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**SENATE BILL 5538**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senator Fortunato

1 AN ACT Relating to the removal of unauthorized persons; and  
2 amending RCW 9A.52.105 and 4.24.355.

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

4 **Sec. 1.** RCW 9A.52.105 and 2017 c 284 s 1 are each amended to  
5 read as follows:

6 (1) Subject to subsections (2) and (3) of this section and upon  
7 the receipt of a declaration signed under penalty of perjury, in the  
8 form prescribed in RCW 9A.52.115, declaring the truth of all of the  
9 required elements set forth in subsection (4) of this section, a  
10 peace officer shall have the authority to:

11 (a) Remove the person or persons from the premises, with or  
12 without arresting the person or persons; and

13 (b) Order the person or persons to remain off the premises or be  
14 subject to arrest for criminal trespass.

15 (2) Only a peace officer having probable cause to believe that a  
16 person is guilty of criminal trespass under RCW 9A.52.070 for  
17 knowingly entering or remaining unlawfully in a building considered  
18 residential real property, as defined in RCW 61.24.005, has the  
19 authority and discretion to make an arrest or exclude anyone under  
20 penalty of criminal trespass.

1 (3) While a peace officer can take into account a declaration  
2 from the property owner signed under penalty of perjury containing  
3 all of the required elements and in the form prescribed in RCW  
4 9A.52.115, the peace officer must provide the occupant or occupants  
5 with a reasonable opportunity to secure and present any credible  
6 evidence provided by the person or persons on the premises, which the  
7 peace officer must consider, showing that the person or persons are  
8 tenants, legal occupants, or the guests or invitees of tenants or  
9 legal occupants. If the person or persons on the premises present  
10 falsified or invalid documents to the peace officer including, but  
11 not limited to, counterfeit or inauthentic rental agreements, they  
12 may be guilty of making a false or misleading statement to a public  
13 servant under RCW 9A.76.175 and give rise to a cause of action under  
14 RCW 4.24.355.

15 (4) The declaration must include the following elements:

16 (a) That the declarant is the owner of the premises or the  
17 authorized agent of the owner of the premises;

18 (b) That an unauthorized person or persons have entered and are  
19 remaining unlawfully on the premises;

20 (c) That the person or persons were not authorized to enter or  
21 remain;

22 (d) That the person or persons are not a tenant or tenants and  
23 have not been a tenant or tenants, or a homeowner or homeowners who  
24 have been on title, within the last (~~twelve~~) 12 months on the  
25 property;

26 (e) That the declarant has demanded that the unauthorized person  
27 or persons vacate the premises but they have not done so;

28 (f) That the premises were not abandoned at the time the  
29 unauthorized person or persons entered;

30 (g) That the premises were not open to members of the public at  
31 the time the unauthorized person or persons entered;

32 (h) That the declarant understands that a person or persons  
33 removed from the premises pursuant to this section may bring a cause  
34 of action under RCW 4.24.355 against the declarant for any false  
35 statements made in the declaration, and that as a result of such  
36 action the declarant may be held liable for actual damages, costs,  
37 and reasonable attorneys' fees;

38 (i) That the declarant understands and acknowledges the  
39 prohibitions in RCW 59.18.230 and 59.18.290 against taking or  
40 detaining an occupant's personal property or removing or excluding an

1 occupant from a dwelling unit or rental premises without an  
2 authorizing court order; and

3 (j) That the declarant agrees to indemnify and hold harmless law  
4 enforcement for its actions or omissions made in good faith pursuant  
5 to the declaration.

6 (5) Neither the peace officer nor his or her law enforcement  
7 agency shall be held liable for actions or omissions made in good  
8 faith under this section.

9 (6) This section may not be construed to in any way limit rights  
10 under RCW 61.24.060 or to allow a peace officer to remove or exclude  
11 an occupant who is entitled to occupy a dwelling unit under a rental  
12 agreement or the occupant's guests or invitees.

13 **Sec. 2.** RCW 4.24.355 and 2017 c 284 s 3 are each amended to read  
14 as follows:

15 (1) All persons removed from premises pursuant to RCW 9A.52.105  
16 on the basis of false statements made by a declarant pursuant to RCW  
17 9A.52.115 shall have a cause of action to recover from the declarant  
18 for actual damages, together with costs and reasonable attorneys'  
19 fees.

20 (2) The declarant shall have a cause of action against any person  
21 who presents falsified or invalid documents to a peace officer during  
22 the process described in RCW 9A.52.105(3) to recover from the person  
23 for actual damages, together with costs and reasonable attorneys'  
24 fees.

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