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HOUSE BILL 1226

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Moeller, Campbell, Lantz and Carrell

Read first time 01/21/2003. Referred to Committee on Judiciary.

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

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

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