

SENATE BILL REPORT

ESB 5417

As Passed Senate, March 10, 2005

Title: An act relating to restricting access to motor vehicles for persons arrested for alcohol offenses.

Brief Description: Restricting access to motor vehicles for persons arrested for alcohol offenses (John's Law).

Sponsors: Senators Weinstein, Esser, Jacobsen, Rasmussen, Kastama, Rockefeller, Shin, Carrell, Regala, Kohl-Welles, Pridemore, Franklin, Keiser, Kline, Sheldon and McAuliffe.

Brief History:

Committee Activity: Judiciary: 2/3/05, 2/16/05 [DP].

Passed Senate: 3/10/05, 46-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: When the driver of a vehicle is arrested for driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or any drug (DUI) or for driving with a suspended or revoked license, the vehicle is subject to impoundment at the direction of a law enforcement officer. The Washington Supreme Court has interpreted this statute to mean that the law enforcement officer has discretion as to whether to impound the vehicle.

There is concern that, on occasion, people are arrested for DUI, booked in jail, and then post bail and go to the tow lot. They then retrieve their vehicle, and are rearrested for DUI due to still being intoxicated. There is also concern that third parties, who have had an intoxicated person released to their custody, have allowed the person to resume control of a motor vehicle.

New Jersey and Maryland recently passed legislation that authorizes the arresting law enforcement agency to impound the vehicle operated by a person arrested for DUI for a period of 12 hours.

Summary of Bill: When the driver of a vehicle is arrested for DUI, the vehicle is subject to impoundment at the direction of a law enforcement officer. The vehicle may not be redeemed until 12 hours have passed since the time of arrest and all fees related to the towing are paid. A rental car business may immediately redeem a rental vehicle after payment of the related towing fees. A motor vehicle dealer or lender with a perfected security interest in the vehicle

may redeem or repossess an impounded vehicle immediately by payment of the related towing fees.

A law enforcement officer may not release a person arrested for DUI to a third person until the officer has served written notice on the third person advising him or her of potential civil and criminal liability if the person allows or facilitates the arrested person to resume operation of a motor vehicle while still intoxicated. This notice must be acknowledged in writing by the third person. If the person refuses to sign the acknowledgment, the officer is directed to retain the arrested person in custody.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: Holding the car of a person arrested for driving under the influence so that it can't be immediately redeemed and driven again is a great idea. Perhaps 50 percent of the time, the car is owned by someone other than the driver or sometimes there are multiple registered owners.

Testimony Against: None.

Who Testified: PRO: Captain Jeff DeVere, Washington State Patrol.