providing for impoundment and forfeiture of vehicles operated by persons driving a vehicle or in actual physical control of a vehicle while under the influence of intoxicating liquor.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Goings, Rasmussen, T. Sheldon, Rossi, Stevens, Long, Hochstatter, Oke, Swecker, McCaslin, Morton, Johnson, Deccio, Sellar and Haugen).

Brief History:

Committee Activity: Law & Justice: 1/13/98, 1/21/98 [DPS].
Passed Senate, 2/16/98, 28-20.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6431 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Kline, Long, McCaslin, Stevens and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: A person arrested for driving under the influence of alcohol (DUI) who has had a prior DUI within five years is prohibited from selling, transferring, or encumbering the vehicle pending acquittal, dismissal, or 60 days after conviction of the DUI. If the person is convicted of the DUI and has had a prior DUI within five years, the vehicle is subject to seizure and forfeiture. A vehicle subject to forfeiture may be seized by a law enforcement officer with a court order.

Summary of Bill: A vehicle may be impounded at the direction of law enforcement and pursuant to local ordinance or agency rule whenever the driver is arrested for violation of the laws pertaining to driving under the influence of liquor or drugs.

If the operator of the impounded vehicle has not had a prior DUI violation within the past five years, the vehicle may be held for up to 15 days. It may not be released until towing, removal, and storage fees have been paid, or pursuant to an agency rule or local ordinance that authorizes release due to economic or personal hardship to the spouse of the operator. Public safety factors, including the criminal history and driving record of the operator must be considered in deciding to release the vehicle to the spouse of the operator. A person has the right to a hearing in district or municipal court to contest the validity of the impoundment. The petitioner must pay the filing fee for the hearing.

If the operator of the impounded vehicle has had a prior DUI and has a financial interest in the vehicle, the vehicle is subject to forfeiture. Notice of the intended forfeiture is provided to the owner of the vehicle, the tow truck operator, and to any person having a right or interest in the vehicle, including a community property interest. If no one notifies the seizing law enforcement agency of a claim of ownership or right to possession within 45 days, the vehicle is deemed forfeited unless an agency rule or local ordinance prohibits forfeiture in situations of economic or personal hardship to the spouse of the operator considering also the operator's criminal history and driving record. If a claim is made within 45 days, a hearing is held and the seizing agency must prove by a preponderance of the evidence that the vehicle was operated by the person in violation of the laws pertaining to driving under the influence of alcohol or drugs, the person has a prior DUI violation and has an ownership interest in the vehicle. If the vehicle is forfeited, the seizing law enforcement agency must satisfy any bona fide security interest and satisfy any bona fide community property interest. In addition, the value of the undivided community property interest of the innocent spouse may not be diminished by the towing, removal, or storage charges.

Local governments may submit claims for reimbursement by the Legislature if increased costs caused by this bill can be verified by the Office of Financial Management.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: There have been many, many studies done in the United States by academics, by the National Highway Traffic Safety Administration, all of which conclude that the most effective, powerful deterrents to drunk driving is taking licenses swiftly and certainly away from those who do it, and taking their cars. Impounding their cars whenever persons are stopped for driving under the influence of alcohol and forfeiting their cars if they do it again. There are many states that provide for the impound and for the forfeiture of vehicles driven by drunk drivers. We have laws that appear to authorize that but, in fact, they have not been implemented for reasons that the Legislature is capable of fixing.

Testimony Against: None.

Testified: PRO: Mark Sidran, Seattle City Attorney; John Moffat, Director, Washington Traffic Safety Commission; Dr. Abraham Bergman, WA State Medical Association; Don Lennon, Mothers Against Drunk Driving; Dick Ducharme, Beer and Wine Wholesalers Association; Rich Aanderud, Remove Intoxicated Drivers.