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ENGROSSED SUBSTITUTE SENATE BILL 5831

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State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Kohl, Owen, Winsley, Fairley and Schow)

Read first time 03/06/95.

1 AN ACT Relating to authorizing impoundment and sale of motor  
2 vehicles for failure to pay amounts owed on accumulated parking ticket  
3 violations; amending RCW 46.16.216, 46.55.080, 46.55.110, 46.55.120,  
4 and 46.55.130; and adding a new section to chapter 46.55 RCW.

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

6 **Sec. 1.** RCW 46.16.216 and 1990 2nd ex.s. c 1 s 401 are each  
7 amended to read as follows:

8 (1) To renew a vehicle license, an applicant shall satisfy all  
9 listed standing, stopping, and parking violations for the vehicle  
10 incurred while the vehicle was registered in the applicant's name and  
11 forwarded to the department pursuant to RCW 46.20.270(3). For the  
12 purposes of this section, "listed" standing, stopping, and parking  
13 violations include only those violations for which notice has been  
14 received from local agencies by the department one hundred twenty days  
15 or more before the date the vehicle license expires and that are placed  
16 on the records of the department. Notice of such violations received  
17 by the department later than one hundred twenty days before that date  
18 that are not satisfied shall be considered by the department in  
19 connection with any applications for license renewal in any subsequent

1 license year. The renewal application may be processed by the  
2 department or its agents only if the applicant:

3 (a) Presents a preprinted renewal application showing no listed  
4 standing, stopping, and parking violations, or in the absence of such  
5 presentation, the agent verifies the information that would be  
6 contained on the preprinted renewal application; or

7 (b) If listed standing, stopping, and parking violations exist,  
8 presents proof of payment and pays a fifteen dollar surcharge.

9 (2) The surcharge shall be allocated as follows:

10 (a) Ten dollars shall be deposited in the motor vehicle fund to be  
11 used exclusively for the administrative costs of the department of  
12 licensing; and

13 (b) Five dollars shall be retained by the agent handling the  
14 renewal application to be used by the agent for the administration of  
15 this section.

16 (3) If there is a change in the registered owner of the vehicle,  
17 the department shall forward the information regarding the change to  
18 the local charging jurisdiction and release any hold on the renewal of  
19 the vehicle license resulting from parking violations incurred while  
20 the certificate of license registration was in a previous registered  
21 owner's name. A subsequent registered owner is not responsible for  
22 payment of unpaid parking violations incurred by the previous owner of  
23 the vehicle.

24 (4) The department shall send to all registered owners of vehicles  
25 who have been reported to have outstanding listed parking violations,  
26 at the time of renewal, a statement setting out the dates and  
27 jurisdictions in which the violations occurred as well as the amounts  
28 of unpaid fines and penalties relating to them and the surcharge to be  
29 collected.

30 **Sec. 2.** RCW 46.55.080 and 1989 c 111 s 8 are each amended to read  
31 as follows:

32 (1) If a vehicle is in violation of the time restrictions of RCW  
33 46.55.010(12), it may be impounded by a registered tow truck operator  
34 at the direction of a law enforcement officer or other public official  
35 with jurisdiction if the vehicle is on public property, or at the  
36 direction of the property owner or an agent if it is on private  
37 property. A law enforcement officer may also direct the impoundment of  
38 a vehicle pursuant to a writ or court order. Within any city or town,

1 a law enforcement officer or other public official with jurisdiction  
2 may also direct the impoundment of a vehicle for which twelve or more  
3 parking violations issued by the city or town are unpaid. Before  
4 impoundment, the city or town must have given notice to the registered  
5 owner that the vehicle is subject to impoundment for twelve or more  
6 unpaid parking violations. All impounds authorized as a result of  
7 twelve or more unpaid parking violations must be performed at the  
8 address listed on the department's registered owner records. Rental  
9 cars are not subject to impoundment under this section for twelve or  
10 more unpaid parking tickets.

11 (2) The person requesting a private impound or a law enforcement  
12 officer or public official requesting a public impound shall provide a  
13 signed authorization for the impound at the time and place of the  
14 impound to the registered tow truck operator before the operator may  
15 proceed with the impound. A registered tow truck operator, employee,  
16 or his or her agent may not serve as an agent of a property owner for  
17 the purposes of signing an impound authorization or, independent of the  
18 property owner, identify a vehicle for impound.

19 (3) In the case of a private impound, the impound authorization  
20 shall include the following statement: "A person authorizing this  
21 impound, if the impound is found in violation of chapter 46.55 RCW, may  
22 be held liable for the costs incurred by the vehicle owner."

23 (4) A registered tow truck operator shall record and keep in the  
24 operator's files the date and time that a vehicle is put in the  
25 operator's custody and released. The operator shall make an entry into  
26 a master log regarding transactions relating to impounded vehicles.  
27 The operator shall make this master log available, upon request, to  
28 representatives of the department or the state patrol.

29 (5) A person who engages in or offers to engage in the activities  
30 of a registered tow truck operator may not be associated in any way  
31 with a person or business whose main activity is authorizing the  
32 impounding of vehicles.

33 **Sec. 3.** RCW 46.55.110 and 1989 c 111 s 10 are each amended to read  
34 as follows:

35 (1) When an unauthorized vehicle is impounded or a vehicle is  
36 impounded as a result of twelve or more unpaid parking violations, the  
37 impounding towing operator shall notify the legal and registered owners  
38 of the impoundment of the ((unauthorized)) vehicle. The notification

1 shall be sent by first-class mail within twenty-four hours after the  
2 impoundment to the last known registered and legal owners of the  
3 vehicle, as provided by the law enforcement agency, and shall inform  
4 the owners of the identity of the person or agency authorizing the  
5 impound. The notification shall include the name of the impounding tow  
6 firm, its address, and telephone number. The notice shall also include  
7 the location, time of the impound, and by whose authority the vehicle  
8 was impounded. The notice shall also include the written notice of the  
9 right of redemption and opportunity for a hearing to contest the  
10 validity of the impoundment pursuant to RCW 46.55.120. If the vehicle  
11 is impounded as a result of twelve or more unpaid parking violations,  
12 the notice shall include the total amount due and owing for unpaid  
13 violations that must be paid before the vehicle will be released.

14 (2) In the case of an abandoned vehicle, within twenty-four hours  
15 after receiving information on the vehicle owners from the department  
16 through the abandoned vehicle report, the tow truck operator shall send  
17 by certified mail, with return receipt requested, a notice of custody  
18 and sale to the legal and registered owners.

19 (3) No notices need be sent to the legal or registered owners of an  
20 impounded vehicle if the vehicle has been redeemed.

21 **Sec. 4.** RCW 46.55.120 and 1993 c 121 s 3 are each amended to read  
22 as follows:

23 (1) Vehicles impounded by registered tow truck operators pursuant  
24 to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under  
25 the following circumstances:

26 (a) Only the legal owner, the registered owner, a person authorized  
27 in writing by the registered owner or the vehicle's insurer, a person  
28 who is determined and verified by the operator to have the permission  
29 of the registered owner of the vehicle, or one who has purchased a  
30 vehicle from the registered owner who produces proof of ownership or  
31 written authorization and signs a receipt therefor, may redeem an  
32 impounded vehicle.

33 (b) The vehicle shall be released upon the presentation to any  
34 person having custody of the vehicle of commercially reasonable tender  
35 sufficient to cover the costs of towing, storage, or other services  
36 rendered during the course of towing, removing, impounding, or storing  
37 any such vehicle. Commercially reasonable tender shall include,  
38 without limitation, cash, major bank credit cards, or personal checks

1 drawn on in-state banks if accompanied by two pieces of valid  
2 identification, one of which may be required by the operator to have a  
3 photograph. If the towing firm can determine through the customer's  
4 bank or a check verification service that the presented check would not  
5 be paid by the bank or guaranteed by the service, the towing firm may  
6 refuse to accept the check. Any person who stops payment on a personal  
7 check or credit card, or does not make restitution within ten days from  
8 the date a check becomes insufficient due to lack of funds, to a towing  
9 firm that has provided a service pursuant to this section or in any  
10 other manner defrauds the towing firm in connection with services  
11 rendered pursuant to this section shall be liable for damages in the  
12 amount of twice the towing and storage fees, plus costs and reasonable  
13 attorney's fees.

14 (c) If the vehicle has been impounded as a result of twelve or more  
15 unpaid parking violations, the vehicle shall be released upon  
16 presentation to any person having custody of the vehicle of proof that  
17 all such unpaid parking violations are paid or that satisfactory  
18 arrangements have been made with the impounding authority for their  
19 payment or discharge, together with payment of any parking violation,  
20 towing, storage, and any other costs resulting from impoundment.

21 (2)(a) The registered tow truck operator shall give to each person  
22 who seeks to redeem an impounded vehicle written notice of the right of  
23 redemption and opportunity for a hearing, which notice shall be  
24 accompanied by a form to be used for requesting a hearing, the name of  
25 the person or agency authorizing the impound, and a copy of the towing  
26 and storage invoice. The registered tow truck operator shall maintain  
27 a record evidenced by the redeeming person's signature that such  
28 notification was provided.

29 (b) Any person seeking to redeem an impounded vehicle under this  
30 section has a right to a hearing in the district court for the  
31 jurisdiction in which the vehicle was impounded to contest the validity  
32 of the impoundment or the amount of towing and storage charges. The  
33 district court has jurisdiction to determine the issues involving all  
34 impoundments including those authorized by the state or its agents.  
35 Any request for a hearing shall be made in writing on the form provided  
36 for that purpose and must be received by the district court within ten  
37 days of the date the opportunity was provided for in subsection (2)(a)  
38 of this section. If the hearing request is not received by the  
39 district court within the ten-day period, the right to a hearing is

1 waived and the registered owner is liable for any towing, storage, or  
2 other impoundment charges permitted under this chapter. Upon receipt  
3 of a timely hearing request, the district court shall proceed to hear  
4 and determine the validity of the impoundment.

5 (3)(a) The district court, within five days after the request for  
6 a hearing, shall notify the registered tow truck operator, the person  
7 requesting the hearing if not the owner, the registered and legal  
8 owners of the vehicle, and the person or agency authorizing the impound  
9 in writing of the hearing date and time.

10 (b) At the hearing, the person or persons requesting the hearing  
11 may produce any relevant evidence to show that the impoundment, towing,  
12 or storage fees charged were not proper.

13 (c) At the conclusion of the hearing, the district court shall  
14 determine whether the impoundment was proper, whether the towing or  
15 storage fees charged were in compliance with the posted rates, and who  
16 is responsible for payment of the fees. The court may not adjust fees  
17 or charges that are in compliance with the posted or contracted rates.

18 (d) If the impoundment is found proper, the impoundment, towing,  
19 and storage fees as permitted under this chapter together with court  
20 costs shall be assessed against the person or persons requesting the  
21 hearing, unless the operator did not have a signed and valid  
22 impoundment authorization from a private property owner or an  
23 authorized agent.

24 (e) If the impoundment is determined to be in violation of this  
25 chapter, then the registered and legal owners of the vehicle shall bear  
26 no impoundment, towing, or storage fees, and any security shall be  
27 returned or discharged as appropriate, and the person or agency who  
28 authorized the impoundment shall be liable for any towing, storage, or  
29 other impoundment fees permitted under this chapter. The court shall  
30 enter judgment in favor of the registered tow truck operator against  
31 the person or agency authorizing the impound for the impoundment,  
32 towing, and storage fees paid. In addition, the court shall enter  
33 judgment in favor of the registered and legal owners of the vehicle for  
34 reasonable damages for loss of the use of the vehicle during the time  
35 the same was impounded, for not less than fifty dollars per day,  
36 against the person or agency authorizing the impound. If any judgment  
37 entered is not paid within fifteen days of notice in writing of its  
38 entry, the court shall award reasonable attorneys' fees and costs  
39 against the defendant in any action to enforce the judgment. Notice of

1 entry of judgment may be made by registered or certified mail, and  
2 proof of mailing may be made by affidavit of the party mailing the  
3 notice. Notice of the entry of the judgment shall read essentially as  
4 follows:

5 TO: . . . . .

6 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
7 . . . . . Court located at . . . . . in the sum of  
8 \$. . . . ., in an action entitled . . . . ., Case No.  
9 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
10 will be awarded against you under RCW . . . if the judgment is  
11 not paid within 15 days of the date of this notice.

12 DATED this . . . . day of . . . . ., 19. . .

13 Signature . . . . .

14 Typed name and address  
15 of party mailing notice

16 (4) Any impounded abandoned vehicle not redeemed within fifteen  
17 days of mailing of the notice of custody and sale as required by RCW  
18 46.55.110(2) shall be sold at public auction in accordance with all the  
19 provisions and subject to all the conditions of RCW 46.55.130. A  
20 vehicle may be redeemed at any time before the start of the auction  
21 upon payment of towing and storage fees, and presentation of proof that  
22 all unpaid parking violations triggering the impoundment under RCW  
23 46.55.080 are paid or another satisfactory arrangement is made with the  
24 impounding authority for their payment or discharge.

25 **Sec. 5.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read  
26 as follows:

27 (1) If, after the expiration of fifteen days from the date of  
28 mailing of notice of custody and sale required in RCW 46.55.110(2) to  
29 the registered and legal owners, the vehicle remains unclaimed and has  
30 not been listed as a stolen vehicle, then the registered tow truck  
31 operator having custody of the vehicle shall conduct a sale of the  
32 vehicle at public auction after having first published a notice of the  
33 date, place, and time of the auction in a newspaper of general  
34 circulation in the county in which the vehicle is located not less than  
35 three days and no more than ten days before the date of the auction.  
36 The notice shall contain a description of the vehicle including the  
37 make, model, year, and license number and a notification that a three-

1 hour public viewing period will be available before the auction. The  
2 auction shall be held during daylight hours of a normal business day.

3 (2) The following procedures are required in any public auction of  
4 such abandoned vehicles:

5 (a) The auction shall be held in such a manner that all persons  
6 present are given an equal time and opportunity to bid;

7 (b) All bidders must be present at the time of auction unless they  
8 have submitted to the registered tow truck operator, who may or may not  
9 choose to use the preauction bid method, a written bid on a specific  
10 vehicle. Written bids may be submitted up to five days before the  
11 auction and shall clearly state which vehicle is being bid upon, the  
12 amount of the bid, and who is submitting the bid;

13 (c) The open bid process, including all written bids, shall be used  
14 so that everyone knows the dollar value that must be exceeded;

15 (d) The highest two bids received shall be recorded in written form  
16 and shall include the name, address, and telephone number of each such  
17 bidder;

18 (e) In case the high bidder defaults, the next bidder has the right  
19 to purchase the vehicle for the amount of his or her bid;

20 (f) The successful bidder shall apply for title within fifteen  
21 days;

22 (g) The registered tow truck operator shall post a copy of the  
23 auction procedure at the bidding site. If the bidding site is  
24 different from the licensed office location, the operator shall post a  
25 clearly visible sign at the office location that describes in detail  
26 where the auction will be held. At the bidding site a copy of the  
27 newspaper advertisement that lists the vehicles for sale shall be  
28 posted;

29 (h) All surplus moneys derived from the auction (~~after~~) shall be  
30 used first for satisfaction of the registered tow truck operator's  
31 lien; and second, to satisfy all unpaid parking violations of the  
32 impounding authority. The balance shall be remitted within thirty days  
33 to the department for deposit in the state motor vehicle fund. A  
34 report identifying the vehicles resulting in any surplus shall  
35 accompany the remitted funds. If the director subsequently receives a  
36 valid claim from the registered vehicle owner of record as determined  
37 by the department within one year from the date of the auction, the  
38 surplus moneys shall be remitted to such owner;

1 (i) If an operator receives no bid, or if the operator is the  
2 successful bidder at auction, the operator shall, within thirty days  
3 sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap  
4 processor by use of the abandoned vehicle report-affidavit of sale, or  
5 the operator shall apply for title to the vehicle.

6 (3) In no case may an operator hold a vehicle for longer than  
7 ninety days without holding an auction on the vehicle, except for  
8 vehicles that are under a police or judicial hold.

9 (4) (a) In no case may the accumulation of storage charges exceed  
10 fifteen days from the date of receipt of the information by the  
11 operator from the department as provided by RCW 46.55.110(2).

12 (b) The failure of the registered tow truck operator to comply with  
13 the time limits provided in this chapter limits the accumulation of  
14 storage charges to five days except where delay is unavoidable.  
15 Providing incorrect or incomplete identifying information to the  
16 department in the abandoned vehicle report shall be considered a  
17 failure to comply with these time limits if correct information is  
18 available.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.55 RCW  
20 to read as follows:

21 Records maintained by a municipal or district court as of the close  
22 of business of the previous court day, Saturdays, Sundays, and holidays  
23 excluded, may be relied upon in ordering an impound on account of an  
24 aggregate amount of unpaid parking violations upon a motor vehicle.

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