
Judiciary Committee

ESB 5417

Title: An act relating to restricting access to motor vehicles for persons arrested for alcohol offenses.

Brief Description: Restricting access to motor vehicles for persons arrested for alcohol offenses (John's Law).

Sponsors: Senators Weinstein, Esser, Jacobsen, Rasmussen, Kastama, Rockefeller, Shin, Carrell, Regala, Kohl-Welles, Pridemore, Franklin, Keiser, Kline, Sheldon and McAuliffe.

Brief Summary of Engrossed Bill

- Provides another authorization for impoundment of the vehicles of persons arrested for drunk driving;
- Requires warning and acknowledgment of potential civil and criminal liability before a person arrested for drunk driving may be released to a third person.

Hearing Date: 3/22/05

Staff: Bill Perry (786-7123).

Background:

The motor vehicle code contains a chapter on towing and impounding motor vehicles. That chapter authorizes impoundment of vehicles under a variety of circumstances. The arrest of a person for driving while under the influence of alcohol or drugs (DUI) is one circumstance in which a police officer may order the impoundment of a motor vehicle.

Under the towing and impoundment chapter, the police may order impoundment pursuant to local ordinance or state agency rule "whenever the driver of a vehicle is arrested" for DUI. The state Supreme Court has held that such local ordinances or agency rules may not require impoundment in all DUI arrests and that the statute requires the exercise of discretion by law enforcement officers. Another provision in that same section of law directly allows a police officer to order impoundment (with or without a separate local ordinance or agency rule) "whenever the driver of the vehicle is arrested and taken into custody."

The towing and impoundment chapter provides for the redemption of an impounded vehicle. The legal or registered owner of a vehicle, or a person authorized by the registered owner or the vehicle's insurer, may redeem the vehicle after paying towing and impoundment fees. Any person

seeking redemption of a vehicle under this chapter may go to court to contest the validity of the impoundment. If the impoundment is found to be in violation of the towing and impoundment chapter, the owner of the vehicle bears no responsibility for the towing and impound fees, and the agency that authorized the impoundment must pay the fees. In addition, if the impoundment is found to be in violation of the chapter, the agency authorizing the impoundment is liable to the vehicle owner for reasonable damages for the loss of use of the vehicle and for the amount of the filing fee for challenging the impoundment.

In a different chapter of the motor vehicle code there is a provision that says that a person who abets another in committing a violation of the code is guilty himself or herself of that same violation. So, for instance, a person is guilty of DUI if he or she abets another in committing DUI or wilfully permits another to commit DUI. Under yet another provision in another chapter of the motor vehicle code, it is also a traffic infraction for a person who is "directing the operation" of a vehicle "knowingly to permit" illegal operation of the vehicle. Thus, a person who allows another person to commit DUI might also be committing a civil infraction.

Summary of Bill:

Two new provisions are added to the rules of the road chapter of the motor vehicle code. One of these provisions is a new additional impoundment authorization for vehicles driven by persons arrested for DUI. The other provision imposes new requirements on the release of such persons to the custody of third parties.

The vehicle of a person arrested for DUI is subject to impoundment. After all towing, removal and storage fees are paid, such a vehicle may be redeemed:

- by a registered owner other than the person arrested; or
- 12 hours after arrest; or
- immediately by a rental company that owns the vehicle or by a dealer or lender with a perfected security interest in the vehicle.

A law enforcement officer may not release a person arrested for DUI to a third person until:

- the officer serves written notice on the third person advising him or her of potential civil and criminal liability for facilitating or permitting the arrested person to operate a motor vehicle while still intoxicated; and
- the third person acknowledges in writing the receipt of the notice.

If the third person refuses to sign the acknowledgment, the arrested person shall remain in custody.

Appropriation: None.

Fiscal Note: Available on SB 6020 from 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.