

SENATE BILL REPORT

SB 5606

As of February 13, 2023

Title: An act relating to deterring illegal racing.

Brief Description: Deterring illegal racing.

Sponsors: Senators Lovick, Conway, Keiser, Valdez and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 2/14/23.

Brief Summary of Bill

- Expands the crime of racing to include racing on any off-street facility and drifting, and allows those aiding and abetting racing to be charged as accomplices.
- Clarifies that a person may be charged with other crimes that occur as a result of or in addition to racing.
- Establishes procedures for the impoundment, redemption, and forfeiture of vehicles used in the crime of racing.
- Encourages law enforcement agencies to undertake a multimedia public education campaign regarding illegal racing.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: Racing of Vehicles. No person may race any motor vehicle or vehicles on any public highway. Willfully comparing or contesting the relative speeds of motor vehicles constitutes racing, regardless of whether such speeds exceed the maximum speed limit. Racing is considered reckless driving, which is a gross misdemeanor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Any comparison or contest of the accuracy of operating motor vehicles in relative speeds that do not exceed the maximum speed limit is not considered racing.

Vehicle Impounds. In general, when a driver of a vehicle is arrested and taken into custody, the officer has the authority to take custody of the vehicle, at the officer's discretion, and provide for its prompt removal to a safe place. This may include having the vehicle impounded and towed.

When a vehicle is impounded, the tow truck operator must notify the legal and registered owners within 24 hours of the impoundment the identity of the person or agency authorizing the impound, the contact information for the towing firm, the right of redemption, and the opportunity for a hearing to contest the validity of the impoundment or the amount of towing and storage charges.

If, in a hearing contesting the impoundment, the impound is found to be in violation of the impound laws, the person or agency that authorized the impound is responsible for costs associated with the impound, the filing fee, and reasonable damages for loss of use of the vehicle.

A vehicle that has been impounded for 120 consecutive hours is considered abandoned. A report must be filed with the Department of Licensing (DOL), and the owner is provided a notice of custody and sale. If the vehicle remains unclaimed, the vehicle is subject to sale at public auction.

Redemption of Impounded Vehicles. An impounded vehicle may be redeemed only by eligible people and entities, including the legal owner, the registered owner, or a person authorized in writing by the registered owner.

To redeem a vehicle, an eligible person or entity must pay the costs of towing, storage, or other services provided during the course of towing, removing, impounding, or storing the vehicle.

Forfeiture. When authorized by statute, a law enforcement agency may seize possession of property for the purpose of forfeiting a person's right to own or possess that property. Civil asset forfeiture is permitted when the property itself is illegal, was used to facilitate a crime, is an actual proceed of a crime, or was purchased from proceeds traceable to criminal activity.

Summary of Bill: Definitions. "Off-street facility" is defined as a location typically held open for use by the public for parking vehicles, ingress and egress, or used for commercial purposes. Use of such locations falls under the act when used for illegal racing when such use is without the express permission of the owner of the facility.

"Drifting" is defined as when a driver intentionally oversteers a vehicle, causing loss of traction, while maneuvering a vehicle in a turning direction.

Public Education Campaign. Law enforcement agencies are encouraged to undertake a multimedia public education campaign to inform the public of the illegality, dangers, and penalties of illegal racing.

Racing of Vehicles. It is unlawful for any person to race any motor vehicle or vehicles on any public highway or any off-street facility. Any person who willfully demonstrates, exhibits, or compares speed, maneuverability, or the power of one or more motor vehicles, including drifting, is guilty of racing. A person may be charged for other acts, results, incidents, damages, injuries, or deaths that occur as a result of, or in addition to, the person's participation in racing. A person who knowingly aids and abets racing may be charged and prosecuted as an accomplice.

A person may be charged at the initial time and location where the person initiated the person's efforts, or at the time and location where a completed traffic infraction or crime occurred, regardless of whether a person charged was present at the time and location of the completed traffic infraction or crime.

Vehicle Impounds. A vehicle used in the crime of racing is subject to impoundment. A police officer may take custody of a vehicle, and provide for its prompt removal to a place of safety, at the police officer's discretion, whenever a driver of a vehicle is arrested for illegal racing conduct or a comparable municipal ordinance.

Redemption of Impounded Vehicles. Impounded vehicles may not be redeemed for 72 hours when a driver is arrested for racing and the driver is a registered owner of the vehicle, unless there are two or more registered owners of the vehicle or there is another legal owner of the vehicle. A registered owner or a legal owner, other than the arrested driver of the vehicle, may redeem the impounded vehicle after it arrives at the tow truck operator's storage facility regardless of whether the arrested driver is a registered owner of the vehicle. A police officer must notify the arrested driver of the above stipulations regarding redemption. A registered tow truck operator must notify the agency that ordered the impound when the 72-hour hold period begins.

Forfeiture. If a person previously had a vehicle impounded due to illegal racing conduct, and the person has previously been charged with reckless driving, racing, or a comparable municipal ordinance, the vehicle operated by the person is subject to forfeiture. No property may be forfeited until after a person has been convicted of the crime of racing and a finding is made that the person used the vehicle to commit the crime.

A vehicle subject to forfeiture may be seized by any law enforcement officer upon process issued by any court having jurisdiction over the property. Seizure of a vehicle may be made without process if:

- the seizure is incident to an arrest or a search under a search warrant;
- the vehicle has been the subject of a prior judgment in favor of the seizing agency in a forfeiture proceeding related to illegal racing; or
- a law enforcement officer has probable cause to believe that the vehicle was used or is intended to be used in a felony.

Within 15 days after seizure, the law enforcement agency is to serve notice of the seizure on all known holders of interest in the property. The notice of seizure may be served by any method authorized by law or court rule. Specific notice requirements apply to secured parties with perfected security interests.

Any person responding to the notice within 60 days is entitled to an opportunity to be heard either before the chief law enforcement officer or removed to a court of competent jurisdiction. If no person responds within 60 days of the seizure, the vehicle shall be deemed forfeited if the arrested driver is convicted, or returned to the owner of record if the arrested driver is not convicted. Specific procedures, including notice requirements, are provided for the removal of a case to a court.

The law enforcement agency that seizes the property and causes the forfeiture may retain the property or sell it. If the law enforcement agency sells the property, the proceeds must be used to fund personnel, programs, services, and equipment related to enforcing and processing street racing violations, or to address and improve general traffic safety within the seizing agency's jurisdiction.

A forfeiture of property encumbered by a security interest is subject to the interest of a secured party who neither had knowledge of nor consented to the commission of the felony at the time the security interest was created.

Exemption from Liability. Registered tow truck operators are not liable for injuries or damages sustained by the driver or third parties that resulted from the driver's illegal racing conduct.

If an impound is found to be improper, the police officer directing the impound and the government employing the police officer are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe the driver of the vehicle was conducting illegal racing or a comparable municipal ordinance.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Requested on February 10, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2024.