

# HOUSE BILL REPORT

## SB 5606

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**As Passed House:**

April 12, 2023

**Title:** An act relating to deterring illegal racing.

**Brief Description:** Deterring illegal racing.

**Sponsors:** Senators Lovick, Conway, Keiser, Valdez and Wilson, C..

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 3/21/23, 3/24/23 [DP].

**Floor Activity:**

Passed House: 4/12/23, 93-4.

**Brief Summary of Bill**

- Expands the crime of illegal racing to include racing on any off-street facility and drifting, and permits those aiding and abetting racing to be charged as accomplices.
- Provides that a person may be charged with other crimes that occur as a result of or in addition to racing.
- Establishes procedures for the seizure, impoundment, redemption, and forfeiture of vehicles used in the crime of racing.
- Encourages law enforcement agencies to undertake a multimedia public education campaign regarding illegal racing.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** Do pass. Signed by 9 members: Representatives Hansen, Chair; Farivar, Vice Chair; Cheney, Entenman, Goodman, Peterson, Rude, Thai and Walen.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member.

**Staff:** John Burzynski (786-7133).

**Background:**

Illegal Racing.

No person may race any motor vehicle (vehicle) upon any public highway of this state. Any person who willfully compares or contests relative speeds by operation of a vehicle is guilty of racing, which constitutes reckless driving, regardless of whether the vehicle exceeded the maximum speed prescribed by law. Reckless driving is punishable as a gross misdemeanor.

Any comparison or contest of the accuracy with which vehicles may be operated in terms of relative speeds not in excess of the posted maximum speed does not constitute illegal racing.

Seizure, Impoundment, and Forfeiture of Vehicles.

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 in response to a number of specified circumstances including, among others, whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety, whenever the driver of a vehicle is arrested and taken into custody by a police officer, and whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle.

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, 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 (under the influence).

When a vehicle is impounded in response to its driver operating the vehicle under the influence, the impounded vehicle may not be redeemed within 12 hours following the time of impoundment. However, a registered or 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. The police officer directing the impoundment must notify the driver of the 12-hour hold on redemption and its exceptions.

A registered tow truck operator that releases an impounded vehicle pursuant to state law 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.

If an impoundment arising from an alleged violation of the state laws prohibiting driving or controlling a vehicle while under the influence is determined to violate the chapter of the revised code governing impoundment, the police officer directing the impoundment and their employing agency are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe the driver of the vehicle was driving or controlling a vehicle while under the influence.

### **Summary of Bill:**

#### Illegal Racing.

The offense of illegal racing is expanded to cover racing at an off-street facility in addition to public highways, and applies whenever a person willfully demonstrates, exhibits, or compares speed, maneuverability, or the power of one or more vehicles, including through "drifting." Any person who knowingly aids and abets illegal racing may be charged and prosecuted as an accomplice.

"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.

"Public highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

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

Illegal racing may be deemed to have been committed at the time and location the person charged initiated their efforts, or at the time and location where the completed infraction or crime occurred, regardless of whether the person charged was actually present at the time and location of the completed infraction or crime.

A person may be charged for other acts, results, incidents, damages, injuries, or deaths that occur as a result of, or in addition to, their participation in illegal racing.

#### Seizure, Impoundment, Redemption, and Forfeiture of Vehicles.

A vehicle used in illegal racing is subject to seizure and impoundment and, for repeat offenses, forfeiture. Rules governing seizure, impoundment, redemption, and forfeiture of vehicles are established or expanded to apply to vehicles taken in connection with illegal racing, including the following.

*Taking Custody.* 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 whenever the driver of a vehicle is arrested for illegal racing in violation of state law or a comparable municipal ordinance.

*Seizure of Vehicles Subject to Forfeiture.* A vehicle subject to forfeiture in connection with illegal racing may be seized by any law enforcement officer of this state upon process issued by any court having jurisdiction over the property, or without process if: (1) the seizure is incident to an arrest or search made pursuant to a search warrant; (2) the vehicle has been the subject of a prior judgment in favor of the seizing agency in a forfeiture proceeding based on illegal racing; or (3) a law enforcement officer has probable cause to believe the vehicle was used or is intended to be used in the commission of a felony.

*Commercial and Farm Vehicles.* The impoundment provision for commercial and farm transport vehicles requiring a seizing officer to attempt to contact and release the vehicle to the owner, if the driver is not the owner, is modified to create an additional exception for instances where the owner is a party to racing conduct that subjects the vehicle to impoundment.

*72-Hour Hold.* When a vehicle is impounded in connection with illegal racing, the driver is arrested for illegal racing, and the driver is a registered owner of the vehicle, the impounded vehicle may not be redeemed for a period of 72 hours. However, a registered or legal owner of the vehicle who was not the driver may redeem the impounded vehicle after it arrives at the registered tow truck operator's storage facility. The police officer directing the impound must notify the driver of the 72-hour hold on redemption and its exceptions.

*15-Day Notice.* Within 15 days after seizure of a vehicle in connection with illegal racing, the law enforcement agency is to serve notice of the seizure on all known holders of interest in the property. The notice of seizure may be served by any method authorized by law or court rule. Specific notice requirements apply to secured parties with perfected security interests.

*Hearing and Forfeiture.* Any person responding to the notice within 60 days is entitled to an opportunity to be heard either before the chief law enforcement officer or removed to a court of competent jurisdiction. If no person responds within 60 days of the seizure, the vehicle shall be deemed forfeited if the arrested driver is convicted or returned to the owner of record if the arrested driver is not convicted. Specific procedures, including notice requirements, are provided for the removal of a case to a court.

*Forfeiture Requires Conviction.* No vehicle may be forfeited in connection with illegal racing until after the operator is convicted of illegal racing and a finding is made that the operator used the vehicle at issue to engage in illegal racing.

*Agency Use or Sale of Forfeited Vehicle.* When a vehicle is forfeited pursuant to the chapter of the revised code governing the use of vehicles on roads, after satisfying any court-ordered victim restitution, the seizing agency may retain the vehicle for official use,

release the vehicle to another law enforcement agency for its exclusive use, or sell the vehicle, with any proceeds used 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.

*Vehicles Encumbered by a Security Interest.* A forfeiture of a vehicle in connection with illegal racing that is 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.

*Limitation on Liability for Tow Truck Operators.* A registered tow truck operator that releases an impounded vehicle pursuant to state law is not liable for injuries or damages sustained by the operator of the vehicle or sustained by third parties that may result from illegal conduct relating to racing.

*Limitation on Liability for Police Officers and Agencies.* If an impoundment arising from an alleged violation of the state laws prohibiting illegal racing is determined to violate the chapter of the revised code governing impoundment, the police officer directing the impoundment and their employing agency are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe the driver of the vehicle was engaged in illegal racing in violation of state or local law.

Public Education.

Subject to the appropriation of funding, law enforcement agencies are encouraged to undertake public education campaigns to inform the public of the unlawful nature and dangers of illegal racing, and penalties including impoundment and forfeiture.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2024.

**Staff Summary of Public Testimony:**

(In support) Communities are experiencing an increase in illegal street racing, resulting in death, injuries, business impacts, excessive noise, damage to property, shut-down streets and intersections, taken over highways, and other problems. Street racing puts communities at risk. In some incidents, vehicles have lost control and caused collisions, serious injuries, or deaths. Some racing takeovers are occurring in broad daylight. There was a significant increase in street racing during the pandemic. Cities like Kent and Fife with industrial spaces, long flat wide roads, and large parking lots attract street racing.

Street racing is difficult to police and deter, and communities lack adequate policing

resources to address all instances of street racing.

This legislation will raise public awareness by encouraging education campaigns regarding illegal racing.

The bill updates the definition of racing, which is currently limited to two vehicles comparing speed. Increasingly, street racing includes dangerous maneuvers, drifting, people hanging out of windows, and intersection takeovers. This legislation includes drifting.

The penalty for reckless driving remains a gross misdemeanor.

The bill's impound provisions, which are drawn from other statutes, will help serve as an additional deterrent and solve the problem of illegal racing without increasing penalties or using jail time. Currently, without longer impound periods, racers are being cited and then using the same vehicles to race again the next night. The bill allows vehicles to be impounded for 72 hours for a first offense, taking racing cars off the road. There are limitations on impoundment. Officers must consider reasonable alternatives before impounding a vehicle, and may reach out to non-driver owners to retrieve the vehicle. Owners who were not driving can get immediate release of the vehicle from impoundment.

Forfeiture only arises if there is a conviction for illegal racing in addition to an earlier impoundment for illegal racing. The accused has a right to counsel and can challenge the forfeiture in court.

The bill's aiding-and-abetting language clarifies prosecution powers, addresses jurisdictional challenges, and will assist in prosecuting organizers.

(Opposed) None.

**Persons Testifying:** Senator John Lovick, prime sponsor; Victoria Woodards, City of Tacoma; Toni Troutner, Kent City Council; Julie Stormes, City of Kent; Briahna Murray, Cities of Kent and Tacoma; and Michael Transue, City of Fife.

**Persons Signed In To Testify But Not Testifying:** None.