

**2SHB 1017** - H AMD 277

By Representative Buys

NOT CONSIDERED 04/22/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** This act shall be known and cited as  
4 Hailey's Law.

5 NEW SECTION. **Sec. 2.** (1) The legislature finds that:

6 (a) Despite every effort, the problem of driving or controlling a  
7 vehicle while under the influence of alcohol or drugs remains a great  
8 threat to the lives and safety of citizens. Over five hundred people  
9 are killed by traffic accidents in Washington each year and impaired  
10 vehicle drivers account for almost forty-five percent, or over two  
11 hundred deaths per year. That is, impairment is the leading cause of  
12 traffic deaths in this state;

13 (b) Over thirty-nine thousand people are arrested each year in  
14 Washington for driving or controlling a vehicle while under the  
15 influence of alcohol or drugs. Persons arrested for driving or  
16 controlling a vehicle while under the influence of alcohol or drugs may  
17 still be impaired after they are cited and released and could return to  
18 drive or control a vehicle. If the vehicle was impounded, there is  
19 nothing to stop the impaired person from going to the tow truck  
20 operator's storage facility and redeeming the vehicle while still  
21 impaired;

22 (c) More can be done to deter those arrested for driving or  
23 controlling a vehicle while under the influence of alcohol or drugs.  
24 Approximately one-third of those arrested for operating a vehicle under  
25 the influence are repeat offenders. Vehicle impoundment effectively  
26 increases deterrence and prevents an impaired driver from accessing the  
27 vehicle for a specified time. In addition, vehicle impoundment  
28 provides an appropriate measure of accountability for registered owners  
29 who allow impaired drivers to drive or control their vehicles, but it

1 also allows the registered owners to redeem their vehicles once  
2 impounded. Any inconvenience on a registered owner is outweighed by  
3 the need to protect the public;

4 (d) In order to protect public safety and to enforce the state's  
5 laws, it is reasonable and necessary to mandatorily impound the vehicle  
6 operated by a person who has been arrested for driving or controlling  
7 a vehicle while under the influence of alcohol or drugs.

8 (2) The legislature intends by this act:

9 (a) To change the primary reason for impounding the vehicle  
10 operated by a person arrested for driving or controlling a vehicle  
11 under the influence of alcohol or drugs. The purpose of impoundment  
12 under this act is to protect the public from a person operating a  
13 vehicle while still impaired, rather than to prevent a potential  
14 traffic obstruction; and

15 (b) To require that officers have no discretion as to whether or  
16 not to order an impound after they have arrested a vehicle driver with  
17 reasonable grounds to believe the driver of the vehicle was driving  
18 while under the influence of alcohol or drugs, or was in physical  
19 control of a vehicle while under the influence of alcohol or drugs.

20 NEW SECTION. **Sec. 3.** (1)(a) When a driver of a vehicle is  
21 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is  
22 subject to summary impoundment and except for a commercial vehicle or  
23 farm transport vehicle under subsection (3)(c) of this section, the  
24 vehicle must be impounded. With the exception of the twelve-hour hold  
25 mandated under this section, the procedures for notice, redemption,  
26 storage, auction, and sale shall remain the same as for other impounded  
27 vehicles under this chapter.

28 (b) If the police officer directing that a vehicle be impounded  
29 under this section has:

30 (i) Waited thirty minutes after a registered tow truck operator has  
31 been dispatched and the tow truck responding has not arrived, or

32 (ii) If the police officer is presented with exigent circumstances  
33 such as being called to another incident or due to limited available  
34 resources being required to return to patrol,  
35 the police officer may place the completed impound order and inventory  
36 inside the vehicle and secure the vehicle by closing the windows and  
37 locking the doors before leaving.

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

10 (2)(a) When a driver of a vehicle is arrested for a violation of  
11 RCW 46.61.502 or 46.61.504 and the driver is a registered owner of the  
12 vehicle, the impounded vehicle may not be redeemed within a twelve-hour  
13 period following the time the impounded vehicle arrives at the  
14 registered tow truck operator's storage facility as noted in the  
15 registered tow truck operator's master log, unless there are two or  
16 more registered owners of the vehicle or there is a legal owner of the  
17 vehicle that is not the driver of the vehicle. A registered owner who  
18 is not the driver of the vehicle or a legal owner who is not the driver  
19 of the vehicle may redeem the impounded vehicle after it arrives at the  
20 registered tow truck operator's storage facility as noted in the  
21 registered tow truck operator's master log.

22 (b) When a driver of a vehicle is arrested for a violation of RCW  
23 46.61.502 or 46.61.504 and the driver is a registered owner of the  
24 vehicle, the police officer directing the impound shall notify the  
25 driver that the impounded vehicle may not be redeemed within a  
26 twelve-hour period following the time the impounded vehicle arrives at  
27 the registered tow truck operator's storage facility as noted in the  
28 registered tow truck operator's master log, unless there are two or  
29 more registered owners or there is a legal owner who is not the driver  
30 of the vehicle. The police officer directing the impound shall notify  
31 the driver that the impounded vehicle may be redeemed by either a  
32 registered owner or legal owner, who is not the driver of the vehicle,  
33 after the impounded vehicle arrives at the registered tow truck  
34 operator's storage facility as noted in the registered tow truck  
35 operator's master log.

36 (3)(a) When a driver of a vehicle is arrested for a violation of  
37 RCW 46.61.502 or 46.61.504 and the driver is not a registered owner of  
38 the vehicle, the impounded vehicle may be redeemed by a registered

1 owner or legal owner, who is not the driver of the vehicle, after the  
2 impounded vehicle arrives at the registered tow truck operator's  
3 storage facility as noted in the registered tow truck operator's master  
4 log.

5 (b) When a driver of a vehicle is arrested for a violation of RCW  
6 46.61.502 or 46.61.504 and the driver is not a registered owner of the  
7 vehicle, the police officer directing the impound shall notify the  
8 driver that the impounded vehicle may be redeemed by a registered owner  
9 or legal owner, who is not the driver of the vehicle, after the  
10 impounded vehicle arrives at the registered tow truck operator's  
11 storage facility as noted in the registered tow truck operator's master  
12 log.

13 (c) If the vehicle is a commercial vehicle or farm transport  
14 vehicle and the driver of the vehicle is not the owner of the vehicle,  
15 before the summary impoundment directed under subsection (1) of this  
16 section, the police officer shall attempt in a reasonable and timely  
17 manner to contact the owner of the vehicle and may release the vehicle  
18 to the owner if the owner is reasonably available, as long as the owner  
19 was not in the vehicle at the time of the stop and arrest.

20 (d) The registered tow truck operator shall notify the agency that  
21 ordered that the vehicle be impounded when the vehicle arrives at the  
22 registered tow truck operator's storage facility and has been entered  
23 into the master log starting the twelve-hour period.

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

29 (5) For purposes of this section "farm transport vehicle" means a  
30 motor vehicle owned by a farmer and that is being actively used in the  
31 transportation of the farmer's or another farmer's farm, orchard,  
32 aquatic farm, or dairy products, including livestock and plant or  
33 animal wastes, from point of production to market or disposal, or  
34 supplies or commodities to be used on the farm, orchard, aquatic farm,  
35 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms  
36 (16,001 pounds) or more.

1           NEW SECTION.   **Sec. 4.** If an impoundment arising from an alleged  
2 violation of RCW 46.61.502 or 46.61.504 is determined to be in  
3 violation of this chapter, then the police officer directing the  
4 impoundment and the government employing the officer are not liable for  
5 damages for loss of use of the vehicle if the officer had reasonable  
6 suspicion to believe that the driver of the vehicle was driving while  
7 under the influence of intoxicating liquor or any drug, or was in  
8 physical control of a vehicle while under the influence of intoxicating  
9 liquor or any drug.

10           **Sec. 5.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are  
11 each amended to read as follows:

12           (1) Whenever the driver of a vehicle is arrested for a violation of  
13 RCW ((~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~) or 46.20.345, the vehicle  
14 is subject to summary impoundment, pursuant to the terms and conditions  
15 of an applicable local ordinance or state agency rule at the direction  
16 of a law enforcement officer.

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

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

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

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

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

34           (e) Whenever a police officer discovers a vehicle that the officer  
35 determines to be a stolen vehicle;

36           (f) Whenever a vehicle without a special license plate, placard, or  
37 decal indicating that the vehicle is being used to transport a person

1 with disabilities under RCW 46.16.381 is parked in a stall or space  
2 clearly and conspicuously marked under RCW 46.61.581 which space is  
3 provided on private property without charge or on public property;

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

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

17 (i) When a vehicle with an expired registration of more than  
18 forty-five days is parked on a public street.

19 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
20 vehicle is a commercial vehicle or farm transport vehicle and the  
21 driver of the vehicle is not the owner of the vehicle, before the  
22 summary impoundment directed under subsection (1) of this section, the  
23 police officer shall attempt in a reasonable and timely manner to  
24 contact the owner of the vehicle and may release the vehicle to the  
25 owner if the owner is reasonably available, as long as the owner was  
26 not in the vehicle at the time of the stop and arrest and the owner has  
27 not received a prior release under this subsection or RCW  
28 46.55.120(1)(a)(ii).

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

33 (5) For purposes of this section "farm transport vehicle" means a  
34 motor vehicle owned by a farmer and that is being actively used in the  
35 transportation of the farmer's or another farmer's farm, orchard,  
36 aquatic farm, or dairy products, including livestock and plant or  
37 animal wastes, from point of production to market or disposal, or

1 supplies or commodities to be used on the farm, orchard, aquatic farm,  
2 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms  
3 (16,001 pounds) or more.

4 **Sec. 6.** RCW 46.55.113 and 2010 c 161 s 1120 are each amended to  
5 read as follows:

6 (1) Whenever the driver of a vehicle is arrested for a violation of  
7 RCW ((~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~) or 46.20.345, the vehicle  
8 is subject to summary impoundment, pursuant to the terms and conditions  
9 of an applicable local ordinance or state agency rule at the direction  
10 of a law enforcement officer.

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

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

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

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

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

28 (e) Whenever a police officer discovers a vehicle that the officer  
29 determines to be a stolen vehicle;

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

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

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

11 (i) When a vehicle with an expired registration of more than  
12 forty-five days is parked on a public street.

13 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
14 vehicle is a commercial vehicle or farm transport vehicle and the  
15 driver of the vehicle is not the owner of the vehicle, before the  
16 summary impoundment directed under subsection (1) of this section, the  
17 police officer shall attempt in a reasonable and timely manner to  
18 contact the owner of the vehicle and may release the vehicle to the  
19 owner if the owner is reasonably available, as long as the owner was  
20 not in the vehicle at the time of the stop and arrest and the owner has  
21 not received a prior release under this subsection or RCW  
22 46.55.120(1)(a)(ii).

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

27 (5) For purposes of this section "farm transport vehicle" means a  
28 motor vehicle owned by a farmer and that is being actively used in the  
29 transportation of the farmer's or another farmer's farm, orchard,  
30 aquatic farm, or dairy products, including livestock and plant or  
31 animal wastes, from point of production to market or disposal, or  
32 supplies or commodities to be used on the farm, orchard, aquatic farm,  
33 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms  
34 (16,001 pounds) or more.

35 NEW SECTION. **Sec. 7.** Sections 2 through 4 of this act are each  
36 added to chapter 46.55 RCW.

1        NEW SECTION.    **Sec. 8.**    Section 6 of this act takes effect July 1,  
2    2011.

3        NEW SECTION.    **Sec. 9.**    Section 5 of this act expires July 1, 2011."

4        Correct the title.

EFFECT:    (1) If the motor vehicle is a farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment is directed, the police officer must 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.

(2) Adds a definition for a farm transport vehicle as a motor vehicle owned by a farmer and that is 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 16,001 pounds or more.

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