CERTIFICATION OF ENROLLMENT

**SENATE BILL 5606**

68th Legislature

2023 Regular Session

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| Passed by the Senate February 28, 2023  Yeas 46 Nays 1  **President of the Senate**  Passed by the House April 12, 2023  Yeas 93 Nays 4  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5606** as passed by the Senate and the House of Representatives on the dates hereon set forth.  Secretary |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SENATE BILL 5606**

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Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Lovick, Conway, Keiser, Valdez, and C. Wilson

AN ACT Relating to deterring illegal racing; amending RCW 46.61.530, 46.55.360, and 46.55.370; reenacting and amending RCW 46.55.113; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 46.04 RCW to read as follows:

"Off-street facility" means a location typically held open for use by the public for parking vehicles, ingress and egress, or used for commercial purposes. Use of such locations falls under this act when used for illegal racing when such use is without the express permission of the owner of the facility.

NEW SECTION. **Sec.**  A new section is added to chapter 46.04 RCW to read as follows:

"Drifting" means a driver intentionally oversteers a vehicle, causing loss of traction, while maneuvering a vehicle in a turning direction.

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

Subject to funds appropriated for this purpose, law enforcement agencies are encouraged to undertake a public education campaign to inform the public of the unlawful nature of illegal racing; the dangers such events pose to attendants, participants, and the general public; and the penalties violators may suffer if they participate in or promote illegal racing, including the possible impoundment and forfeiture of vehicles used to participate in illegal racing. Agencies are encouraged to use multiple strategies in their public education campaigns depending upon available funds, including posts through social media or other web-based platforms, developing and disseminating printed materials or mailings, and creating and posting signs at various locations within the agency's jurisdiction.

**Sec.**  RCW 46.61.530 and 1979 ex.s. c 136 s 87 are each amended to read as follows:

((~~No~~)) (1) It shall be unlawful for any person or persons ((~~may~~)) to race any motor vehicle or motor vehicles upon any public highway of this state as defined in RCW 46.04.197, or upon any off-street facility as defined in section 1 of this act. Any person or persons who ((~~wilfully~~)) willfully compare or contest relative speeds by operation of one or more motor vehicles or who willfully demonstrates, exhibits, or compares speed, maneuverability, or the power of one or more motor vehicles, including "drifting," shall be guilty of racing, which shall constitute reckless driving under RCW 46.61.500 subjecting the violator to the penalties provided for under RCW 46.61.500 unless otherwise provided for in this section, whether or not such speed is in excess of the maximum speed prescribed by law: PROVIDED HOWEVER, That any comparison or contest of the accuracy with which motor vehicles may be operated in terms of relative speeds not in excess of the posted maximum speed does not constitute racing. Nothing in this section prohibits a person from being charged under other provisions of the law for other acts, results, incidents, damages, injuries, or deaths that occur as a result of, or in addition to, their participation in racing.

(2) Any person who knowingly aids and abets racing under subsection (1) of this section may be charged and prosecuted as an accomplice in accordance with RCW 46.64.048.

(3) The offenses described in this section may be deemed to have been committed either at the time and location from which the person charged initiated his or her efforts, or at the time and location where the completed traffic infraction or crime occurred regardless of whether the person charged under this section was ever actually present at the time and location of the completed traffic infraction or crime.

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

(1) A vehicle used to commit the crime of racing is subject to impoundment as provided for in chapter 46.55 RCW.

(2) If an operator has previously had a vehicle impounded due to illegal racing conduct, regardless of whether a criminal charge or a conviction resulted from that conduct, and the operator is convicted of a subsequent offense that was originally charged under RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance, the vehicle operated by the operator is subject to forfeiture as follows:

(a) No property may be forfeited under this section until after the operator is convicted of the crime of racing under RCW 46.61.530 and a finding is made that the operator used the vehicle to commit such crime.

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party neither had knowledge of nor consented to the commission of the offense.

(c) A vehicle subject to forfeiture under this section may be seized by any law enforcement officer of this state upon process issued by any court having jurisdiction over the property. However, seizure of the vehicle may be made without process if:

(i) The seizure is incident to an arrest or a search under a search warrant; or

(ii) The vehicle subject to seizure has been the subject of a prior judgment in favor of the seizing agency in a forfeiture proceeding based on this section; or

(iii) A law enforcement officer has probable cause to believe that the vehicle was used or is intended to be used in the commission of a felony.

(d) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within 15 days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. The notice of seizure may be served by any method authorized by law or court rule including, but not limited to, service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the 15-day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(e) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within 60 days of the seizure, the item seized shall either be deemed forfeited if the operator is convicted as provided for in this section, or the vehicle shall be returned to the owner of record if the operator is not convicted as provided for in (a) of this subsection.

(f) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within 60 days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within 45 days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the municipal court of the municipality that operates the seizing agency, or if there is no such municipal court, the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(g) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(i) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the criminal law;

(ii) Sell that which is not required to be destroyed by law and which is not harmful to the public, and use the proceeds to fund personnel, programs, services, and equipment related to the enforcement and processing of street racing violations, or to address and improve general traffic safety, within the seizing agency's jurisdiction.

**Sec.**  RCW 46.55.113 and 2020 c 330 s 13 and 2020 c 117 s 2 are each reenacted and amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504;

(f) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(g) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.19.010 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(h) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ((~~ninety~~)) 90 days or more;

(i) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least ((~~twenty-four~~)) 24 hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(j) When a vehicle with an expired registration of more than ((~~forty-five~~)) 45 days is parked on a public street;

(k) Upon determining that a person restricted to use of only a motor vehicle equipped with a functioning ignition interlock device is operating a motor vehicle that is not equipped with such a device in violation of RCW 46.20.740(2);

(l) Whenever the driver of a vehicle is arrested for illegal racing conduct in violation of RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle or farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(b)(ii).

(4) The additional procedures outlined in RCW 46.55.360 apply to any impoundment of a vehicle under subsection (2)(e) of this section.

(5) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

(6) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

**Sec.**  RCW 46.55.360 and 2020 c 117 s 3 are each amended to read as follows:

(1)(a) When a driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504, or illegal racing conduct under RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance, and the officer directs the impoundment of the vehicle under RCW 46.55.113(2) (e) or (l), the vehicle must be impounded and retained under the process outlined in this section. With the exception of the ((~~twelve-hour hold~~)) holds mandated under this section, the procedures for notice, redemption, storage, auction, and sale shall remain the same as for other impounded vehicles under this chapter.

(b) If the police officer directing that a vehicle be impounded under RCW 46.55.113(2) (e) or (l) has:

(i) Waited ((~~thirty~~)) 30 minutes after the police officer contacted the police dispatcher requesting a registered tow truck operator and the tow truck responding has not arrived, or

(ii) If the police officer is presented with exigent circumstances such as being called to another incident or due to limited available resources being required to return to patrol,

the police officer may place the completed impound order and inventory inside the vehicle and secure the vehicle by closing the windows and locking the doors before leaving.

(c) If a police officer has secured the vehicle and left it pursuant to (b) of this subsection, the police officer and the government or agency employing the police officer shall not be liable for any damages to or theft of the vehicle or its contents that occur between the time the officer leaves and the time that the registered tow truck operator takes custody of the vehicle, or for the actions of any person who takes or removes the vehicle before the registered tow truck operator arrives.

(2)(a) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is a registered owner of the vehicle, the impounded vehicle may not be redeemed within a ((~~twelve-hour~~)) 12-hour period following the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners of the vehicle or there is a legal owner of the vehicle that is not the driver of the vehicle. A registered owner who is not the driver of the vehicle or a legal owner who is not the driver of the vehicle may redeem the impounded vehicle after it arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(b) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may not be redeemed within a ((~~twelve~~‑~~hour~~)) 12-hour period following the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners or there is a legal owner who is not the driver of the vehicle. The police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by either a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(c) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is a registered owner of the vehicle, the impounded vehicle may not be redeemed for a period of 72 hours from the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners of the vehicle or there is a legal owner of the vehicle that is not the driver of the vehicle. A registered owner who is not the driver of the vehicle or a legal owner who is not the driver of the vehicle may redeem the impounded vehicle after it arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(d) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may not be redeemed for 72 hours from the time the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log, unless there are two or more registered owners or there is a legal owner who is not the driver of the vehicle. The police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by either a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(3)(a) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is not a registered owner of the vehicle, the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(b) When a vehicle is impounded under RCW 46.55.113(2)(e) and the driver is not a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(c) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is not a registered owner of the vehicle, the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(d) When a vehicle is impounded under RCW 46.55.113(2)(l), the driver is arrested for racing, and the driver is not a registered owner of the vehicle, the police officer directing the impound shall notify the driver that the impounded vehicle may be redeemed by a registered owner or legal owner, who is not the driver of the vehicle, after the impounded vehicle arrives at the registered tow truck operator's storage facility as noted in the registered tow truck operator's master log.

(e) If the vehicle is a commercial vehicle or farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, prior to determining that no reasonable alternatives to impound exist and directing impoundment of the vehicle under RCW 46.55.113(2) (e) or (l), the police officer must have attempted in a reasonable and timely manner to contact the owner, and release the vehicle to the owner if the owner was reasonably available ((~~and~~)), not under the influence of alcohol or any drug, and not a party to the racing conduct that subjects the vehicle to impound.

((~~(d)~~)) (f) The registered tow truck operator shall notify the agency that ordered that the vehicle be impounded when the vehicle arrives at the registered tow truck operator's storage facility and has been entered into the master log starting ((~~the twelve~~‑~~hour period~~)) any mandatory hold period provided for in this section.

(4) A registered tow truck operator that releases an impounded vehicle pursuant to the requirements stated in this section is not liable for injuries or damages sustained by the operator of the vehicle or sustained by third parties that may result from the vehicle driver's intoxicated state or illegal conduct relating to racing.

(5) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

**Sec.**  RCW 46.55.370 and 2011 c 167 s 4 are each amended to read as follows:

If an impoundment arising from an alleged violation of RCW 46.61.502 or 46.61.504, or illegal racing under RCW 46.61.500 or 46.61.530, or a comparable ordinance is determined to be in violation of this chapter, then the police officer directing the impoundment and the government employing the officer are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe that the driver of the vehicle was driving ((~~while under the influence of intoxicating liquor or any drug, or was in physical control of a vehicle while under the influence of intoxicating liquor or any drug~~)) the vehicle in violation of RCW 46.61.502 or 46.61.504, or conducting illegal racing in violation of RCW 46.61.500 or 46.61.530, or comparable municipal ordinance.

NEW SECTION. **Sec.**  This act takes effect January 1, 2024.

**--- END ---**