

HOUSE RESEARCH

Bill Summary

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Overview

This bill clarifies DWI plate impoundment law by specifying that dismissal of the original DWI charge, *alone*, does not negate the plate impoundment; the driver's license revocation stemming from the arrest would *also* need to be rescinded before the plate impoundment could be negated.

The bill also amends DWI vehicle forfeiture law by broadening the requirement for serving notice on authorities when a violator files a judicial appeal of the forfeiture action. Under current law, only the prosecutor must be served with the notice. The bill would require that the notice of appeal also be served on the law enforcement agency that made the arrest.

Background - Plate Impoundment

In plea negotiations on DWI charges, it is not uncommon for the original charge to be dismissed and a lesser DWI charge to be filed and plead to (for example, a charge of "DWI with an alcohol concentration reading of .20 or more" is often dismissed if the person pleads to a straight charge of DWI (dropping the "high AC" enhancement). [The net effect in this example would be that the person pleads guilty to a misdemeanor, rather than a gross misdemeanor.]

A judge has recently ruled that such an action would require the court to order a return of regular plates after plate impoundment even if the person's license remains revoked for an alcohol related incident. This bill amends the statute to prevent such a dismissal-with-recharging action from nullifying the plate impoundment stemming from the violation. Legislative history clearly indicates that persons should receive regular plates back after an impoundment only if they were successful in challenging both the criminal and the implied consent actions.

Until quite recently, no one seems to have noticed this unintended feature of plate impoundment law. However, now that it has been noticed, it is expected to result in the nullification of thousands of DWI-related plate impoundments. The bill would prevent that from occurring.

A similar problem in license revocation law was identified and fixed in 2002.

Background - Vehicle Forfeiture

Under current law, following issuance of a notice to seize and forfeit the vehicle of a multiple-repeat DWI violator, the violator has 30 days within which to appeal the forfeiture action. In many cases, and particularly when the vehicle is a junker, no appeal is filed. However, the arresting agency itself is not directly served with the notice and is dependent upon the prosecutor to forward that information. But prosecutors often wait several days or weeks to bundle their cases for processing. Meantime, the law enforcement agency is unaware that the forfeiture is by default effectuated, and continues to store the vehicle and maintain the case as an active file. This is particularly so for the state patrol, since MSP regions typically encompass dozens of communities, each with its own local prosecutor.

The bill's service of notification requirement will enable law enforcement agencies - and especially the state patrol - to act more expeditiously to close out the forfeiture immediately following the current law's 30-day deadline for filing an appeal, in cases where no appeal is filed and thus no service of notice is forthcoming.