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**SENATE BILL 5606**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Lovick, Conway, Keiser, Valdez, and C. Wilson

Read first time 01/27/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to deterring illegal racing; amending RCW  
2 46.61.530, 46.55.360, and 46.55.370; reenacting and amending RCW  
3 46.55.113; adding new sections to chapter 46.04 RCW; adding new  
4 sections to chapter 46.61 RCW; prescribing penalties; and providing  
5 an effective date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04  
8 RCW to read as follows:

9 "Off-street facility" means a location typically held open for  
10 use by the public for parking vehicles, ingress and egress, or used  
11 for commercial purposes. Use of such locations falls under this act  
12 when used for illegal racing when such use is without the express  
13 permission of the owner of the facility.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.04  
15 RCW to read as follows:

16 "Drifting" means a driver intentionally oversteers a vehicle,  
17 causing loss of traction, while maneuvering a vehicle in a turning  
18 direction.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 46.61  
2    RCW to read as follows:

3        Subject to funds appropriated for this purpose, law enforcement  
4    agencies are encouraged to undertake a public education campaign to  
5    inform the public of the unlawful nature of illegal racing; the  
6    dangers such events pose to attendants, participants, and the general  
7    public; and the penalties violators may suffer if they participate in  
8    or promote illegal racing, including the possible impoundment and  
9    forfeiture of vehicles used to participate in illegal racing.  
10   Agencies are encouraged to use multiple strategies in their public  
11   education campaigns depending upon available funds, including posts  
12   through social media or other web-based platforms, developing and  
13   disseminating printed materials or mailings, and creating and posting  
14   signs at various locations within the agency's jurisdiction.

15        **Sec. 4.**    RCW 46.61.530 and 1979 ex.s. c 136 s 87 are each amended  
16    to read as follows:

17        ~~((No))~~ (1) It shall be unlawful for any person or persons ((may))  
18    to race any motor vehicle or motor vehicles upon any public highway  
19    of this state as defined in RCW 46.04.197, or upon any off-street  
20    facility as defined in section 1 of this act. Any person or persons  
21    who ((wilfully)) willfully compare or contest relative speeds by  
22    operation of one or more motor vehicles or who willfully  
23    demonstrates, exhibits, or compares speed, maneuverability, or the  
24    power of one or more motor vehicles, including "drifting," shall be  
25    guilty of racing, which shall constitute reckless driving under RCW  
26    46.61.500 subjecting the violator to the penalties provided for under  
27    RCW 46.61.500 unless otherwise provided for in this section, whether  
28    or not such speed is in excess of the maximum speed prescribed by  
29    law: PROVIDED HOWEVER, That any comparison or contest of the accuracy  
30    with which motor vehicles may be operated in terms of relative speeds  
31    not in excess of the posted maximum speed does not constitute racing.  
32    Nothing in this section prohibits a person from being charged under  
33    other provisions of the law for other acts, results, incidents,  
34    damages, injuries, or deaths that occur as a result of, or in  
35    addition to, their participation in racing.

36        (2) Any person who knowingly aids and abets racing under  
37    subsection (1) of this section may be charged and prosecuted as an  
38    accomplice in accordance with RCW 46.64.048.

1       (3) The offenses described in this section may be deemed to have  
2 been committed either at the time and location from which the person  
3 charged initiated his or her efforts, or at the time and location  
4 where the completed traffic infraction or crime occurred regardless  
5 of whether the person charged under this section was ever actually  
6 present at the time and location of the completed traffic infraction  
7 or crime.

8       NEW SECTION.   **Sec. 5.**   A new section is added to chapter 46.61  
9 RCW to read as follows:

10       (1) A vehicle used to commit the crime of racing is subject to  
11 impoundment as provided for in chapter 46.55 RCW.

12       (2) If an operator has previously had a vehicle impounded due to  
13 illegal racing conduct, regardless of whether a criminal charge or a  
14 conviction resulted from that conduct, and the operator is convicted  
15 of a subsequent offense that was originally charged under RCW  
16 46.61.500 or 46.61.530 or a comparable municipal ordinance, the  
17 vehicle operated by the operator is subject to forfeiture as follows:

18       (a) No property may be forfeited under this section until after  
19 the operator is convicted of the crime of racing under RCW 46.61.530  
20 and a finding is made that the operator used the vehicle to commit  
21 such crime.

22       (b) A forfeiture of property encumbered by a bona fide security  
23 interest is subject to the interest of the secured party if at the  
24 time the security interest was created, the secured party neither had  
25 knowledge of nor consented to the commission of the offense.

26       (c) A vehicle subject to forfeiture under this section may be  
27 seized by any law enforcement officer of this state upon process  
28 issued by any court having jurisdiction over the property. However,  
29 seizure of the vehicle may be made without process if:

30       (i) The seizure is incident to an arrest or a search under a  
31 search warrant; or

32       (ii) The vehicle subject to seizure has been the subject of a  
33 prior judgment in favor of the seizing agency in a forfeiture  
34 proceeding based on this section; or

35       (iii) A law enforcement officer has probable cause to believe  
36 that the vehicle was used or is intended to be used in the commission  
37 of a felony.

38       (d) In the event of seizure pursuant to this section, proceedings  
39 for forfeiture shall be deemed commenced by the seizure. The law

1 enforcement agency under whose authority the seizure was made shall  
2 cause notice to be served within 15 days following the seizure on the  
3 owner of the property seized and the person in charge thereof and any  
4 person having any known right or interest therein, including any  
5 community property interest, of the seizure and intended forfeiture  
6 of the seized property. The notice of seizure may be served by any  
7 method authorized by law or court rule including, but not limited to,  
8 service by certified mail with return receipt requested. Service by  
9 mail shall be deemed complete upon mailing within the 15-day period  
10 following the seizure. Notice of seizure in the case of property  
11 subject to a security interest that has been perfected by filing a  
12 financing statement in accordance with chapter 62A.9A RCW, or a  
13 certificate of title shall be made by service upon the secured party  
14 or the secured party's assignee at the address shown on the financing  
15 statement or the certificate of title.

16 (e) If no person notifies the seizing law enforcement agency in  
17 writing of the person's claim of ownership or right to possession of  
18 items specified in subsection (1) of this section within 60 days of  
19 the seizure, the item seized shall either be deemed forfeited if the  
20 operator is convicted as provided for in this section, or the vehicle  
21 shall be returned to the owner of record if the operator is not  
22 convicted as provided for in (a) of this subsection.

23 (f) If a person notifies the seizing law enforcement agency in  
24 writing of the person's claim of ownership or right to possession of  
25 the seized property within 60 days of the seizure, the law  
26 enforcement agency shall give the person or persons a reasonable  
27 opportunity to be heard as to the claim or right. The hearing shall  
28 be before the chief law enforcement officer of the seizing agency or  
29 the chief law enforcement officer's designee, except where the  
30 seizing agency is a state agency as defined in RCW 34.12.020, the  
31 hearing shall be before the chief law enforcement officer of the  
32 seizing agency or an administrative law judge appointed under chapter  
33 34.12 RCW, except that any person asserting a claim or right may  
34 remove the matter to a court of competent jurisdiction. Removal may  
35 only be accomplished according to the rules of civil procedure. The  
36 person seeking removal of the matter must serve process against the  
37 state, county, political subdivision, or municipality that operates  
38 the seizing agency, and any other party of interest, in accordance  
39 with RCW 4.28.080 or 4.92.020, within 45 days after the person  
40 seeking removal has notified the seizing law enforcement agency of

1 the person's claim of ownership or right to possession. The court to  
2 which the matter is to be removed shall be the municipal court of the  
3 municipality that operates the seizing agency, or if there is no such  
4 municipal court, the district court when the aggregate value of the  
5 property is within the jurisdictional limit set forth in RCW  
6 3.66.020. A hearing before the seizing agency and any appeal  
7 therefrom shall be under Title 34 RCW. In a court hearing between two  
8 or more claimants to the property involved, the prevailing party  
9 shall be entitled to a judgment for costs and reasonable attorneys'  
10 fees. The burden of producing evidence shall be upon the person  
11 claiming to be the lawful owner or the person claiming to have the  
12 lawful right to possession of the property. The seizing law  
13 enforcement agency shall promptly return the property to the claimant  
14 upon a determination by the administrative law judge or court that  
15 the claimant is the present lawful owner or is lawfully entitled to  
16 possession of the property.

17 (g) When property is forfeited under this chapter, after  
18 satisfying any court-ordered victim restitution, the seizing law  
19 enforcement agency may:

20 (i) Retain it for official use or upon application by any law  
21 enforcement agency of this state release such property to such agency  
22 for the exclusive use of enforcing the criminal law;

23 (ii) Sell that which is not required to be destroyed by law and  
24 which is not harmful to the public, and use the proceeds to fund  
25 personnel, programs, services, and equipment related to the  
26 enforcement and processing of street racing violations, or to address  
27 and improve general traffic safety, within the seizing agency's  
28 jurisdiction.

29 **Sec. 6.** RCW 46.55.113 and 2020 c 330 s 13 and 2020 c 117 s 2 are  
30 each reenacted and amended to read as follows:

31 (1) Whenever the driver of a vehicle is arrested for a violation  
32 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary  
33 impoundment, pursuant to the terms and conditions of an applicable  
34 local ordinance or state agency rule at the direction of a law  
35 enforcement officer.

36 (2) In addition, a police officer may take custody of a vehicle,  
37 at his or her discretion, and provide for its prompt removal to a  
38 place of safety under any of the following circumstances:

- 1 (a) Whenever a police officer finds a vehicle standing upon the  
2 roadway in violation of any of the provisions of RCW 46.61.560, the  
3 officer may provide for the removal of the vehicle or require the  
4 driver or other person in charge of the vehicle to move the vehicle  
5 to a position off the roadway;
- 6 (b) Whenever a police officer finds a vehicle unattended upon a  
7 highway where the vehicle constitutes an obstruction to traffic or  
8 jeopardizes public safety;
- 9 (c) Whenever a police officer finds an unattended vehicle at the  
10 scene of an accident or when the driver of a vehicle involved in an  
11 accident is physically or mentally incapable of deciding upon steps  
12 to be taken to protect his or her property;
- 13 (d) Whenever the driver of a vehicle is arrested and taken into  
14 custody by a police officer;
- 15 (e) Whenever the driver of a vehicle is arrested for a violation  
16 of RCW 46.61.502 or 46.61.504;
- 17 (f) Whenever a police officer discovers a vehicle that the  
18 officer determines to be a stolen vehicle;
- 19 (g) Whenever a vehicle without a special license plate, placard,  
20 or decal indicating that the vehicle is being used to transport a  
21 person with disabilities under RCW 46.19.010 is parked in a stall or  
22 space clearly and conspicuously marked under RCW 46.61.581 which  
23 space is provided on private property without charge or on public  
24 property;
- 25 (h) Upon determining that a person is operating a motor vehicle  
26 without a valid and, if required, a specially endorsed driver's  
27 license or with a license that has been expired for (~~ninety~~) 90  
28 days or more;
- 29 (i) When a vehicle is illegally occupying a truck, commercial  
30 loading zone, restricted parking zone, bus, loading, hooded-meter,  
31 taxi, street construction or maintenance, or other similar zone  
32 where, by order of the director of transportation or chiefs of police  
33 or fire or their designees, parking is limited to designated classes  
34 of vehicles or is prohibited during certain hours, on designated days  
35 or at all times, if the zone has been established with signage for at  
36 least (~~twenty-four~~) 24 hours and where the vehicle is interfering  
37 with the proper and intended use of the zone. Signage must give  
38 notice to the public that a vehicle will be removed if illegally  
39 parked in the zone;

1 (j) When a vehicle with an expired registration of more than  
2 (~~forty-five~~) 45 days is parked on a public street;

3 (k) Upon determining that a person restricted to use of only a  
4 motor vehicle equipped with a functioning ignition interlock device  
5 is operating a motor vehicle that is not equipped with such a device  
6 in violation of RCW 46.20.740(2);

7 (1) Whenever the driver of a vehicle is arrested for illegal  
8 racing conduct in violation of RCW 46.61.500 or 46.61.530 or a  
9 comparable municipal ordinance.

10 (3) When an arrest is made for a violation of RCW 46.20.342, if  
11 the vehicle is a commercial vehicle or farm transport vehicle and the  
12 driver of the vehicle is not the owner of the vehicle, before the  
13 summary impoundment directed under subsection (1) of this section,  
14 the police officer shall attempt in a reasonable and timely manner to  
15 contact the owner of the vehicle and may release the vehicle to the  
16 owner if the owner is reasonably available, as long as the owner was  
17 not in the vehicle at the time of the stop and arrest and the owner  
18 has not received a prior release under this subsection or RCW  
19 46.55.120(1)(b)(ii).

20 (4) The additional procedures outlined in RCW 46.55.360 apply to  
21 any impoundment of a vehicle under subsection (2)(e) of this section.

22 (5) Nothing in this section may derogate from the powers of  
23 police officers under the common law. For the purposes of this  
24 section, a place of safety may include the business location of a  
25 registered tow truck operator.

26 (6) For purposes of this section "farm transport vehicle" means a  
27 motor vehicle owned by a farmer and that is being actively used in  
28 the transportation of the farmer's or another farmer's farm, orchard,  
29 aquatic farm, or dairy products, including livestock and plant or  
30 animal wastes, from point of production to market or disposal, or  
31 supplies or commodities to be used on the farm, orchard, aquatic  
32 farm, or dairy, and that has a gross vehicle weight rating of 7,258  
33 kilograms (16,001 pounds) or more.

34 **Sec. 7.** RCW 46.55.360 and 2020 c 117 s 3 are each amended to  
35 read as follows:

36 (1)(a) When a driver of a vehicle is arrested for a violation of  
37 RCW 46.61.502 or 46.61.504, or illegal racing conduct under RCW  
38 46.61.500 or 46.61.530 or a comparable municipal ordinance, and the  
39 officer directs the impoundment of the vehicle under RCW 46.55.113(2)

1 (e) or (1), the vehicle must be impounded and retained under the  
2 process outlined in this section. With the exception of the (~~twelve-~~  
3 ~~hour hold~~) holds mandated under this section, the procedures for  
4 notice, redemption, storage, auction, and sale shall remain the same  
5 as for other impounded vehicles under this chapter.

6 (b) If the police officer directing that a vehicle be impounded  
7 under RCW 46.55.113(2) (e) or (1) has:

8 (i) Waited (~~thirty~~) 30 minutes after the police officer  
9 contacted the police dispatcher requesting a registered tow truck  
10 operator and the tow truck responding has not arrived, or

11 (ii) If the police officer is presented with exigent  
12 circumstances such as being called to another incident or due to  
13 limited available resources being required to return to patrol,  
14 the police officer may place the completed impound order and  
15 inventory inside the vehicle and secure the vehicle by closing the  
16 windows and locking the doors before leaving.

17 (c) If a police officer has secured the vehicle and left it  
18 pursuant to (b) of this subsection, the police officer and the  
19 government or agency employing the police officer shall not be liable  
20 for any damages to or theft of the vehicle or its contents that occur  
21 between the time the officer leaves and the time that the registered  
22 tow truck operator takes custody of the vehicle, or for the actions  
23 of any person who takes or removes the vehicle before the registered  
24 tow truck operator arrives.

25 (2)(a) When a vehicle is impounded under RCW 46.55.113(2)(e) and  
26 the driver is a registered owner of the vehicle, the impounded  
27 vehicle may not be redeemed within a (~~twelve-hour~~) 12-hour period  
28 following the time the impounded vehicle arrives at the registered  
29 tow truck operator's storage facility as noted in the registered tow  
30 truck operator's master log, unless there are two or more registered  
31 owners of the vehicle or there is a legal owner of the vehicle that  
32 is not the driver of the vehicle. A registered owner who is not the  
33 driver of the vehicle or a legal owner who is not the driver of the  
34 vehicle may redeem the impounded vehicle after it arrives at the  
35 registered tow truck operator's storage facility as noted in the  
36 registered tow truck operator's master log.

37 (b) When a vehicle is impounded under RCW 46.55.113(2)(e) and the  
38 driver is a registered owner of the vehicle, the police officer  
39 directing the impound shall notify the driver that the impounded  
40 vehicle may not be redeemed within a (~~twelve-hour~~) 12-hour period



1 following the time the impounded vehicle arrives at the registered  
2 tow truck operator's storage facility as noted in the registered tow  
3 truck operator's master log, unless there are two or more registered  
4 owners or there is a legal owner who is not the driver of the  
5 vehicle. The police officer directing the impound shall notify the  
6 driver that the impounded vehicle may be redeemed by either a  
7 registered owner or legal owner, who is not the driver of the  
8 vehicle, after the impounded vehicle arrives at the registered tow  
9 truck operator's storage facility as noted in the registered tow  
10 truck operator's master log.

11 (c) When a vehicle is impounded under RCW 46.55.113(2)(1), the  
12 driver is arrested for racing, and the driver is a registered owner  
13 of the vehicle, the impounded vehicle may not be redeemed for a  
14 period of 72 hours from the time the impounded vehicle arrives at the  
15 registered tow truck operator's storage facility as noted in the  
16 registered tow truck operator's master log, unless there are two or  
17 more registered owners of the vehicle or there is a legal owner of  
18 the vehicle that is not the driver of the vehicle. A registered owner  
19 who is not the driver of the vehicle or a legal owner who is not the  
20 driver of the vehicle may redeem the impounded vehicle after it  
21 arrives at the registered tow truck operator's storage facility as  
22 noted in the registered tow truck operator's master log.

23 (d) When a vehicle is impounded under RCW 46.55.113(2)(1), the  
24 driver is arrested for racing, and the driver is a registered owner  
25 of the vehicle, the police officer directing the impound shall notify  
26 the driver that the impounded vehicle may not be redeemed for 72  
27 hours from the time the impounded vehicle arrives at the registered  
28 tow truck operator's storage facility as noted in the registered tow  
29 truck operator's master log, unless there are two or more registered  
30 owners or there is a legal owner who is not the driver of the  
31 vehicle. The police officer directing the impound shall notify the  
32 driver that the impounded vehicle may be redeemed by either a  
33 registered owner or legal owner, who is not the driver of the  
34 vehicle, after the impounded vehicle arrives at the registered tow  
35 truck operator's storage facility as noted in the registered tow  
36 truck operator's master log.

37 (3)(a) When a vehicle is impounded under RCW 46.55.113(2)(e) and  
38 the driver is not a registered owner of the vehicle, the impounded  
39 vehicle may be redeemed by a registered owner or legal owner, who is  
40 not the driver of the vehicle, after the impounded vehicle arrives at

1 the registered tow truck operator's storage facility as noted in the  
2 registered tow truck operator's master log.

3 (b) When a vehicle is impounded under RCW 46.55.113(2)(e) and the  
4 driver is not a registered owner of the vehicle, the police officer  
5 directing the impound shall notify the driver that the impounded  
6 vehicle may be redeemed by a registered owner or legal owner, who is  
7 not the driver of the vehicle, after the impounded vehicle arrives at  
8 the registered tow truck operator's storage facility as noted in the  
9 registered tow truck operator's master log.

10 (c) When a vehicle is impounded under RCW 46.55.113(2)(l), the  
11 driver is arrested for racing, and the driver is not a registered  
12 owner of the vehicle, the impounded vehicle may be redeemed by a  
13 registered owner or legal owner, who is not the driver of the  
14 vehicle, after the impounded vehicle arrives at the registered tow  
15 truck operator's storage facility as noted in the registered tow  
16 truck operator's master log.

17 (d) When a vehicle is impounded under RCW 46.55.113(2)(l), the  
18 driver is arrested for racing, and the driver is not a registered  
19 owner of the vehicle, the police officer directing the impound shall  
20 notify the driver that the impounded vehicle may be redeemed by a  
21 registered owner or legal owner, who is not the driver of the  
22 vehicle, after the impounded vehicle arrives at the registered tow  
23 truck operator's storage facility as noted in the registered tow  
24 truck operator's master log.

25 (e) If the vehicle is a commercial vehicle or farm transport  
26 vehicle and the driver of the vehicle is not the owner of the  
27 vehicle, prior to determining that no reasonable alternatives to  
28 impound exist and directing impoundment of the vehicle under RCW  
29 46.55.113(2)(e) or (l), the police officer must have attempted in a  
30 reasonable and timely manner to contact the owner, and release the  
31 vehicle to the owner if the owner was reasonably available ~~((and))~~,  
32 not under the influence of alcohol or any drug, and not a party to  
33 the racing conduct that subjects the vehicle to impound.

34 ~~((d))~~ (f) The registered tow truck operator shall notify the  
35 agency that ordered that the vehicle be impounded when the vehicle  
36 arrives at the registered tow truck operator's storage facility and  
37 has been entered into the master log starting ~~((the twelve-hour~~  
38 ~~period))~~ any mandatory hold period provided for in this section.

39 (4) A registered tow truck operator that releases an impounded  
40 vehicle pursuant to the requirements stated in this section is not

1 liable for injuries or damages sustained by the operator of the  
2 vehicle or sustained by third parties that may result from the  
3 vehicle driver's intoxicated state or illegal conduct relating to  
4 racing.

5 (5) For purposes of this section "farm transport vehicle" means a  
6 motor vehicle owned by a farmer and that is being actively used in  
7 the transportation of the farmer's or another farmer's farm, orchard,  
8 aquatic farm, or dairy products, including livestock and plant or  
9 animal wastes, from point of production to market or disposal, or  
10 supplies or commodities to be used on the farm, orchard, aquatic  
11 farm, or dairy, and that has a gross vehicle weight rating of 7,258  
12 kilograms (16,001 pounds) or more.

13 **Sec. 8.** RCW 46.55.370 and 2011 c 167 s 4 are each amended to  
14 read as follows:

15 If an impoundment arising from an alleged violation of RCW  
16 46.61.502 or 46.61.504, or illegal racing under RCW 46.61.500 or  
17 46.61.530, or a comparable ordinance is determined to be in violation  
18 of this chapter, then the police officer directing the impoundment  
19 and the government employing the officer are not liable for damages  
20 for loss of use of the vehicle if the officer had reasonable  
21 suspicion to believe that the driver of the vehicle was driving  
22 (~~while under the influence of intoxicating liquor or any drug, or~~  
23 ~~was in physical control of a vehicle while under the influence of~~  
24 ~~intoxicating liquor or any drug)) the vehicle in violation of RCW  
25 46.61.502 or 46.61.504, or conducting illegal racing in violation of  
26 RCW 46.61.500 or 46.61.530, or comparable municipal ordinance.~~

27 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2024.

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