

2 SHB 1741 - S COMM AMD - part
3 By Committee on Law & Justice

4 ADOPTED 4/14/93

5 On page 10, after line 38, insert the following:

6 "NEW SECTION. **Sec. 8.** A new section is added to chapter 46.61 RCW
7 to read as follows:

8 (1)(a) The court shall confiscate from every person who is
9 convicted of a second violation of RCW 46.61.502 or 46.61.504 within a
10 five-year period the Washington state vehicle registration and vehicle
11 license plates of the vehicle the person was driving at the time of the
12 violation, if the person is the owner of the vehicle, and if the person
13 is not the owner of the vehicle, the court shall confiscate the
14 Washington state vehicle registration and vehicle license plates of a
15 vehicle owned by the person, if any. The person shall have seven days
16 to surrender the Washington state vehicle registration and vehicle
17 license plates.

18 (b) The Washington state vehicle registration and vehicle license
19 plates shall be held for a period of ninety days from the date of
20 surrender.

21 (c) The court shall immediately notify the department of licensing
22 of the confiscation and the duration of the confiscation. No Washington
23 state vehicle registration or vehicle license plates may be reissued
24 for the vehicle by the department to the person during the period of
25 confiscation.

26 (d) No confiscation under this section affects the right of any
27 person to transfer or acquire title in the vehicle, or the right of any
28 person other than the arrested driver to become the registered owner of
29 the vehicle.

30 (e) In any case provided for in this section, where a Washington
31 state vehicle registration or vehicle license is to be confiscated, the
32 confiscation shall be stayed and shall not take effect until after the
33 determination of any appeal from the conviction which may lawfully be
34 taken, but in case the conviction is sustained on appeal the
35 confiscation takes effect as of the date that the conviction becomes
36 effective for other purposes.

1 (2)(a) On a third or subsequent conviction for a violation of RCW
2 46.61.502 or 46.61.504 within a five-year period the motor vehicle the
3 person was driving at the time of the violation, if the person is the
4 owner of the vehicle, shall be seized by a law enforcement officer of
5 this state upon process issued by the court issuing the conviction.

6 (b) Proceedings for forfeiture shall be deemed commenced by the
7 seizure. The law enforcement agency under whose authority the seizure
8 was made shall cause notice to be served within fifteen days following
9 the seizure on the owner of the vehicle seized and the person in charge
10 thereof and any person having any known right or interest therein,
11 including any community property interest, of the seizure and intended
12 forfeiture of the seized vehicle. The notice of seizure may be served
13 by any method authorized by law or court rule including but not limited
14 to service by certified mail with return receipt requested. Service by
15 mail shall be deemed complete upon mailing within the fifteen-day
16 period following the seizure.

17 (c) If no person notifies the seizing law enforcement agency in
18 writing of the person's claim of ownership or right to possession of
19 the vehicle within forty-five days of the seizure, the vehicle seized
20 shall be deemed forfeited.

21 (d) If any person notifies the seizing law enforcement agency in
22 writing of the person's claim of ownership or right to possession of
23 the vehicle within forty-five days of the seizure, the person or
24 persons shall be afforded a reasonable opportunity to be heard as to
25 the claim or right. The hearing shall be before the chief law
26 enforcement officer of the seizing agency or the chief law enforcement
27 officer's designee, except where the seizing agency is a state agency
28 as defined in RCW 34.12.020(4), the hearing shall be before the chief
29 law enforcement officer of the seizing agency or an administrative law
30 judge appointed under chapter 34.12 RCW, except that any person
31 asserting a claim or right may remove the matter to a court of
32 competent jurisdiction if the value of the vehicle involved is more
33 than five hundred dollars. The court to which the matter is to be
34 removed shall be the district court when the value of the vehicle is
35 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
36 before the seizing agency and any appeal therefrom shall be under Title
37 34 RCW. In a court hearing between two or more claimants to the
38 vehicle, the prevailing party shall be entitled to a judgment for costs
39 and reasonable attorneys' fees. The burden of producing evidence shall

1 be upon the person claiming to be the lawful owner or the person
2 claiming to have the lawful right to possession of the vehicle. The
3 seizing law enforcement agency shall promptly return the vehicle to the
4 claimant upon a determination by the administrative law judge or court
5 that the claimant is the present lawful owner or is lawfully entitled
6 to possession thereof.

7 (e) When a vehicle is forfeited under this chapter the seizing law
8 enforcement agency may:

9 (i) Retain it for official use or upon application by any law
10 enforcement agency of this state release such vehicle to such agency
11 for the exclusive use of enforcing the provisions of this chapter;

12 (ii) Sell the vehicle; or

13 (iii) Remove it for disposition in accordance with law.

14 (f)(i) When a vehicle is forfeited, the seizing agency shall keep
15 a record indicating the identity of the prior owner, if known, a
16 description of the vehicle, the disposition of the vehicle, the value
17 of the vehicle at the time of seizure, and the amount of proceeds
18 realized from disposition of the vehicle.

19 (ii) Each seizing agency shall retain records of forfeited vehicles
20 for at least seven years.

21 (iii) Each seizing agency shall file a report including a copy of
22 the records of forfeited vehicles with the state treasurer each
23 calendar quarter.

24 (iv) The quarterly report need not include a record of forfeited
25 vehicles that are still being held for use as evidence during the
26 investigation or prosecution of a case or during the appeal from a
27 conviction.

28 (g) Forfeited vehicles and net proceeds shall be retained by the
29 seizing law enforcement agency exclusively for the expansion and
30 improvement of law enforcement activity. Money retained under this
31 section may not be used to supplant preexisting funding sources.

32 (h) A forfeiture of a motor vehicle encumbered by a bona fide
33 security interest is subject to the interest of the secured party."

34 Renumber the remaining sections consecutively and correct any
35 internal references accordingly.

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4 In line 4 of the title, after "46.20 RCW;" insert "adding a new
5 section to chapter 46.61 RCW;"

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