

**SENATE BILL 5276**

---

**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Nelson, Moore, Thorsness and Oke.

Read first time January 25, 1991. Referred to Committee on Transportation.

1 AN ACT Relating to impounded vehicles; amending RCW 46.55.010,  
2 46.55.100, 46.55.115, 46.55.120, and 46.55.140; and adding a new  
3 section to chapter 46.55 RCW.

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

5 **Sec. 1.** RCW 46.55.010 and 1989 c 111 s 1 are each amended to read  
6 as follows:

7 The definitions set forth in this section apply throughout this  
8 chapter:

9 (1) "Abandoned vehicle" means a vehicle that a registered tow truck  
10 operator has impounded and held in the operator's possession for  
11 ninety-six consecutive hours.

12 (2) "Abandoned vehicle report" means the document prescribed by the  
13 state that the towing operator forwards to the department after a  
14 vehicle has become abandoned.

1 (3) "Impound" means to take and hold a vehicle in legal custody.  
2 There are two types of impounds--public and private.

3 (a) "Public impound" means that the vehicle has been impounded at  
4 the direction of a law enforcement officer or by a public official  
5 having jurisdiction over the public property upon which the vehicle was  
6 located.

7 (b) "Private impound" means that the vehicle has been impounded at  
8 the direction of a person having control or possession of the private  
9 property upon which the vehicle was located.

10 (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as  
11 meeting all the following requirements:

12 (a) Is three years old or older;

13 (b) Is extensively damaged, such damage including but not limited  
14 to any of the following: A broken window or windshield or missing  
15 wheels, tires, motor, or transmission;

16 (c) Is apparently inoperable;

17 (d) Is without a valid, current registration plate;

18 (e) Has a fair market value equal only to the value of the scrap in  
19 it.

20 (5) "Master log" means the document or an electronic facsimile  
21 prescribed by the department and the Washington state patrol in which  
22 an operator records transactions involving impounded vehicles.

23 (6) "Registered tow truck operator" or "operator" means any person  
24 who engages in the impounding, transporting, or storage of unauthorized  
25 vehicles or the disposal of abandoned vehicles.

26 (7) "Residential property" means property that has no more than  
27 four living units located on it.

28 (8) "Tow truck" means a motor vehicle that is equipped for and used  
29 in the business of towing vehicles with equipment as approved by the  
30 state patrol.

1 (9) "Tow truck number" means the number issued by the department to  
2 tow trucks used by a registered tow truck operator in the state of  
3 Washington.

4 (10) "Tow truck permit" means the permit issued annually by the  
5 department that has the classification of service the tow truck may  
6 provide stamped upon it.

7 (11) "Tow truck service" means the transporting upon the public  
8 streets and highways of this state of unauthorized vehicles, together  
9 with personal effects and cargo, by a tow truck of a registered  
10 operator.

11 (12) "Unauthorized vehicle" means a vehicle that is subject to  
12 impoundment after being left unattended in one of the following public  
13 or private locations for the indicated period of time:

14 Subject to removal after:

15 (a) Public locations:

16 (i) Constituting an accident or a traffic hazard as  
17 defined in RCW 46.55.113 . . . . . Immediately

18 (ii) On a highway and tagged as  
19 described in RCW 46.55.085 . . . . . 24 hours

20 (iii) In a publicly owned or controlled  
21 parking facility, properly posted  
22 under RCW 46.55.070 . . . . . Immediately

23 (b) Private locations:

24 (i) On residential property . . . . . Immediately

25 (ii) On private, nonresidential property,  
26 properly posted under  
27 RCW 46.55.070 . . . . . Immediately

28 (iii) On private, nonresidential property,

1 not posted . . . . . 24 hours

2 **Sec. 2.** RCW 46.55.100 and 1989 c 111 s 9 are each amended to read  
3 as follows:

4 (1) At the time of impoundment the registered tow truck operator  
5 providing the towing service shall give immediate notification, by  
6 telephone or radio, to a law enforcement agency having jurisdiction who  
7 shall maintain a log of such reports. A law enforcement agency shall  
8 immediately provide to a requesting operator the name and address of  
9 the legal and registered owners of the vehicle, the vehicle  
10 identification number, and any other necessary, pertinent information.  
11 (~~The initial notice of impoundment~~) A law enforcement agency having  
12 jurisdiction shall ((be followed by a)) give written notice to the  
13 registered and legal owner of the impounded vehicle within twenty-four  
14 hours from the time of impound, excluding weekends and holidays, by  
15 first class mail, stating the name, address, and phone number of the  
16 registered tow operator impounding the vehicle. The notice shall also  
17 include the location, time of impound, and any legal rights the owner  
18 may have to contest the impound. In the case of a vehicle from another  
19 state, time requirements of this subsection do not apply until the  
20 requesting law enforcement agency in this state receives the  
21 information.

22 (2) The operator shall immediately send an abandoned vehicle report  
23 to the department for any vehicle in the operator's possession after  
24 the ninety-six hour abandonment period. Such report need not be sent  
25 when the impoundment is pursuant to a writ, court order, or police  
26 hold. The owner notification and abandonment process shall be  
27 initiated by the registered tow truck operator immediately following

1 notification by a court or law enforcement officer that the writ, court  
2 order, or police hold is no longer in effect.

3 (3) Following the submittal of an abandoned vehicle report, the  
4 department shall provide the registered tow truck operator with owner  
5 information within seventy-two hours.

6 (4) Within fifteen days of the sale of an abandoned vehicle at  
7 public auction, the towing operator shall send a copy of the abandoned  
8 vehicle report showing the disposition of the abandoned vehicle to the  
9 crime information center of the Washington state patrol.

10 (5) If the operator sends an abandoned vehicle report to the  
11 department and the department finds no owner information, an operator  
12 may proceed with an inspection of the vehicle to determine whether  
13 owner identification is within the vehicle.

14 (6) If the operator finds no owner identification, the operator  
15 shall immediately notify the appropriate law enforcement agency, which  
16 shall search the vehicle for the vehicle identification number and  
17 check the necessary records to determine the vehicle's owners.

18 **Sec. 3.** RCW 46.55.115 and 1987 c 330 s 744 are each amended to  
19 read as follows:

20 The Washington state patrol, under its authority to remove vehicles  
21 from the highway, may remove the vehicles directly, through towing  
22 operators appointed by the state patrol and called on a rotational or  
23 other basis, through contracts with towing operators, or by a  
24 combination of these methods. When removal is to be accomplished  
25 through a towing operator on a noncontractual basis, the state patrol  
26 may appoint any towing operator for this purpose upon the application  
27 of the operator. Each appointment shall be contingent upon the  
28 submission of an application to the state patrol and the making of  
29 subsequent reports in such form and frequency and compliance with such

1 standards of equipment, performance, pricing, and practices as may be  
2 required by rule of the state patrol.

3 An appointment may be rescinded by the state patrol upon evidence  
4 that the appointed towing operator is not complying with the laws or  
5 rules relating to the removal and storage of vehicles from the highway.  
6 The costs of removal and storage of vehicles under this section shall  
7 be paid by the registered and legal owner or driver of the vehicle and  
8 shall be a lien upon the vehicle until paid, unless the removal is  
9 determined to be invalid.

10 Rules promulgated under this section shall be binding only upon  
11 those towing operators appointed by the state patrol for the purpose of  
12 performing towing services at the request of the Washington state  
13 patrol. Any person aggrieved by a decision of the state patrol made  
14 under this section may appeal the decision under chapter 34.05 RCW.

15 **Sec. 4.** RCW 46.55.120 and 1989 c 111 s 11 are each amended to read  
16 as follows:

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

20 (a) Only the legal owner, the registered owner, a person authorized  
21 in writing by the registered owner or the vehicle's insurer, a person  
22 who is determined and verified by the operator to have the permission  
23 of the registered owner of the vehicle, or one who has purchased a  
24 vehicle from the registered owner who produces proof of ownership or  
25 written authorization and signs a receipt therefor, may redeem an  
26 impounded vehicle.

27 (b) The vehicle shall be released upon the presentation to any  
28 person having custody of the vehicle of commercially reasonable tender  
29 sufficient to cover the costs of towing, storage, or other services

1 rendered during the course of towing, removing, impounding, or storing  
2 any such vehicle. Commercially reasonable tender shall include,  
3 without limitation, cash, major bank credit cards, or personal checks  
4 drawn on in-state banks if accompanied by two pieces of valid  
5 identification, one of which may be required by the operator to have a  
6 photograph. Any person who stops payment on a personal check or credit  
7 card, or does not make restitution within ten days from the date a  
8 check becomes insufficient due to lack of funds, to a towing firm that  
9 has provided a service pursuant to this section or in any other manner  
10 defrauds the towing firm in connection with services rendered pursuant  
11 to this section shall be liable for damages in the amount of twice the  
12 towing and storage fees, plus costs and reasonable attorney's fees.

13 (2)(a) The registered tow truck operator shall give to each person  
14 who seeks to redeem an impounded vehicle written notice of the right of  
15 redemption and opportunity for a hearing, which notice shall be  
16 accompanied by a form to be used for requesting a hearing, the name of  
17 the person or agency authorizing the impound, and a copy of the towing  
18 and storage invoice. The registered tow truck operator shall maintain  
19 a record evidenced by the redeeming person's signature that such  
20 notification was provided.

21 (b) Any person seeking to redeem an impounded vehicle under this  
22 section has a right to a hearing in the district court for the  
23 jurisdiction in which the vehicle was impounded to contest the validity  
24 of the impoundment or the amount of towing and storage charges. The  
25 district court has jurisdiction to determine the issues involving all  
26 impoundments including those authorized by the state or its agents.  
27 Any request for a hearing shall be made in writing on the form provided  
28 for that purpose and must be received by the district court within ten  
29 days of the date the opportunity was provided for in subsection (2)(a)  
30 of this section. If the hearing request is not received by the

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

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

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

14 (c) At the conclusion of the hearing, the district court shall  
15 determine whether the impoundment was proper, whether the towing or  
16 storage fees charged were in compliance with the posted rates, and who  
17 is responsible for payment of the fees.

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 bond or other security  
27 shall be returned or discharged as appropriate, and the person or  
28 agency who authorized the impoundment shall be liable for any towing,  
29 storage, or other impoundment fees permitted under this chapter. The  
30 court shall enter judgment against the person or agency authorizing the



1 impound for the impoundment, towing, and storage fees paid. In  
2 addition, the court shall enter judgment for reasonable damages for  
3 loss of the use of the vehicle during the time the same was impounded,  
4 for not less than fifty dollars per day, against the person or agency  
5 authorizing the impound. No judgment may be paid to the registered and  
6 legal owner of any vehicle improperly impounded until payment in full  
7 is made for any impoundment, towing, storage fees, and any other  
8 impoundment fees authorized by this chapter and proof of all payments  
9 is presented to the person or agency liable for the fees. If any  
10 judgment entered is not paid within fifteen days of notice in writing  
11 of its entry, the court shall award reasonable attorneys' fees and  
12 costs against the defendant in any action to enforce the judgment.  
13 Notice of entry of judgment may be made by registered or certified  
14 mail, and proof of mailing may be made by affidavit of the party  
15 mailing the notice. Notice of the entry of the judgment shall read  
16 essentially as follows:

17 TO: .....

18 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
19 ..... Court located at ..... in the sum of  
20 \$....., in an action entitled ....., Case No. ....

21 YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be  
22 awarded against you under RCW ... if the judgment is not paid  
23 within 15 days of the date of this notice.

24 DATED this ... day of ..., 19 ....

25 Signature

26 .....

27 Typed name and

28 address

1  
2 notice

3 (4) Any impounded abandoned vehicle not redeemed within fifteen  
4 days of mailing of the notice of custody and sale as required by RCW  
5 46.55.110(2) shall be sold at public auction in accordance with all the  
6 provisions and subject to all the conditions of RCW 46.55.130. A  
7 vehicle may be redeemed at any time before the start of the auction  
8 upon payment of towing and storage fees.

9 **Sec. 5.** RCW 46.55.140 and 1989 c 111 s 13 are each amended to read  
10 as follows:

11 (1) A registered tow truck operator who has a valid and signed  
12 impoundment authorization has a lien upon the impounded vehicle for  
13 services provided in the towing and storage of the vehicle, unless the  
14 impoundment is determined to have been invalid. The lien does not  
15 apply to personal property in or upon the vehicle that is not  
16 permanently attached to or is not an integral part of the vehicle. The  
17 registered tow truck operator also has a deficiency claim against the  
18 registered owner of the vehicle for services provided in the towing and  
19 storage of the vehicle not to exceed the sum of three hundred dollars  
20 less the amount bid at auction, and for vehicles of over ten thousand  
21 pounds gross vehicle weight, the operator has a deficiency claim of one  
22 thousand dollars less the amount bid at auction, unless the impound is  
23 determined to be invalid. In no case may the cost of the auction or a  
24 buyer's fee be added to the amount charged for the vehicle at the  
25 auction, the vehicle's lien, or the overage due. A registered owner  
26 who has completed and filed with the department the seller's report as  
27 provided for by RCW 46.12.101 and has timely, properly, and completely  
28 processed the seller's report is relieved of liability under this

1 section. The person named as the new owner of the vehicle on the  
2 timely, properly, and completely processed seller's report shall assume  
3 liability under this section.

4 (2) Any person who tows, removes, or otherwise disturbs any vehicle  
5 parked, stalled, or otherwise left on privately owned or controlled  
6 property, and any person owning or controlling the private property, or  
7 either of them, are liable to the owner or operator of a vehicle, or  
8 each of them, for consequential and incidental damages arising from any  
9 interference with the ownership or use of the vehicle which does not  
10 comply with the requirements of this chapter.

11 NEW SECTION. Sec. 6. A new section is added to chapter 46.55 RCW  
12 to read as follows:

13 A registered tow truck operator may declare a vehicle stored in the  
14 operator's facility abandoned, and subject to this chapter, after first  
15 giving notice to the registered and legal owners pursuant to RCW  
16 46.55.110(1).