

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5815**

Chapter 487, Laws of 1993

53rd Legislature  
1993 Regular Session

CLAIMS TO PROPERTY SEIZED IN CONTROLLED SUBSTANCES  
VIOLATIONS--PROCEDURE

EFFECTIVE DATE: 7/25/93

Passed by the Senate April 24, 1993  
YEAS 44 NAYS 0

JOEL PRITCHARD

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 24, 1993  
YEAS 94 NAYS 0

BRIAN EBERSOLE

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**Speaker of the  
House of Representatives**

Approved May 17, 1993

MIKE LOWRY

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**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5815** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

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**Secretary**

FILED

May 17, 1993 - 2:23 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5815**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1993 Regular Session

**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators West and Moyer)

Read first time 03/03/93.

1        AN ACT Relating to seizure and forfeiture; amending RCW 69.50.505  
2 and 46.12.270; adding new sections to chapter 46.61 RCW; adding new  
3 sections to chapter 46.12 RCW; and prescribing penalties.

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

5        **Sec. 1.** RCW 69.50.505 and 1992 c 211 s 1 are each amended to read  
6 as follows:

7        (a) The following are subject to seizure and forfeiture and no  
8 property right exists in them:

9        (1) All controlled substances which have been manufactured,  
10 distributed, dispensed, acquired, or possessed in violation of this  
11 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as  
12 defined in RCW 64.44.010, used or intended to be used in the  
13 manufacture of controlled substances;

14        (2) All raw materials, products, and equipment of any kind which  
15 are used, or intended for use, in manufacturing, compounding,  
16 processing, delivering, importing, or exporting any controlled  
17 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

18        (3) All property which is used, or intended for use, as a container  
19 for property described in paragraphs (1) or (2);

1 (4) All conveyances, including aircraft, vehicles, or vessels,  
2 which are used, or intended for use, in any manner to facilitate the  
3 sale, delivery, or receipt of property described in paragraphs (1) or  
4 (2), except that:

5 (i) No conveyance used by any person as a common carrier in the  
6 transaction of business as a common carrier is subject to forfeiture  
7 under this section unless it appears that the owner or other person in  
8 charge of the conveyance is a consenting party or privy to a violation  
9 of this chapter or chapter 69.41 or 69.52 RCW;

10 (ii) No conveyance is subject to forfeiture under this section by  
11 reason of any act or omission established by the owner thereof to have  
12 been committed or omitted without the owner's knowledge or consent;

13 (iii) No conveyance is subject to forfeiture under this section if  
14 used in the receipt of only an amount of marijuana for which possession  
15 constitutes a misdemeanor under RCW 69.50.401(e);

16 (iv) A forfeiture of a conveyance encumbered by a bona fide  
17 security interest is subject to the interest of the secured party if  
18 the secured party neither had knowledge of nor consented to the act or  
19 omission; and

20 (v) When the owner of a conveyance has been arrested under this  
21 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the  
22 person is arrested may not be subject to forfeiture unless it is seized  
23 or process is issued for its seizure within ten days of the owner's  
24 arrest;

25 (5) All books, records, and research products and materials,  
26 including formulas, microfilm, tapes, and data which are used, or  
27 intended for use, in violation of this chapter or chapter 69.41 or  
28 69.52 RCW;

29 (6) All drug paraphernalia;

30 (7) All moneys, negotiable instruments, securities, or other  
31 tangible or intangible property of value furnished or intended to be  
32 furnished by any person in exchange for a controlled substance in  
33 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
34 or intangible personal property, proceeds, or assets acquired in whole  
35 or in part with proceeds traceable to an exchange or series of  
36 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
37 and all moneys, negotiable instruments, and securities used or intended  
38 to be used to facilitate any violation of this chapter or chapter 69.41  
39 or 69.52 RCW(~~(:—PROVIDED, That)~~). A forfeiture of money, negotiable

1 instruments, securities, or other tangible or intangible property  
2 encumbered by a bona fide security interest is subject to the interest  
3 of the secured party if, at the time the security interest was created,  
4 the secured party neither had knowledge of nor consented to the act or  
5 omission(~~(:—PROVIDED FURTHER, That)~~). No personal property may be  
6 forfeited under this paragraph, to the extent of the interest of an  
7 owner, by reason of any act or omission which that owner establishes  
8 was committed or omitted without the owner's knowledge or consent; and

9 (8) All real property, including any right, title, and interest in  
10 the whole of any lot or tract of land, and any appurtenances or  
11 improvements which are being used with the knowledge of the owner for  
12 the manufacturing, compounding, processing, delivery, importing, or  
13 exporting of any controlled substance, or which have been acquired in  
14 whole or in part with proceeds traceable to an exchange or series of  
15 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
16 if such activity is not less than a class C felony and a substantial  
17 nexus exists between the commercial production or sale of the  
18 controlled substance and the real property(~~(:—PROVIDED, That)~~).

19 However:

20 (i) No property may be forfeited pursuant to this subsection, to  
21 the extent of the interest of an owner, by reason of any act or  
22 omission committed or omitted without the owner's knowledge or consent;

23 (ii) The bona fide gift of a controlled substance, legend drug, or  
24 imitation controlled substance shall not result in the forfeiture of  
25 real property;

26 (iii) The possession of marijuana shall not result in the  
27 forfeiture of real property unless the marijuana is possessed for  
28 commercial purposes, the amount possessed is five or more plants or one  
29 pound or more of marijuana, and a substantial nexus exists between the  
30 possession of marijuana and the real property. In such a case, the  
31 intent of the offender shall be determined by the preponderance of the  
32 evidence, including the offender's prior criminal history, the amount  
33 of marijuana possessed by the offender, the sophistication of the  
34 activity or equipment used by the offender, and other evidence which  
35 demonstrates the offender's intent to engage in commercial activity;

36 (iv) The unlawful sale of marijuana or a legend drug shall not  
37 result in the forfeiture of real property unless the sale was forty  
38 grams or more in the case of marijuana or one hundred dollars or more

1 in the case of a legend drug, and a substantial nexus exists between  
2 the unlawful sale and the real property; and

3 (v) A forfeiture of real property encumbered by a bona fide  
4 security interest is subject to the interest of the secured party if  
5 the secured party, at the time the security interest was created,  
6 neither had knowledge of nor consented to the act or omission.

7 (b) Real or personal property subject to forfeiture under this  
8 chapter may be seized by any board inspector or law enforcement officer  
9 of this state upon process issued by any superior court having  
10 jurisdiction over the property. Seizure of real property shall include  
11 the filing of a lis pendens by the seizing agency. Real property  
12 seized under this section shall not be transferred or otherwise  
13 conveyed until ninety days after seizure or until a judgment of  
14 forfeiture is entered, whichever is later: PROVIDED, That real  
15 property seized under this section may be transferred or conveyed to  
16 any person or entity who acquires title by foreclosure or deed in lieu  
17 of foreclosure of a security interest. Seizure of personal property  
18 without process may be made if:

19 (1) The seizure is incident to an arrest or a search under a search  
20 warrant or an inspection under an administrative inspection warrant;

21 (2) The property subject to seizure has been the subject of a prior  
22 judgment in favor of the state in a criminal injunction or forfeiture  
23 proceeding based upon this chapter;

24 (3) A board inspector or law enforcement officer has probable cause  
25 to believe that the property is directly or indirectly dangerous to  
26 health or safety; or

27 (4) The board inspector or law enforcement officer has probable  
28 cause to believe that the property was used or is intended to be used  
29 in violation of this chapter.

30 (c) In the event of seizure pursuant to subsection (b), proceedings  
31 for forfeiture shall be deemed commenced by the seizure. The law  
32 enforcement agency under whose authority the seizure was made shall  
33 cause notice to be served within fifteen days following the seizure on  
34 the owner of the property seized and the person in charge thereof and  
35 any person having any known right or interest therein, including any  
36 community property interest, of the seizure and intended forfeiture of  
37 the seized property. Service of notice of seizure of real property  
38 shall be made according to the rules of civil procedure. However, the  
39 state may not obtain a default judgment with respect to real property

1 against a party who is served by substituted service absent an  
2 affidavit stating that a good faith effort has been made to ascertain  
3 if the defaulted party is incarcerated within the state, and that there  
4 is no present basis to believe that the party is incarcerated within  
5 the state. Notice of seizure in the case of property subject to a  
6 security interest that has been perfected by filing a financing  
7 statement in accordance with chapter 62A.9 RCW, or a certificate of  
8 title, shall be made by service upon the secured party or the secured  
9 party's assignee at the address shown on the financing statement or the  
10 certificate of title. The notice of seizure in other cases may be  
11 served by any method authorized by law or court rule including but not  
12 limited to service by certified mail with return receipt requested.  
13 Service by mail shall be deemed complete upon mailing within the  
14 fifteen day period following the seizure.

15 (d) If no person notifies the seizing law enforcement agency in  
16 writing of the person's claim of ownership or right to possession of  
17 items specified in subsection (a)(4), (a)(7), or (a)(8) of this section  
18 within forty-five days of the seizure in the case of personal property  
19 and ninety days in the case of real property, the item seized shall be  
20 deemed forfeited. The community property interest in real property of  
21 a person whose spouse committed a violation giving rise to seizure of  
22 the real property may not be forfeited if the person did not  
23 participate in the violation.

24 (e) If any person notifies the seizing law enforcement agency in  
25 writing of the person's claim of ownership or right to possession of  
26 items specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6),  
27 (a)(7), or (a)(8) of this section within forty-five days of the seizure  
28 in the case of personal property and ninety days in the case of real  
29 property, the person or persons shall be afforded a reasonable  
30 opportunity to be heard as to the claim or right. The hearing shall be  
31 before the chief law enforcement officer of the seizing agency or the  
32 chief law enforcement officer's designee, except where the seizing  
33 agency is a state agency as defined in RCW 34.12.020(4), the hearing  
34 shall be before the chief law enforcement officer of the seizing agency  
35 or an administrative law judge appointed under chapter 34.12 RCW,  
36 except that any person asserting a claim or right may remove the matter  
37 to a court of competent jurisdiction (~~if the aggregate value of the~~  
38 ~~article or articles involved is more than five hundred dollars)).~~  
39 Removal of any matter involving personal property may only be

1 accomplished according to the rules of civil procedure. The person  
2 seeking removal of the matter must serve process against the state,  
3 county, political subdivision, or municipality that operates the  
4 seizing agency, and any other party of interest, in accordance with RCW  
5 4.28.080 or 4.92.020, within forty-five days after the person seeking  
6 removal has notified the seizing law enforcement agency of the person's  
7 claim of ownership or right to possession. The court to which the  
8 matter is to be removed shall be the district court when the aggregate  
9 value of personal property is within the jurisdictional limit set forth  
10 in RCW 3.66.020. A hearing before the seizing agency and any appeal  
11 therefrom shall be under Title 34 RCW. In a court hearing between two  
12 or more claimants to the article or articles involved, the prevailing  
13 party shall be entitled to a judgment for costs and reasonable  
14 attorney's fees. In cases involving personal property, the burden of  
15 producing evidence shall be upon the person claiming to be the lawful  
16 owner or the person claiming to have the lawful right to possession of  
17 the property. In cases involving real property, the burden of  
18 producing evidence shall be upon the law enforcement agency. The  
19 burden of proof that the seized real property is subject to forfeiture  
20 shall be upon the law enforcement agency. The seizing law enforcement  
21 agency shall promptly return the article or articles to the claimant  
22 upon a determination by the administrative law judge or court that the  
23 claimant is the present lawful owner or is lawfully entitled to  
24 possession thereof of items specified in subsection (a)(2), (a)(3),  
25 (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section.

26 (f) When property is forfeited under this chapter the board or  
27 seizing law enforcement agency may:

28 (1) Retain it for official use or upon application by any law  
29 enforcement agency of this state release such property to such agency  
30 for the exclusive use of enforcing the provisions of this chapter;

31 (2) Sell that which is not required to be destroyed by law and  
32 which is not harmful to the public;

33 (3) Request the appropriate sheriff or director of public safety to  
34 take custody of the property and remove it for disposition in  
35 accordance with law; or

36 (4) Forward it to the drug enforcement administration for  
37 disposition.

38 (g)(1) When property is forfeited, the seizing agency shall keep a  
39 record indicating the identity of the prior owner, if known, a

1 description of the property, the disposition of the property, the value  
2 of the property at the time of seizure, and the amount of proceeds  
3 realized from disposition of the property.

4 (2) Each seizing agency shall retain records of forfeited property  
5 for at least seven years.

6 (3) Each seizing agency shall file a report including a copy of the  
7 records of forfeited property with the state treasurer each calendar  
8 quarter.

9 (4) The quarterly report need not include a record of forfeited  
10 property that is still being held for use as evidence during the  
11 investigation or prosecution of a case or during the appeal from a  
12 conviction.

13 (h)(1) By January 31st of each year, each seizing agency shall  
14 remit to the state treasurer an amount equal to ten percent of the net  
15 proceeds of any property forfeited during the preceding calendar year.  
16 Money remitted shall be deposited in the drug enforcement and education  
17 account under RCW 69.50.520.

18 (2) The net proceeds of forfeited property is the value of the  
19 forfeitable interest in the property after deducting the cost of  
20 satisfying any bona fide security interest to which the property is  
21 subject at the time of seizure; and in the case of sold property, after  
22 deducting the cost of sale, including reasonable fees or commissions  
23 paid to independent selling agents, and the cost of any valid  
24 landlord's claim for damages under subsection (n) of this section.

25 (3) The value of sold forfeited property is the sale price. The  
26 value of retained forfeited property is the fair market value of the  
27 property at the time of seizure, determined when possible by reference  
28 to an applicable commonly used index, such as the index used by the  
29 department of licensing for valuation of motor vehicles. A seizing  
30 agency may use, but need not use, an independent qualified appraiser to  
31 determine the value of retained property. If an appraiser is used, the  
32 value of the property appraised is net of the cost of the appraisal.  
33 The value of destroyed property and retained firearms or illegal  
34 property is zero.

35 (i) Forfeited property and net proceeds not required to be paid to  
36 the state treasurer shall be retained by the seizing law enforcement  
37 agency exclusively for the expansion and improvement of controlled  
38 substances related law enforcement activity. Money retained under this  
39 section may not be used to supplant preexisting funding sources.



1 (j) Controlled substances listed in Schedule I, II, III, IV, and V  
2 that are possessed, transferred, sold, or offered for sale in violation  
3 of this chapter are contraband and shall be seized and summarily  
4 forfeited to the state. Controlled substances listed in Schedule I,  
5 II, III, IV, and V, which are seized or come into the possession of the  
6 board, the owners of which are unknown, are contraband and shall be  
7 summarily forfeited to the board.

8 (k) Species of plants from which controlled substances in Schedules  
9 I and II may be derived which have been planted or cultivated in  
10 violation of this chapter, or of which the owners or cultivators are  
11 unknown, or which are wild growths, may be seized and summarily  
12 forfeited to the board.

13 (l) The failure, upon demand by a board inspector or law  
14 enforcement officer, of the person in occupancy or in control of land  
15 or premises upon which the species of plants are growing or being  
16 stored to produce an appropriate registration or proof that he is the  
17 holder thereof constitutes authority for the seizure and forfeiture of  
18 the plants.

19 (m) Upon the entry of an order of forfeiture of real property, the  
20 court shall forward a copy of the order to the assessor of the county  
21 in which the property is located. Orders for the forfeiture of real  
22 property shall be entered by the superior court, subject to court  
23 rules. Such an order shall be filed by the seizing agency in the  
24 county auditor's records in the county in which the real property is  
25 located.

26 (n) A landlord may assert a claim against proceeds from the sale of  
27 assets seized and forfeited under subsection (f)(2) of this section,  
28 only if:

29 (1) A law enforcement officer, while acting in his or her official  
30 capacity, directly caused damage to the complaining landlord's property  
31 while executing a search of a tenant's residence; and

32 (2) The landlord has applied any funds remaining in the tenant's  
33 deposit, to which the landlord has a right under chapter 59.18 RCW, to  
34 cover the damage directly caused by a law enforcement officer prior to  
35 asserting a claim under the provisions of this section;

36 (i) Only if the funds applied under (2) of this subsection are  
37 insufficient to satisfy the damage directly caused by a law enforcement  
38 officer, may the landlord seek compensation for the damage by filing a

1 claim against the governmental entity under whose authority the law  
2 enforcement agency operates within thirty days after the search;

3 (ii) Only if the governmental entity denies or fails to respond to  
4 the landlord's claim within sixty days of the date of filing, may the  
5 landlord collect damages under this subsection by filing within thirty  
6 days of denial or the expiration of the sixty-day period, whichever  
7 occurs first, a claim with the seizing law enforcement agency. The  
8 seizing law enforcement agency must notify the landlord of the status  
9 of the claim by the end of the thirty-day period. Nothing in this  
10 section requires the claim to be paid by the end of the sixty-day or  
11 thirty-day period.

12 (3) For any claim filed under (2) of this subsection, the law  
13 enforcement agency shall pay the claim unless the agency provides  
14 substantial proof that the landlord either:

15 (i) Knew or consented to actions of the tenant in violation of this  
16 chapter or chapter 69.41 or 69.52 RCW; or

17 (ii) Failed to respond to a notification of the illegal activity,  
18 provided by a law enforcement agency under RCW 59.18.075, within seven  
19 days of receipt of notification of the illegal activity.

20 (o) The landlord's claim for damages under subsection (n) of this  
21 section may not include a claim for loss of business and is limited to:

22 (1) Damage to tangible property and clean-up costs;

23 (2) The lesser of the cost of repair or fair market value of the  
24 damage directly caused by a law enforcement officer;

25 (3) The proceeds from the sale of the specific tenant's property  
26 seized and forfeited under subsection (f)(2) of this section; and

27 (4) The proceeds available after the seizing law enforcement agency  
28 satisfies any bona fide security interest in the tenant's property and  
29 costs related to sale of the tenant's property as provided by  
30 subsection (h)(2) of this section.

31 (p) Subsections (n) and (o) of this section do not limit any other  
32 rights a landlord may have against a tenant to collect for damages.  
33 However, if a law enforcement agency satisfies a landlord's claim under  
34 subsection (n) of this section, the rights the landlord has against the  
35 tenant for damages directly caused by a law enforcement officer under  
36 the terms of the landlord and tenant's contract are subrogated to the  
37 law enforcement agency.

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

3        (1) A vehicle driven by or under the actual physical control of the  
4 owner of the vehicle in violation of RCW 46.61.502 or 46.61.504 is,  
5 upon the conviction of the owner when that conviction is the second or  
6 subsequent conviction for a violation of RCW 46.61.502 or 46.61.504  
7 within a five-year period, subject to seizure and forfeiture and no  
8 property right exists in that vehicle.

9        A forfeiture of a vehicle encumbered by a bona fide security  
10 interest is subject to the interest of the secured party if the secured  
11 party neither had knowledge of nor consented to the violation of RCW  
12 46.61.502 or 46.61.504.

13        (2) A vehicle subject to forfeiture under this chapter may be  
14 seized by a law enforcement officer of this state upon process issued  
15 by a court of competent jurisdiction. Seizure of a vehicle may be made  
16 without process if the vehicle subject to seizure has been the subject  
17 of a prior judgment in favor of the state in a forfeiture proceeding  
18 based upon this section.

19        (3) A seizure under subsection (2) of this section automatically  
20 commences proceedings for forfeiture. The law enforcement agency under  
21 whose authority the seizure was made shall cause notice of the seizure  
22 and intended forfeiture of the seized vehicle to be served within  
23 fifteen days after the seizure on the owner of the vehicle seized, on  
24 the person in charge of the vehicle, and on any person having a known  
25 right or interest in the vehicle, including a community property  
26 interest. The notice of seizure may be served by any method authorized  
27 by law or court rule, including but not limited to service by certified  
28 mail with return receipt requested. Service by mail is complete upon  
29 mailing within the fifteen-day period after the seizure. Notice of  
30 seizure in the case of property subject to a security interest that has  
31 been perfected by filing a financing statement in accordance with  
32 chapter 62A.9 RCW, or a certificate of title, shall be made by service  
33 upon the secured party or the secured party's assignee at the address  
34 shown on the financing statement or the certificate of title.

35        (4) If no person notifies the seizing law enforcement agency in  
36 writing of the person's claim of ownership or right to possession of  
37 the seized vehicle within forty-five days of the seizure, the vehicle  
38 is deemed forfeited.

1 (5) If a person notifies the seizing law enforcement agency in  
2 writing of the person's claim of ownership or right to possession of  
3 the seized vehicle within forty-five days of the seizure, the law  
4 enforcement agency shall give the person or persons a reasonable  
5 opportunity to be heard as to the claim or right. The hearing shall be  
6 before the chief law enforcement officer of the seizing agency or the  
7 chief law enforcement officer's designee, except where the seizing  
8 agency is a state agency as defined in RCW 34.12.020(4), the hearing  
9 shall be before the chief law enforcement officer of the seizing agency  
10 or an administrative law judge appointed under chapter 34.12 RCW,  
11 except that any person asserting a claim or right may remove the matter  
12 to a court of competent jurisdiction. Removal may only be accomplished  
13 according to the rules of civil procedure. The person seeking removal  
14 of the matter must serve process against the state, county, political  
15 subdivision, or municipality that operates the seizing agency, and any  
16 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,  
17 within forty-five days after the person seeking removal has notified  
18 the seizing law enforcement agency of the person's claim of ownership  
19 or right to possession. The court to which the matter is to be removed  
20 shall be the district court when the aggregate value of the vehicle is  
21 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
22 before the seizing agency and any appeal therefrom shall be under Title  
23 34 RCW. In a court hearing between two or more claimants to the  
24 vehicle involved, the prevailing party shall be entitled to a judgment  
25 for costs and reasonable attorney's fees. The burden of producing  
26 evidence shall be upon the person claiming to be the lawful owner or  
27 the person claiming to have the lawful right to possession of the  
28 vehicle. The seizing law enforcement agency shall promptly return the  
29 vehicle to the claimant upon a determination by the administrative law  
30 judge or court that the claimant is the present lawful owner or is  
31 lawfully entitled to possession of the vehicle.

32 (6) When a vehicle is forfeited under this chapter the seizing law  
33 enforcement agency may sell the vehicle, retain it for official use, or  
34 upon application by a law enforcement agency of this state release the  
35 vehicle to that agency for the exclusive use of enforcing this title.

36 (7) When a vehicle is forfeited, the seizing agency shall keep a  
37 record indicating the identity of the prior owner, if known, a  
38 description of the vehicle, the disposition of the vehicle, the value

1 of the vehicle at the time of seizure, and the amount of proceeds  
2 realized from disposition of the vehicle.

3 (8) Each seizing agency shall retain records of forfeited vehicles  
4 for at least seven years.

5 (9) Each seizing agency shall file a report including a copy of the  
6 records of forfeited vehicles with the state treasurer each calendar  
7 quarter.

8 (10) The quarterly report need not include a record of a forfeited  
9 vehicle that is still being held for use as evidence during the  
10 investigation or prosecution of a case or during the appeal from a  
11 conviction.

12 (11) By January 31st of each year, each seizing agency shall remit  
13 to the state treasurer an amount equal to ten percent of the net  
14 proceeds of vehicles forfeited during the preceding calendar year.  
15 Money remitted shall be deposited in the public safety and education  
16 account.

17 (12) The net proceeds of a forfeited vehicle is the value of the  
18 forfeitable interest in the vehicle after deducting the cost of  
19 satisfying a bona fide security interest to which the vehicle is  
20 subject at the time of seizure; and in the case of a sold vehicle,  
21 after deducting the cost of sale, including reasonable fees or  
22 commissions paid to independent selling agents.

23 (13) The value of a sold forfeited vehicle is the sale price. The  
24 value of a retained forfeited vehicle is the fair market value of the  
25 vehicle at the time of seizure, determined when possible by reference  
26 to an applicable commonly used index, such as the index used by the  
27 department of licensing. A seizing agency may use, but need not use,  
28 an independent qualified appraiser to determine the value of retained  
29 vehicles. If an appraiser is used, the value of the vehicle appraised  
30 is net of the cost of the appraisal.

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

33 (1) Whenever a person is charged with a violation of RCW 46.61.502  
34 or 46.61.504 and that person has been previously convicted for a  
35 violation of RCW 46.61.502 or 46.61.504 within a five-year period, the  
36 court shall instruct the person charged of the provisions of section 5  
37 of this act and shall immediately forward notice of the charge to the  
38 director.

1 (2) Upon the conviction or acquittal of the person charged or if a  
2 pending charge is otherwise terminated, the court shall immediately  
3 forward notice of the conviction, acquittal, or other termination of  
4 charge to the director.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.12 RCW  
6 to read as follows:

7 Upon receiving notice of a charge under section 3 of this act, the  
8 director shall withhold the issuance of a certificate of ownership on  
9 a vehicle subject to section 5 of this act unless the applicant is  
10 included in the exceptions listed in that section or until receiving  
11 notice of acquittal or other termination of the charge under section 3  
12 of this act.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.12 RCW  
14 to read as follows:

15 It is unlawful to convey, sell, or transfer the ownership of a  
16 motor vehicle that was driven by or was under the actual physical  
17 control of the owner of the vehicle who has previously been convicted  
18 for a violation of RCW 46.61.502 or 46.61.504 within a five-year period  
19 and is currently charged with a violation of RCW 46.61.502 or  
20 46.61.504, except that:

21 (1) A vehicle encumbered by a bona fide security interest may be  
22 transferred to the secured party or to a person designated by the  
23 secured party; and

24 (2) A leased vehicle may be transferred to the lessor or to a  
25 person designated by the lessor.

26 **Sec. 6.** RCW 46.12.270 and 1969 ex.s. c 125 s 3 are each amended to  
27 read as follows:

28 Any person violating ~~((the provisions of))~~ RCW 46.12.250 ~~((or))~~,  
29 46.12.260 ~~((shall be))~~, or section 5 of this act is guilty of a  
30 misdemeanor and shall be punished by a fine of not more than two  
31 hundred fifty dollars or by imprisonment in a county jail for not more  
32 than ninety days.

Passed the Senate April 24, 1993.

Passed the House April 24, 1993.

Approved by the Governor May 17, 1993.

Filed in Office of Secretary of State May 17, 1993.