

2 SSB 1221 - H AMD 606 ADOPTED 4-16-97

3 By Representative Ballasiotes

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature finds that the license to
8 drive a motor vehicle on the public highways is suspended or revoked in
9 order to protect public safety following a driver's failure to comply
10 with the laws of this state. Over six hundred persons are killed in
11 traffic accidents in Washington annually, and more than eighty-four
12 thousand persons are injured. It is estimated that of the three
13 million four hundred thousand drivers' licenses issued to citizens of
14 Washington, more than two hundred sixty thousand are suspended or
15 revoked at any given time. Suspended drivers are more likely to be
16 involved in causing traffic accidents, including fatal accidents, than
17 properly licensed drivers, and pose a serious threat to the lives and
18 property of Washington residents. Statistics show that suspended
19 drivers are three times more likely to kill or seriously injure others
20 in the commission of traffic felony offenses than are validly licensed
21 drivers. In addition to not having a driver's license, most such
22 drivers also lack required liability insurance, increasing the
23 financial burden upon other citizens through uninsured losses and
24 higher insurance costs for validly licensed drivers. Because of the
25 threat posed by suspended drivers, all registered owners of motor
26 vehicles in Washington have a duty to not allow their vehicles to be
27 driven by a suspended driver.

28 Despite the existence of criminal penalties for driving with a
29 suspended or revoked license, an estimated seventy-five percent of
30 these drivers continue to drive anyway. Existing sanctions are not
31 sufficient to deter or prevent persons with a suspended or revoked
32 license from driving. It is common for suspended drivers to resume
33 driving immediately after being stopped, cited, and released by a
34 police officer and to continue to drive while a criminal prosecution
35 for suspended driving is pending. More than half of all suspended
36 drivers charged with the crime of driving while suspended or revoked

1 fail to appear for court hearings. Vehicle impoundment will provide an
2 immediate consequence which will increase deterrence and reduce
3 unlawful driving by preventing a suspended driver access to that
4 vehicle. Vehicle impoundment will also provide an appropriate measure
5 of accountability for registered owners who permit suspended drivers to
6 drive their vehicles. Impoundment of vehicles driven by suspended
7 drivers has been shown to reduce future driving while suspended or
8 revoked offenses for up to two years afterwards, and the recidivism
9 rate for drivers whose cars were not impounded was one hundred percent
10 higher than for drivers whose cars were impounded. In order to
11 adequately protect public safety and to enforce the state's driver
12 licensing laws, it is necessary to authorize the impoundment of any
13 vehicle when it is found to be operated by a driver with a suspended or
14 revoked license, and to provide in certain circumstances for the
15 forfeiture of such vehicles where the owner continues to drive despite
16 having been previously convicted of the crime of driving with a
17 suspended or revoked license in violation of RCW 46.20.342 and
18 46.20.420.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20 RCW
20 to read as follows:

21 (1) Notwithstanding RCW 46.55.113, whenever a motor vehicle is
22 found to be operated by a person with a suspended or revoked driver's
23 license or nonresident driving privileges, or while in a suspended or
24 revoked status in violation of RCW 46.20.342 or 46.20.420, the vehicle
25 is subject to impoundment, pursuant to applicable local ordinance, at
26 the direction of a law enforcement officer.

27 (2) If a vehicle is impounded under this section because the
28 operator is in violation of RCW 46.20.342(1)(c), the vehicle shall not
29 be released until a person eligible to redeem it under RCW
30 46.55.120(1)(a) satisfies the requirements of RCW 46.55.120(1)(b),
31 including paying all towing, removal, and storage fees, notwithstanding
32 the fact that the hold was ordered by a government agency. However, if
33 the department's records show that the operator has been convicted of
34 a violation of RCW 46.20.342 or a similar local ordinance within the
35 past five years, the vehicle may be held for up to fifteen days at the
36 written direction of the agency ordering the vehicle impounded.

37 (3) If a vehicle is impounded under this section because the
38 operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle

1 may be held for up to fifteen days and must not be released until a
2 person eligible to redeem it under RCW 46.55.120(1)(a) satisfies the
3 requirements of RCW 46.55.120(1)(b), including paying all towing,
4 removal, and storage fees, notwithstanding the fact that the hold was
5 ordered by a government agency. However, if the department's records
6 show that the operator has been convicted of a violation of RCW
7 46.20.342(1) (a) or (b) or a similar local ordinance within the past
8 five years and the operator has a financial interest in the vehicle,
9 the vehicle is subject to forfeiture. If the vehicle is forfeited,
10 then the forfeiting agency shall pay all the impoundment, towing, and
11 storage fees for the vehicle and shall be entitled to recover those
12 fees from the operator of the forfeited vehicle, including any
13 attorneys' fees, costs of collection, and interest at the statutory
14 rate for judgment interest from the date of payment by the forfeiting
15 agency of such fees.

16 (4) A forfeiture proceeding is commenced by the law enforcement
17 agency causing notice of the intended forfeiture of the seized vehicle
18 to be served not less than ten days after seizure on the registered tow
19 truck operator which impounded the vehicle, the owner of the vehicle
20 seized, the person in charge of the vehicle when it was seized, and any
21 person having a known right or interest in the vehicle, including a
22 community property interest. The notice may be served by any method
23 authorized by law or court rule, including, but not limited to, service
24 by certified mail with return receipt requested. Service by mail is
25 complete upon mailing. Notice in the case of a vehicle subject to a
26 security interest that has been perfected on a certificate of title
27 must be made by service upon the secured party or the secured party's
28 assignee at the address shown on the financing statement, the
29 certificate of title, or the transitional ownership record. Once the
30 registered tow truck operator which impounded the vehicle receives
31 notice, the vehicle must not be released except upon written order of
32 the chief law enforcement officer of the agency directing the
33 impoundment or his or her designee, an administrative law judge, or a
34 court.

35 (5) The remaining procedures for forfeiting the vehicle are the
36 same as set forth in RCW 46.61.5058 (5) through (14).

37 (6) Notwithstanding RCW 46.52.120(2), in any hearing under RCW
38 46.55.120 to contest the validity of the impoundment or under this
39 section to contest the validity of the forfeiture, an abstract of the

1 person's driving record may be admitted as and is prima facie evidence
2 of the status of the person's driving privilege and that the person was
3 convicted of each offense shown by the abstract. In addition, a
4 certified vehicle registration of the vehicle sought to be forfeited
5 shall be admissible without further evidentiary foundation.

6 (7) No determination of facts made by a person conducting a hearing
7 under this section or RCW 46.55.120 shall have any collateral estoppel
8 effect on a subsequent criminal prosecution and shall not preclude
9 litigation of those same facts in a subsequent criminal prosecution.

10 **Sec. 3.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read
11 as follows:

12 (1) The abandonment of any vehicle creates a prima facie
13 presumption that the last registered owner of record is responsible for
14 the abandonment and is liable for costs incurred in removing, storing,
15 and disposing of the abandoned vehicle, less amounts realized at
16 auction.

17 (2) If an unauthorized vehicle is found abandoned under subsection
18 (1) of this section and removed at the direction of law enforcement,
19 the last registered owner of record is guilty of a traffic infraction,
20 unless the vehicle is redeemed as provided in RCW 46.55.120. In
21 addition to any other monetary penalty payable under chapter 46.63 RCW,
22 the court shall not consider all monetary penalties as having been paid
23 until the court is satisfied that the person found to have committed
24 the infraction has made restitution in the amount of the deficiency
25 remaining after disposal of the vehicle under RCW 46.55.140.

26 (3) A vehicle theft report filed with a law enforcement agency
27 relieves the last registered owner of liability under subsection (2) of
28 this section for failure to redeem the vehicle. However, the last
29 registered owner remains liable for the costs incurred in removing,
30 storing, and disposing of the abandoned vehicle under subsection (1) of
31 this section. Nothing in this section limits in any way the registered
32 owner's rights in a civil action or as restitution in a criminal action
33 against a person responsible for the theft of the vehicle.

34 (4) Properly filing a report of sale or transfer regarding the
35 vehicle involved in accordance with RCW 46.12.101(1) ((or a vehicle
36 theft report filed with a law enforcement agency)) relieves the last
37 registered owner of liability under subsections (1) and (2) of this
38 section. If the date of sale as indicated on the report of sale is on

1 or before the date of impoundment, the buyer identified on the latest
2 properly filed report of sale with the department is assumed liable for
3 the costs incurred in removing, storing, and disposing of the abandoned
4 vehicle, less amounts realized at auction. If the date of sale is
5 after the date of impoundment, the previous registered owner is assumed
6 to be liable for such costs. A licensed vehicle dealer is not liable
7 under subsections (1) and (2) of this section if the dealer, as
8 transferee or assignee of the last registered owner of the vehicle
9 involved, has complied with the requirements of RCW 46.70.122 upon
10 selling or otherwise disposing of the vehicle, or if the dealer has
11 timely filed a transitional ownership record or report of sale under
12 section 13 of this act. In that case the person to whom the licensed
13 vehicle dealer has sold or transferred the vehicle is assumed liable
14 for the costs incurred in removing, storing, and disposing of the
15 abandoned vehicle, less amounts realized at auction.

16 ((+4)) (5) For the purposes of reporting notices of traffic
17 infraction to the department under RCW 46.20.270 and 46.52.100, and for
18 purposes of reporting notices of failure to appear, respond, or comply
19 regarding a notice of traffic infraction to the department under RCW
20 46.63.070(5), a traffic infraction under subsection (2) of this section
21 is not considered to be a standing, stopping, or parking violation.

22 ((+5)) (6) A notice of infraction for a violation of this section
23 may be filed with a court of limited jurisdiction organized under Title
24 3, 35, or 35A RCW, or with a violations bureau subject to the court's
25 jurisdiction.

26 **Sec. 4.** RCW 46.55.113 and 1996 c 89 s 1 are each amended to read
27 as follows:

28 Whenever the driver of a vehicle is arrested for a violation of RCW
29 46.61.502 or 46.61.504, the arresting officer may take custody of the
30 vehicle and provide for its prompt removal to a place of safety. In
31 addition, a police officer may take custody of a vehicle and provide
32 for its prompt removal to a place of safety under any of the following
33 circumstances:

34 (1) Whenever a police officer finds a vehicle standing upon the
35 roadway in violation of any of the provisions of RCW 46.61.560, the
36 officer may provide for the removal of the vehicle or require the
37 driver or other person in charge of the vehicle to move the vehicle to
38 a position off the roadway;

1 (2) Whenever a police officer finds a vehicle unattended upon a
2 highway where the vehicle constitutes an obstruction to traffic or
3 jeopardizes public safety;

4 (3) Whenever a police officer finds an unattended vehicle at the
5 scene of an accident or when the driver of a vehicle involved in an
6 accident is physically or mentally incapable of deciding upon steps to
7 be taken to protect his or her property;

8 (4) Whenever the driver of a vehicle is arrested and taken into
9 custody by a police officer;

10 (5) Whenever a police officer discovers a vehicle that the officer
11 determines to be a stolen vehicle;

12 (6) Whenever a vehicle without a special license plate, card, or
13 decal indicating that the vehicle is being used to transport a disabled
14 person under RCW 46.16.381 is parked in a stall or space clearly and
15 conspicuously marked under RCW 46.61.581 which space is provided on
16 private property without charge or on public property;

17 (7) Upon determining that a person is operating a motor vehicle
18 without a valid driver's license in violation of RCW 46.20.021 or with
19 a license that has been expired for ninety days or more(~~(, or with a~~
20 ~~suspended or revoked license in violation of RCW 46.20.342 or~~
21 ~~46.20.420))).~~

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

26 **Sec. 5.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read
27 as follows:

28 (1) When an unauthorized vehicle is impounded, the impounding
29 towing operator shall notify the legal and registered owners of the
30 impoundment of the unauthorized vehicle and the owners of any other
31 items of personal property registered or titled with the department.
32 The notification shall be sent by first-class mail within twenty-four
33 hours after the impoundment to the last known registered and legal
34 owners of the vehicle, and the owners of any other items of personal
35 property registered or titled with the department, as provided by the
36 law enforcement agency, and shall inform the owners of the identity of
37 the person or agency authorizing the impound. The notification shall
38 include the name of the impounding tow firm, its address, and telephone

1 number. The notice shall also include the location, time of the
2 impound, and by whose authority the vehicle was impounded. The notice
3 shall also include the written notice of the right of redemption and
4 opportunity for a hearing to contest the validity of the impoundment
5 pursuant to RCW 46.55.120.

6 (2) In the case of an abandoned vehicle, or other item of personal
7 property registered or titled with the department, within twenty-four
8 hours after receiving information on the owners from the department
9 through the abandoned vehicle report, the tow truck operator shall send
10 by certified mail, with return receipt requested, a notice of custody
11 and sale to the legal and registered owners.

12 (3) If the date on which a notice required by subsection (2) of
13 this section is to be mailed falls upon a Saturday, Sunday, or a postal
14 holiday, the notice may be mailed on the next day that is neither a
15 Saturday, Sunday, nor a postal holiday.

16 (4) No notices need be sent to the legal or registered owners of an
17 impounded vehicle or other item of personal property registered or
18 titled with the department, if the vehicle or personal property has
19 been redeemed.

20 **Sec. 6.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read
21 as follows:

22 (1) Vehicles or other items of personal property registered or
23 titled with the department that are impounded by registered tow truck
24 operators pursuant to RCW 46.55.080, 46.55.085, (~~(or)~~) 46.55.113, or
25 section 2 of this act may be redeemed only under the following
26 circumstances:

27 (a) Only the legal owner, the registered owner, a person authorized
28 in writing by the registered owner or the vehicle's insurer, a person
29 who is determined and verified by the operator to have the permission
30 of the registered owner of the vehicle or other item of personal
31 property registered or titled with the department, or one who has
32 purchased a vehicle or item of personal property registered or titled
33 with the department from the registered owner who produces proof of
34 ownership or written authorization and signs a receipt therefor, may
35 redeem an impounded vehicle or items of personal property registered or
36 titled with the department. In addition, a person redeeming a vehicle
37 impounded under section 2 of this act must prior to redemption
38 establish with the agency that ordered the vehicle impounded that he or

1 she has a valid driver's license and is in compliance with RCW
2 46.30.020. A vehicle impounded under section 2 of this act can only be
3 released pursuant to a written order from the agency that ordered the
4 vehicle impounded.

5 (b) The vehicle or other item of personal property registered or
6 titled with the department shall be released upon the presentation to
7 any person having custody of the vehicle of commercially reasonable
8 tender sufficient to cover the costs of towing, storage, or other
9 services rendered during the course of towing, removing, impounding, or
10 storing any such vehicle. In addition, if a vehicle is impounded under
11 section 2 of this act and was being operated by the registered owner
12 when it was impounded, it must not be released to any person until the
13 registered owner establishes with the agency that ordered the vehicle
14 impounded that any penalties, fines, or forfeitures owed by him or her
15 have been satisfied. Commercially reasonable tender shall include,
16 without limitation, cash, major bank credit cards, or personal checks
17 drawn on in-state banks if accompanied by two pieces of valid
18 identification, one of which may be required by the operator to have a
19 photograph. If the towing firm can determine through the customer's
20 bank or a check verification service that the presented check would not
21 be paid by the bank or guaranteed by the service, the towing firm may
22 refuse to accept the check. Any person who stops payment on a personal
23 check or credit card, or does not make restitution within ten days from
24 the date a check becomes insufficient due to lack of funds, to a towing
25 firm that has provided a service pursuant to this section or in any
26 other manner defrauds the towing firm in connection with services
27 rendered pursuant to this section shall be liable for damages in the
28 amount of twice the towing and storage fees, plus costs and reasonable
29 attorney's fees.

30 (2)(a) The registered tow truck operator shall give to each person
31 who seeks to redeem an impounded vehicle, or item of personal property
32 registered or titled with the department, written notice of the right
33 of redemption and opportunity for a hearing, which notice shall be
34 accompanied by a form to be used for requesting a hearing, the name of
35 the person or agency authorizing the impound, and a copy of the towing
36 and storage invoice. The registered tow truck operator shall maintain
37 a record evidenced by the redeeming person's signature that such
38 notification was provided.

1 (b) Any person seeking to redeem an impounded vehicle under this
2 section has a right to a hearing in the district or municipal court for
3 the jurisdiction in which the vehicle was impounded to contest the
4 validity of the impoundment or the amount of towing and storage
5 charges. The district court has jurisdiction to determine the issues
6 involving all impoundments including those authorized by the state or
7 its agents. The municipal court has jurisdiction to determine the
8 issues involving impoundments authorized by agents of the municipality.
9 Any request for a hearing shall be made in writing on the form provided
10 for that purpose and must be received by the district or municipal
11 court within ten days of the date the opportunity was provided for in
12 subsection (2)(a) of this section. At the time of the filing of the
13 hearing request, the petitioner shall pay to the court clerk a filing
14 fee in the same amount required for the filing of a suit in the small
15 claims department of a district court. If the hearing request is not
16 received by the district or municipal court within the ten-day period,
17 the right to a hearing is waived and the registered owner is liable for
18 any towing, storage, or other impoundment charges permitted under this
19 chapter. Upon receipt of a timely hearing request, the district or
20 municipal court shall proceed to hear and determine the validity of the
21 impoundment.

22 (3)(a) The district or municipal court, within five days after the
23 request for a hearing, shall notify the registered tow truck operator,
24 the person requesting the hearing if not the owner, the registered and
25 legal owners of the vehicle or other item of personal property
26 registered or titled with the department, and the person or agency
27 authorizing the impound in writing of the hearing date and time.

28 (b) At the hearing, the person or persons requesting the hearing
29 may produce any relevant evidence to show that the impoundment, towing,
30 or storage fees charged were not proper. The court may consider a
31 written report made under oath by the officer who authorized the
32 impoundment in lieu of the officer's personal appearance at the
33 hearing.

34 (c) At the conclusion of the hearing, the district or municipal
35 court shall determine whether the impoundment was proper, whether the
36 towing or storage fees charged were in compliance with the posted
37 rates, and who is responsible for payment of the fees. The court may
38 not adjust fees or charges that are in compliance with the posted or
39 contracted rates.

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

7 (e) If the impoundment is determined to be in violation of this
8 chapter, then the registered and legal owners of the vehicle or other
9 item of personal property registered or titled with the department
10 shall bear no impoundment, towing, or storage fees, and any security
11 shall be returned or discharged as appropriate, and the person or
12 agency who authorized the impoundment shall be liable for any towing,
13 storage, or other impoundment fees permitted under this chapter. The
14 court shall enter judgment in favor of the registered tow truck
15 operator against the person or agency authorizing the impound for the
16 impoundment, towing, and storage fees paid. In addition, the court
17 shall enter judgment in favor of the registered and legal owners of the
18 vehicle, or other item of personal property registered or titled with
19 the department, for the amount of the filing fee required by law for
20 the impound hearing petition as well as reasonable damages for loss of
21 the use of the vehicle during the time the same was impounded, for not
22 less than fifty dollars per day, against the person or agency
23 authorizing the impound. However, if an impoundment under section 2 of
24 this act is determined to be in violation of this chapter, then the law
25 enforcement officer directing the impoundment and the local government
26 employing the officer are not liable for damages if the officer relied
27 in good faith and without gross negligence on the records of the
28 department in ascertaining that the operator of the vehicle had a
29 suspended or revoked driver's license. If any judgment entered is not
30 paid within fifteen days of notice in writing of its entry, the court
31 shall award reasonable attorneys' fees and costs against the defendant
32 in any action to enforce the judgment. Notice of entry of judgment may
33 be made by registered or certified mail, and proof of mailing may be
34 made by affidavit of the party mailing the notice. Notice of the entry
35 of the judgment shall read essentially as follows:

36 TO:
37 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
38 Court located at in the sum of
39 \$., in an action entitled, Case No.

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

4 DATED this day of, 19. . .

5 Signature

6 Typed name and address
7 of party mailing notice

8 (4) Any impounded abandoned vehicle or item of personal property
9 registered or titled with the department that is not redeemed within
10 fifteen days of mailing of the notice of custody and sale as required
11 by RCW 46.55.110(2) shall be sold at public auction in accordance with
12 all the provisions and subject to all the conditions of RCW 46.55.130.
13 A vehicle or item of personal property registered or titled with the
14 department may be redeemed at any time before the start of the auction
15 upon payment of the applicable towing and storage fees.

16 **Sec. 7.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read
17 as follows:

18 (1) If, after the expiration of fifteen days from the date of
19 mailing of notice of custody and sale required in RCW 46.55.110(2) to
20 the registered and legal owners, the vehicle remains unclaimed and has
21 not been listed as a stolen vehicle, then the registered tow truck
22 operator having custody of the vehicle shall conduct a sale of the
23 vehicle at public auction after having first published a notice of the
24 date, place, and time of the auction in a newspaper of general
25 circulation in the county in which the vehicle is located not less than
26 three days and no more than ten days before the date of the auction.
27 The notice shall contain a description of the vehicle including the
28 make, model, year, and license number and a notification that a three-
29 hour public viewing period will be available before the auction. The
30 auction shall be held during daylight hours of a normal business day.

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

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

35 (b) All bidders must be present at the time of auction unless they
36 have submitted to the registered tow truck operator, who may or may not
37 choose to use the preauction bid method, a written bid on a specific
38 vehicle. Written bids may be submitted up to five days before the

1 auction and shall clearly state which vehicle is being bid upon, the
2 amount of the bid, and who is submitting the bid;

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

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

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

10 (f) The successful bidder shall apply for title within fifteen
11 days;

12 (g) The registered tow truck operator shall post a copy of the
13 auction procedure at the bidding site. If the bidding site is
14 different from the licensed office location, the operator shall post a
15 clearly visible sign at the office location that describes in detail
16 where the auction will be held. At the bidding site a copy of the
17 newspaper advertisement that lists the vehicles for sale shall be
18 posted;

19 (h) All surplus moneys derived from the auction after satisfaction
20 of the registered tow truck operator's lien shall be remitted within
21 thirty days to the department for deposit in the state motor vehicle
22 fund. A report identifying the vehicles resulting in any surplus shall
23 accompany the remitted funds. If the director subsequently receives a
24 valid claim from the registered vehicle owner of record as determined
25 by the department within one year from the date of the auction, the
26 surplus moneys shall be remitted to such owner;

27 (i) If an operator receives no bid, or if the operator is the
28 successful bidder at auction, the operator shall, within (~~thirty~~)
29 forty-five days sell the vehicle to a licensed vehicle wrecker, hulk
30 hauler, or scrap processor by use of the abandoned vehicle report-
31 affidavit of sale, or the operator shall apply for title to the
32 vehicle.

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

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

1 (b) The failure of the registered tow truck operator to comply with
2 the time limits provided in this chapter limits the accumulation of
3 storage charges to five days except where delay is unavoidable.
4 Providing incorrect or incomplete identifying information to the
5 department in the abandoned vehicle report shall be considered a
6 failure to comply with these time limits if correct information is
7 available.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 46.55 RCW
9 to read as follows:

10 In any administrative or judicial proceeding involving a forfeiture
11 of a vehicle under section 2 of this act, the chief law enforcement
12 officer or court shall provide for the protection of a bona fide
13 community property interest in the vehicle of a person other than the
14 person whose operation of the vehicle with a suspended or revoked
15 license led to the forfeiture.

16 **Sec. 9.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read
17 as follows:

18 The definitions set forth in this section apply throughout this
19 chapter:

20 (1) "Abandoned vehicle" means a vehicle that a registered tow truck
21 operator has impounded and held in the operator's possession for
22 (~~ninety-six~~) one hundred twenty consecutive hours.

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

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

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

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

35 (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as
36 meeting at least three of the following requirements:

37 (a) Is three years old or older;

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

4 (c) Is apparently inoperable;

5 (d) Has an approximate fair market value equal only to the
6 approximate value of the scrap in it.

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

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

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

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

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

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

24 (11) "Tow truck service" means the transporting upon the public
25 streets and highways of this state of vehicles, together with personal
26 effects and cargo, by a tow truck of a registered operator.

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

30 Subject to removal after:

31 (a) Public locations:

32 (i) Constituting an accident or a traffic hazard as
33 defined in RCW 46.55.113 Immediately

34 (ii) On a highway and tagged as described in RCW
35 46.55.085 24 hours

36 (iii) In a publicly owned or controlled parking facility,
37 properly posted under RCW
38 46.55.070 Immediately

- 1 (b) Private locations:
- 2 (i) On residential property Immediately
- 3 (ii) On private, nonresidential property, properly
- 4 posted under RCW 46.55.070 Immediately
- 5 (iii) On private, nonresidential property,
- 6 not posted 24 hours

7 **Sec. 10.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read
8 as follows:

9 (1) At the time of impoundment the registered tow truck operator
10 providing the towing service shall give immediate notification, by
11 telephone or radio, to a law enforcement agency having jurisdiction who
12 shall maintain a log of such reports. A law enforcement agency, or a
13 private communication center acting on behalf of a law enforcement
14 agency, shall within six to twelve hours of the impoundment, provide to
15 a requesting operator the name and address of the legal and registered
16 owners of the vehicle, and the registered owner of any personal
17 property registered or titled with the department that is attached to
18 or contained in or on the impounded vehicle, the vehicle identification
19 number, and any other necessary, pertinent information. The initial
20 notice of impoundment shall be followed by a written or electronic
21 facsimile notice within twenty-four hours. In the case of a vehicle
22 from another state, time requirements of this subsection do not apply
23 until the requesting law enforcement agency in this state receives the
24 information.

25 (2) The operator shall immediately send an abandoned vehicle report
26 to the department for any vehicle, and for any items of personal
27 property registered or titled with the department, that are in the
28 operator's possession after the (~~ninety-six~~) one hundred twenty hour
29 abandonment period. Such report need not be sent when the impoundment
30 is pursuant to a writ, court order, or police hold. The owner
31 notification and abandonment process shall be initiated by the
32 registered tow truck operator immediately following notification by a
33 court or law enforcement officer that the writ, court order, or police
34 hold is no longer in effect.

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

1 (4) Within (~~fifteen~~) fourteen days of the sale of an abandoned
2 vehicle at public auction, the towing operator shall send a copy of the
3 abandoned vehicle report showing the disposition of the abandoned
4 vehicle and any other items of personal property registered or titled
5 with the department to the crime information center of the Washington
6 state patrol.

7 (5) If the operator sends an abandoned vehicle report to the
8 department and the department finds no owner information, an operator
9 may proceed with an inspection of the vehicle and any other items of
10 personal property registered or titled with the department to determine
11 whether owner identification is within the vehicle.

12 (6) If the operator finds no owner identification, the operator
13 shall immediately notify the appropriate law enforcement agency, which
14 shall search the vehicle and any other items of personal property
15 registered or titled with the department for the vehicle identification
16 number or other appropriate identification numbers and check the
17 necessary records to determine the vehicle's or other property's
18 owners.

19 **Sec. 11.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended
20 to read as follows:

21 A security interest in a vehicle other than one held as inventory
22 by a manufacturer or a dealer and for which a certificate of ownership
23 is required is perfected only by compliance with the requirements of
24 section 13 of this act under the circumstances provided for therein or
25 by compliance with the requirements of this section:

26 (1) A security interest is perfected (~~only~~) by the department's
27 receipt of: (a) The existing certificate, if any, and (b) an
28 application for a certificate of ownership containing the name and
29 address of the secured party, and (c) tender of the required fee.

30 (2) It is perfected as of the time of its creation: (a) If the
31 papers and fee referred to in (~~the preceding~~) subsection (1) of this
32 section are received by this department within (~~eight department~~
33 business)) twenty calendar days (~~exclusive~~) of the day on which the
34 security agreement was created; or (b) if the secured party's name and
35 address appear on the outstanding certificate of ownership; otherwise,
36 as of the date on which the department has received the papers and fee
37 required in subsection (1) of this section.

1 (3) If a vehicle is subject to a security interest when brought
2 into this state, perfection of the security interest is determined by
3 the law of the jurisdiction where the vehicle was when the security
4 interest was attached, subject to the following:

5 (a) If the security interest was perfected under the law of the
6 jurisdiction where the vehicle was when the security interest was
7 attached, the following rules apply:

8 (b) If the name of the secured party is shown on the existing
9 certificate of ownership issued by that jurisdiction, the security
10 interest continues perfected in this state. The name of the secured
11 party shall be shown on the certificate of ownership issued for the
12 vehicle by this state. The security interest continues perfected in
13 this state upon the issuance of such ownership certificate.

14 (c) If the security interest was not perfected under the law of the
15 jurisdiction where the vehicle was when the security interest was
16 attached, it may be perfected in this state; in that case, perfection
17 dates from the time of perfection in this state.

18 **Sec. 12.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to
19 read as follows:

20 A transfer of ownership in a motor vehicle is perfected by
21 compliance with the requirements of this section.

22 (1) If an owner transfers his or her interest in a vehicle, other
23 than by the creation, deletion, or change of a security interest, the
24 owner shall, at the time of the delivery of the vehicle, execute an
25 assignment to the transferee and provide an odometer disclosure
26 statement under RCW 46.12.124 on the certificate of ownership or as the
27 department otherwise prescribes, and cause the certificate and
28 assignment to be transmitted to the transferee. (~~Within five days,~~
29 ~~excluding Saturdays, Sundays, and state and federal holidays,~~) The
30 owner shall notify the department or its agents or subagents, in
31 writing, on the appropriate form, of the date of the sale or transfer,
32 the name and address of the owner and of the transferee, the
33 transferee's driver's license number, if available, and such
34 description of the vehicle, including the vehicle identification
35 number, the license plate number, or both, as may be required in the
36 appropriate form provided for that purpose by the department. The
37 report of sale is deemed properly filed if all required information is
38 provided on the form and includes a department authorized notation or

1 receipt that the document was received by the department or its agents
2 or subagents on or before the fifth day following the date of sale of
3 the vehicle, excluding Saturdays, Sundays, and state and federal
4 holidays. Any report of sale processed and recorded by the
5 department's agents or subagents may be subject to fees as specified in
6 RCW 46.01.140 (4)(a) or (5)(b).

7 (2) The requirements of subsection (1) of this section to provide
8 an odometer disclosure statement apply to the transfer of vehicles held
9 for lease when transferred to a lessee and then to the lessor at the
10 end of the leasehold and to vehicles held in a fleet when transferred
11 to a purchaser.

12 (3) Except as provided in RCW ((46.12.120)) 46.70.122 the
13 transferee shall within fifteen days after delivery to the transferee
14 of the vehicle, execute the application for a new certificate of
15 ownership in the same space provided therefor on the certificate or as
16 the department prescribes, and cause the certificates and application
17 to be transmitted to the department.

18 (4) Upon request of the owner or transferee, a secured party in
19 possession of the certificate of ownership shall, unless the transfer
20 was a breach of its security agreement, either deliver the certificate
21 to the transferee for transmission to the department or, when the
22 secured party receives the owner's assignment from the transferee, it
23 shall transmit the transferee's application for a new certificate, the
24 existing certificate, and the required fee to the department.
25 Compliance with this section does not affect the rights of the secured
26 party.

27 (5) If a security interest is reserved or created at the time of
28 the transfer, the certificate of ownership shall be retained by or
29 delivered to the person who becomes the secured party, and the parties
30 shall comply with the provisions of RCW 46.12.170.

31 (6) If the purchaser or transferee fails or neglects to make
32 application to transfer the certificate of ownership and license
33 registration within fifteen days after the date of delivery of the
34 vehicle, he or she shall on making application for transfer be assessed
35 a twenty-five dollar penalty on the sixteenth day and two dollars
36 additional for each day thereafter, but not to exceed one hundred
37 dollars. The director may by rule establish conditions under which the
38 penalty will not be assessed when an application for transfer is
39 delayed for reasons beyond the control of the purchaser. Conditions

1 for not assessing the penalty may be established for but not limited to
2 delays caused by:

- 3 (a) The department requesting additional supporting documents;
- 4 (b) Extended hospitalization or illness of the purchaser;
- 5 (c) Failure of a legal owner to release his or her interest;
- 6 (d) Failure, negligence, or nonperformance of the department,
7 auditor, or subagent.

8 Failure or neglect to make application to transfer the certificate
9 of ownership and license registration within forty-five days after the
10 date of delivery of the vehicle is a misdemeanor.

11 (7) Upon receipt of an application for reissue or replacement of a
12 certificate of ownership and transfer of license registration,
13 accompanied by the endorsed certificate of ownership or other
14 documentary evidence as is deemed necessary, the department shall, if
15 the application is in order and if all provisions relating to the
16 certificate of ownership and license registration have been complied
17 with, issue new certificates of title and license registration as in
18 the case of an original issue and shall transmit the fees together with
19 an itemized detailed report to the state treasurer, to be deposited in
20 the motor vehicle fund.

21 (8) Once each quarter the department shall report to the department
22 of revenue a list of those vehicles for which a seller's report has
23 been received but no transfer of title has taken place.

24 NEW SECTION. Sec. 13. A new section is added to chapter 46.12 RCW
25 to read as follows:

26 (1) The purpose of a transitional ownership record is to enable a
27 security interest in a motor vehicle to be perfected in a timely manner
28 when the certificate of ownership is not available at the time the
29 security interest is created, and to provide for timely notification to
30 security interest holders under chapter 46.55 RCW.

31 (2) A transitional ownership record is only acceptable as an
32 ownership record for vehicles currently stored on the department's
33 computer system and if the certificate of ownership or other authorized
34 proof of ownership for the motor vehicle:

35 (a) Is not in the possession of the selling vehicle dealer or new
36 security interest holder at the time the transitional ownership record
37 is submitted to the department; and

1 (b) To the best of the knowledge of the selling dealer or new
2 security interest holder, the certificate of ownership will not be
3 received for submission to the department within twenty calendar days
4 of the date of sale of the vehicle, or if no sale is involved, within
5 twenty calendar days of the date the security agreement or contract is
6 executed.

7 (3) A person shall submit the transitional ownership record to the
8 department or to any of its authorized agents or subagents. A
9 transitional ownership document processed and recorded by an agent or
10 subagent may be subject to fees as specified in RCW 46.01.140 (4)(a) or
11 (5)(b).

12 (4) "Transitional ownership record" means a record containing all
13 of the following information:

14 (a) The date of sale;

15 (b) The name and address of each owner of the vehicle;

16 (c) The name and address of each security interest holder;

17 (d) If there are multiple security interest holders, the priorities
18 of interest if the security interest holders do not jointly hold a
19 single security interest;

20 (e) The vehicle identification number, the license plate number, if
21 any, the year, make, and model of the vehicle; and

22 (f) The name of the selling dealer or security interest holder who
23 is submitting the transitional ownership record.

24 (5) The report of sale form prescribed by the department under RCW
25 46.12.101 may be utilized by a vehicle dealer as the transitional
26 ownership record.

27 (6) Notwithstanding the provisions of RCW 46.12.095 (1) and (2),
28 compliance with the requirements of this section shall result in
29 perfection of a security interest in the vehicle as of the time the
30 security interest was created. Upon receipt of the certificate of
31 ownership for the vehicle, or upon receipt of written confirmation that
32 only an electronic record of ownership exists or that the certificate
33 of ownership has been lost or destroyed, the selling dealer or new
34 security interest holder shall promptly submit the same to the
35 department together with an application for a new certificate of
36 ownership containing the name and address of the secured party and
37 tender the required fee as provided in RCW 46.12.095(1).

38 (7) The department shall adopt rules in accordance with chapter
39 34.05 RCW to develop the form for the transitional ownership record.

1 NEW SECTION. **Sec. 14.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are
2 each repealed."

3 Correct the title.

--- **END** ---