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SENATE BILL 6513

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State of Washington 57th Legislature

2002 Regular Session

By Senators Kline, Kastama, Long and Johnson

Read first time . Referred to Committee on .

1 AN ACT Relating to service of summons for persons who cannot be  
2 found in this state; and amending RCW 46.64.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.64.040 and 1993 c 269 s 16 are each amended to read  
5 as follows:

6 The acceptance by a nonresident of the rights and privileges  
7 conferred by law in the use of the public highways of this state, as  
8 evidenced by his or her operation of a vehicle thereon, or the  
9 operation thereon of his or her vehicle with his or her consent,  
10 express or implied, shall be deemed equivalent to and construed to be  
11 an appointment by such nonresident of the secretary of state of the  
12 state of Washington to be his or her true and lawful attorney upon whom  
13 may be served all lawful summons and processes against him or her  
14 growing out of any accident, collision, or liability in which such  
15 nonresident may be involved while operating a vehicle upon the public  
16 highways, or while his or her vehicle is being operated thereon with  
17 his or her consent, express or implied, and such operation and  
18 acceptance shall be a signification of the nonresident's agreement that  
19 any summons or process against him or her which is so served shall be

1 of the same legal force and validity as if served on the nonresident  
2 personally within the state of Washington. Likewise each resident of  
3 this state who, while operating a motor vehicle on the public highways  
4 of this state, is involved in any accident, collision, or liability and  
5 thereafter within three years (~~departs from~~) cannot, after a due and  
6 diligent search, be found in this state appoints the secretary of state  
7 of the state of Washington as his or her lawful attorney for service of  
8 summons as provided in this section for nonresidents. Service of such  
9 summons or process shall be made by leaving two copies thereof with a  
10 fee established by the secretary of state by rule with the secretary of  
11 state of the state of Washington, or at the secretary of state's  
12 office, and such service shall be sufficient and valid personal service  
13 upon said resident or nonresident: PROVIDED, That notice of such  
14 service and a copy of the summons or process is forthwith sent by  
15 registered mail with return receipt requested, by plaintiff to the  
16 defendant at the last known address of the said defendant, and the  
17 plaintiff's affidavit of compliance herewith are appended to the  
18 process, together with the affidavit of the plaintiff's attorney that  
19 the attorney has with due diligence attempted to serve personal process  
20 upon the defendant at all addresses known to him or her of defendant  
21 and further listing in his or her affidavit the addresses at which he  
22 or she attempted to have process served. However, if process is  
23 forwarded by registered mail and defendant's endorsed receipt is  
24 received and entered as a part of the return of process then the  
25 foregoing affidavit of plaintiff's attorney need only show that the  
26 defendant received personal delivery by mail: PROVIDED FURTHER, That  
27 personal service outside of this state in accordance with the  
28 provisions of law relating to personal service of summons outside of  
29 this state shall relieve the plaintiff from mailing a copy of the  
30 summons or process by registered mail as hereinbefore provided. The  
31 secretary of state shall forthwith send one of such copies by mail,  
32 postage prepaid, addressed to the defendant at the defendant's address,  
33 if known to the secretary of state. The court in which the action is  
34 brought may order such continuances as may be necessary to afford the  
35 defendant reasonable opportunity to defend the action. The fee paid by  
36 the plaintiff to the secretary of state shall be taxed as part of his  
37 or her costs if he or she prevails in the action. The secretary of

1 state shall keep a record of all such summons and processes, which  
2 shall show the day of service.

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