

HOUSE BILL REPORT

ESHB 1131

As Amended by the Senate

Title: An act relating to persons who patronize prostitutes.

Brief Description: Impounding cars used to patronize prostitutes.

Sponsors: By House Committee on Judiciary (Originally sponsored by Representatives Sheahan, Schindler, Crouse, Gombosky, O'Brien, Keiser, Hurst and D. Sommers).

Brief History:

Committee Activity:

Judiciary: 1/26/99, 3/2/99 [DPS].

Floor Activity:

Passed House: 3/15/99, 91-6.

Senate Amended.

Passed Senate: 4/6/99, 44-0.

Brief Summary of Substitute Bill

- Provides that when a person is convicted of patronizing a prostitute, the court must order that the person remain outside the geographical jurisdiction in which the person was arrested, unless such a requirement is infeasible.
- Authorizes police to impound the vehicle of a person who is arrested for patronizing a prostitute when the person has been previously convicted of patronizing a prostitute, the person arrested is the owner of the vehicle, and the vehicle was used in the commission of the crime.
- Gives the impounding law enforcement officer immunity from damages resulting from an improper impoundment when the officer acted in good faith and without gross negligence.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Trudes Hutcheson (786-7384).

Background:

A law enforcement officer may impound a vehicle under a variety of circumstances, such as when the vehicle is unattended on a highway and is obstructing traffic, when the officer arrests the driver, or when a person is driving the vehicle without a valid driver's license. Courts interpreting this statute have ruled that the authority granted is a discretionary authority to impound and that the statute does not authorize impoundment unless impoundment is reasonable under the circumstances.

A person whose vehicle has been impounded may redeem the vehicle by paying the costs of towing and storage. In addition, the person may request a hearing in court to determine the validity of the impoundment.

If impoundment is determined to be a violation of the towing and impoundment laws, the person or agency that authorized the impoundment is liable for towing and impoundment costs, including reasonable damages for loss of use of the vehicle. However, if the impoundment is based on driving with a suspended license, the impounding officer will not be liable for damages if the officer relied in good faith and without gross negligence on the department of licensing's records.

It is a misdemeanor offense for a person to patronize a prostitute and a class C felony for a person to patronize a juvenile prostitute.

A person is guilty of patronizing a prostitute if he or she: (a) pays a fee, under a prior understanding, as compensation for another person having engaged in sexual conduct with him or her; (b) pays a fee to another person with the understanding that the person will engage in sexual conduct; or (c) solicits another person to engage in sexual conduct in exchange for a fee. A person is guilty of patronizing a juvenile prostitute if that person engages in, or offers or agrees to engage in, sexual conduct with a minor in return for a fee.

Summary of Bill:

The Legislature finds that many patrons of prostitutes use motor vehicles to obtain the services of prostitutes. The Legislature intends to decrease prostitution and eliminate traffic congestion caused by patrons cruising in cars in areas of high prostitution.

A person convicted of patronizing a prostitute or juvenile prostitute under state law is required, as part of the person's sentence, to remain outside the geographical jurisdiction in which the person was arrested. The requirement may be waived if it interferes with the person's employment, residence, or is otherwise infeasible. In addition, the court must impose a sentencing condition that the person not be subsequently arrested for patronizing a prostitute or juvenile prostitute. These requirements also apply when a person receives a deferred sentence or deferred prosecution for patronizing a prostitute or juvenile prostitute.

When a police officer arrests a person suspected of patronizing a prostitute or juvenile prostitute, the officer may impound the patron's vehicle if: (a) the vehicle was used in the commission of the crime; (b) the vehicle is owned by the person arrested; and (c) the person arrested has previously been convicted of patronizing a prostitute or juvenile prostitute under state law.

If the impoundment is deemed improper, the officer and government entity employing the officer is not liable for damages if the officer acted in good faith and without gross negligence.

Impoundments must be performed in accordance with current law regarding towing and impoundment.

EFFECT OF SENATE AMENDMENT(S): The senate amendment removed the provision giving the impounding law enforcement officer immunity from damages resulting from an improper impoundment. The senate amendment also changed the term "geographical jurisdiction" to "geographical area."

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original bill) This bill will help eliminate the negative impact of prostitution and will help turn certain areas of Spokane into prosperous business communities. Legitimate businesses that are located in areas of high prostitution are either going out of business or forced to shorten their hours of operation due to the dangers that prostitution brings. It is smart that the Legislature strike at the patrons of prostitutes and not just the prostitutes. This bill will help cut down on the mobility

of this type of activity. This bill is an additional tool for cities to use to decrease prostitution.

Testimony Against: None.

Testified: (In support) Terry Lynch, David Clack, and James Hanley, East Spokane Business Association; Bob Mack, city of Spokane; and Fred Jensen, citizen.

(In support with concerns) Doug Levy, city of Everett.