

2 ESHB 1221 - S AMD - 850

3 By Senators Roach, Kline, Stevens, Long, Thibaudeau, Hargrove,  
4 Johnson, McCaslin, Fairley, Zarelli and Goings

5 ADOPTED AS AMENDED 3/3/98

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

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

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

1 drivers charged with the crime of driving while suspended or revoked  
2 fail to appear for court hearings. Vehicle impoundment will provide an  
3 immediate consequence which will increase deterrence and reduce  
4 unlawful driving by preventing a suspended driver access to that  
5 vehicle. Vehicle impoundment will also provide an appropriate measure  
6 of accountability for registered owners who permit suspended drivers to  
7 drive their vehicles. Impoundment of vehicles driven by suspended  
8 drivers has been shown to reduce future driving while suspended or  
9 revoked offenses for up to two years afterwards, and the recidivism  
10 rate for drivers whose cars were not impounded was one hundred percent  
11 higher than for drivers whose cars were impounded. In order to  
12 adequately protect public safety and to enforce the state's driver  
13 licensing laws, it is necessary to authorize the impoundment of any  
14 vehicle when it is found to be operated by a driver with a suspended or  
15 revoked license in violation of RCW 46.20.342 and 46.20.420. The  
16 impoundment of a vehicle operated in violation of RCW 46.20.342 or  
17 46.20.420 is intended to be a civil in rem action against the vehicle  
18 in order to remove it from the public highways and reduce the risk  
19 posed to traffic safety by a vehicle accessible to a driver who is  
20 reasonably believed to have violated these laws.

21 **Sec. 2.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read  
22 as follows:

23 (1) The abandonment of any vehicle creates a prima facie  
24 presumption that the last registered owner of record is responsible for  
25 the abandonment and is liable for costs incurred in removing, storing,  
26 and disposing of the abandoned vehicle, less amounts realized at  
27 auction.

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

37 (3) A vehicle theft report filed with a law enforcement agency  
38 relieves the last registered owner of liability under subsection (2) of

1 this section for failure to redeem the vehicle. However, the last  
2 registered owner remains liable for the costs incurred in removing,  
3 storing, and disposing of the abandoned vehicle under subsection (1) of  
4 this section. Nothing in this section limits in any way the registered  
5 owner's rights in a civil action or as restitution in a criminal action  
6 against a person responsible for the theft of the vehicle.

7 (4) Properly filing a report of sale or transfer regarding the  
8 vehicle involved in accordance with RCW 46.12.101(1) (~~or a vehicle~~  
9 theft report filed with a law enforcement agency)) relieves the last  
10 registered owner of liability under subsections (1) and (2) of this  
11 section. If the date of sale as indicated on the report of sale is on  
12 or before the date of impoundment, the buyer identified on the latest  
13 properly filed report of sale with the department is assumed liable for  
14 the costs incurred in removing, storing, and disposing of the abandoned  
15 vehicle, less amounts realized at auction. If the date of sale is  
16 after the date of impoundment, the previous registered owner is assumed  
17 to be liable for such costs. A licensed vehicle dealer is not liable  
18 under subsections (1) and (2) of this section if the dealer, as  
19 transferee or assignee of the last registered owner of the vehicle  
20 involved, has complied with the requirements of RCW 46.70.122 upon  
21 selling or otherwise disposing of the vehicle, or if the dealer has  
22 timely filed a transitional ownership record or report of sale under  
23 section 12 of this act. In that case the person to whom the licensed  
24 vehicle dealer has sold or transferred the vehicle is assumed liable  
25 for the costs incurred in removing, storing, and disposing of the  
26 abandoned vehicle, less amounts realized at auction.

27 ~~((+4))~~ (5) For the purposes of reporting notices of traffic  
28 infraction to the department under RCW 46.20.270 and 46.52.100, and for  
29 purposes of reporting notices of failure to appear, respond, or comply  
30 regarding a notice of traffic infraction to the department under RCW  
31 46.63.070(5), a traffic infraction under subsection (2) of this section  
32 is not considered to be a standing, stopping, or parking violation.

33 ~~((+5))~~ (6) A notice of infraction for a violation of this section  
34 may be filed with a court of limited jurisdiction organized under Title  
35 3, 35, or 35A RCW, or with a violations bureau subject to the court's  
36 jurisdiction.

37 **Sec. 3.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read  
38 as follows:

1 (1) When an unauthorized vehicle is impounded, the impounding  
2 towing operator shall notify the legal and registered owners of the  
3 impoundment of the unauthorized vehicle and the owners of any other  
4 items of personal property registered or titled with the department.  
5 The notification shall be sent by first-class mail within twenty-four  
6 hours after the impoundment to the last known registered and legal  
7 owners of the vehicle, and the owners of any other items of personal  
8 property registered or titled with the department, as provided by the  
9 law enforcement agency, and shall inform the owners of the identity of  
10 the person or agency authorizing the impound. The notification shall  
11 include the name of the impounding tow firm, its address, and telephone  
12 number. The notice shall also include the location, time of the  
13 impound, and by whose authority the vehicle was impounded. The notice  
14 shall also include the written notice of the right of redemption and  
15 opportunity for a hearing to contest the validity of the impoundment  
16 pursuant to RCW 46.55.120.

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

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

27 (4) No notices need be sent to the legal or registered owners of an  
28 impounded vehicle or other item of personal property registered or  
29 titled with the department, if the vehicle or personal property has  
30 been redeemed.

31 **Sec. 4.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read  
32 as follows:

33 Whenever the driver of a vehicle is arrested for a violation of RCW  
34 46.61.502 or 46.61.504 or of RCW 46.20.342 or 46.20.420, the  
35 ~~((arresting officer may take custody of the vehicle and provide for its~~  
36 ~~prompt removal to a place of safety)) vehicle is subject to  
37 impoundment, pursuant to applicable local ordinance or state agency  
38 rule at the direction of a law enforcement officer. In addition, a~~

1 police officer may take custody of a vehicle and provide for its prompt  
2 removal to a place of safety under any of the following circumstances:

3 (1) Whenever a police officer finds a vehicle standing upon the  
4 roadway in violation of any of the provisions of RCW 46.61.560, the  
5 officer may provide for the removal of the vehicle or require the  
6 driver or other person in charge of the vehicle to move the vehicle to  
7 a position off the roadway;

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

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

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

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

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

24 (7) Upon determining that a person is operating a motor vehicle  
25 without a valid driver's license in violation of RCW 46.20.005 or with  
26 a license that has been expired for ninety days or more(~~(, or with a~~  
27 ~~suspended or revoked license in violation of RCW 46.20.342 or~~  
28 ~~46.20.420))).~~

29 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 **Sec. 5.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read  
34 as follows:

35 (1) Vehicles or other items of personal property registered or  
36 titled with the department that are impounded by registered tow truck  
37 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be  
38 redeemed only under the following circumstances:

1 (a) Only the legal owner, the registered owner, a person authorized  
2 in writing by the registered owner or the vehicle's insurer, a person  
3 who is determined and verified by the operator to have the permission  
4 of the registered owner of the vehicle or other item of personal  
5 property registered or titled with the department, or one who has  
6 purchased a vehicle or item of personal property registered or titled  
7 with the department from the registered owner who produces proof of  
8 ownership or written authorization and signs a receipt therefor, may  
9 redeem an impounded vehicle or items of personal property registered or  
10 titled with the department. In addition, a vehicle impounded because  
11 the operator is in violation of RCW 46.20.342(1)(c) shall not be  
12 released until a person eligible to redeem it under this subsection  
13 (1)(a) satisfies the requirements of (b) of this subsection, including  
14 paying all towing, removal, and storage fees, notwithstanding the fact  
15 that the hold was ordered by a government agency. If the department's  
16 records show that the operator has been convicted of a violation of RCW  
17 46.20.342 or a similar local ordinance within the past five years, the  
18 vehicle may be held for up to thirty days at the written direction of  
19 the agency ordering the vehicle impounded. A vehicle impounded because  
20 the operator is arrested for a violation of RCW 46.20.342 may be  
21 released only pursuant to a written order from the agency that ordered  
22 the vehicle impounded. An agency may issue a written order to release  
23 pursuant to a provision of an applicable state agency rule or local  
24 ordinance authorizing release on the basis of economic or personal  
25 hardship to the spouse of the operator, taking into consideration  
26 public safety factors, including the operator's criminal history and  
27 driving record.

28 If a vehicle is impounded because the operator is in violation of  
29 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty  
30 days at the written direction of the agency ordering the vehicle  
31 impounded. However, if the department's records show that the operator  
32 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a  
33 similar local ordinance within the past five years, the vehicle may be  
34 held at the written direction of the agency ordering the vehicle  
35 impounded for up to sixty days, and for up to ninety days if the  
36 operator has two or more such prior offenses. If a vehicle is  
37 impounded because the operator is arrested for a violation of RCW  
38 46.20.342, the vehicle may not be released until a person eligible to  
39 redeem it under this subsection (1)(a) satisfies the requirements of

1 (b) of this subsection, including paying all towing, removal, and  
2 storage fees, notwithstanding the fact that the hold was ordered by a  
3 government agency.

4 (b) The vehicle or other item of personal property registered or  
5 titled with the department shall be released upon the presentation to  
6 any person having custody of the vehicle of commercially reasonable  
7 tender sufficient to cover the costs of towing, storage, or other  
8 services rendered during the course of towing, removing, impounding, or  
9 storing any such vehicle. In addition, if a vehicle is impounded  
10 because the operator was arrested for a violation of RCW 46.20.342 or  
11 46.20.420 and was being operated by the registered owner when it was  
12 impounded, it must not be released to any person until the registered  
13 owner establishes with the agency that ordered the vehicle impounded  
14 that any penalties, fines, or forfeitures owed by him or her have been  
15 satisfied. Commercially reasonable tender shall include, without  
16 limitation, cash, major bank credit cards, or personal checks drawn on  
17 in-state banks if accompanied by two pieces of valid identification,  
18 one of which may be required by the operator to have a photograph. If  
19 the towing firm can determine through the customer's bank or a check  
20 verification service that the presented check would not be paid by the  
21 bank or guaranteed by the service, the towing firm may refuse to accept  
22 the check. Any person who stops payment on a personal check or credit  
23 card, or does not make restitution within ten days from the date a  
24 check becomes insufficient due to lack of funds, to a towing firm that  
25 has provided a service pursuant to this section or in any other manner  
26 defrauds the towing firm in connection with services rendered pursuant  
27 to this section shall be liable for damages in the amount of twice the  
28 towing and storage fees, plus costs and reasonable attorney's fees.

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

38 (b) Any person seeking to redeem an impounded vehicle under this  
39 section has a right to a hearing in the district or municipal court for

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

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

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

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

36 (d) If the impoundment is found proper, the impoundment, towing,  
37 and storage fees as permitted under this chapter together with court  
38 costs shall be assessed against the person or persons requesting the  
39 hearing, unless the operator did not have a signed and valid



1 impoundment authorization from a private property owner or an  
2 authorized agent.

3 (e) If the impoundment is determined to be in violation of this  
4 chapter, then the registered and legal owners of the vehicle or other  
5 item of personal property registered or titled with the department  
6 shall bear no impoundment, towing, or storage fees, and any security  
7 shall be returned or discharged as appropriate, and the person or  
8 agency who authorized the impoundment shall be liable for any towing,  
9 storage, or other impoundment fees permitted under this chapter. The  
10 court shall enter judgment in favor of the registered tow truck  
11 operator against the person or agency authorizing the impound for the  
12 impoundment, towing, and storage fees paid. In addition, the court  
13 shall enter judgment in favor of the registered and legal owners of the  
14 vehicle, or other item of personal property registered or titled with  
15 the department, for the amount of the filing fee required by law for  
16 the impound hearing petition as well as reasonable damages for loss of  
17 the use of the vehicle during the time the same was impounded, for not  
18 less than fifty dollars per day, against the person or agency  
19 authorizing the impound. However, if an impoundment arising from an  
20 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in  
21 violation of this chapter, then the law enforcement officer directing  
22 the impoundment and the government employing the officer are not liable  
23 for damages if the officer relied in good faith and without gross  
24 negligence on the records of the department in ascertaining that the  
25 operator of the vehicle had a suspended or revoked driver's license.  
26 If any judgment entered is not paid within fifteen days of notice in  
27 writing of its entry, the court shall award reasonable attorneys' fees  
28 and costs against the defendant in any action to enforce the judgment.  
29 Notice of entry of judgment may be made by registered or certified  
30 mail, and proof of mailing may be made by affidavit of the party  
31 mailing the notice. Notice of the entry of the judgment shall read  
32 essentially as follows:

33 TO: . . . . .  
34 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
35 . . . . . Court located at . . . . . in the sum of  
36 \$. . . . ., in an action entitled . . . . ., Case No.  
37 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
38 will be awarded against you under RCW . . . if the judgment is  
39 not paid within 15 days of the date of this notice.

1 DATED this . . . . day of . . . . ., ((19)) (year) . . .

2 Signature . . . . .

3 Typed name and address

4 of party mailing notice

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

13 **Sec. 6.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read  
14 as follows:

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

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

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

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

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

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

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

8 (f) The successful bidder shall apply for title within fifteen  
9 days;

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

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

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

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

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

37 (b) The failure of the registered tow truck operator to comply with  
38 the time limits provided in this chapter limits the accumulation of  
39 storage charges to five days except where delay is unavoidable.

1 Providing incorrect or incomplete identifying information to the  
2 department in the abandoned vehicle report shall be considered a  
3 failure to comply with these time limits if correct information is  
4 available.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.55 RCW  
6 to read as follows:

7 (1) This section applies to any impoundment of a vehicle when a  
8 driver is arrested for a violation of RCW 46.61.502 or 46.61.504, or of  
9 RCW 46.61.520 or 46.61.522 if committed while under the influence, as  
10 provided for in RCW 46.55.113 and 46.55.120.

11 (2) Any local government ordinance or state agency rule that  
12 provides for impoundment and redemption of vehicles may allow for  
13 alternative home impoundment of vehicles for all or part of the  
14 impoundment periods authorized in RCW 46.55.120. Home impoundment is  
15 an alternative to impoundment by a registered tow truck operator. Home  
16 impoundment consists of removing a vehicle to the registered owner's  
17 residence or other property, or to another place authorized by the  
18 ordinance or rule, and placing a boot or other device on the vehicle to  
19 render it immobile. The jurisdiction authorizing home impoundment may  
20 charge a reasonable rental fee for the use of the boot or other device  
21 during the period of home impoundment. The local government ordinance  
22 or state agency rule may provide that the owner or driver of the  
23 vehicle may elect whether to be subject to impoundment under RCW  
24 46.55.120 or home impoundment under this section.

25 (3) Before any home impoundment is begun, the vehicle must be  
26 redeemed as provided for in RCW 46.55.120 if any impoundment has  
27 occurred under that section, and any towing fee incurred in getting the  
28 vehicle to the place of home impoundment must be paid.

29 (4) At the end of the period of home impoundment, the vehicle may  
30 be released only after all rental fees have been paid and only to a  
31 person who would qualify to redeem an impounded vehicle under RCW  
32 46.55.120.

33 (5) A local ordinance or state agency rule may provide for  
34 impoundment by a registered tow truck operator if at the end of the  
35 period of home impoundment there is no qualified person to whom the  
36 vehicle may be released.

37 (6) A local ordinance or state agency rule may provide that if the  
38 boot or other device on a vehicle in home impoundment is tampered with,

1 damaged, removed, or rendered inoperative, the vehicle may be released  
2 only upon payment of all applicable rental fees plus payment of a fee  
3 equal to the impoundment costs that would have been incurred had the  
4 vehicle been impounded under RCW 46.55.120 during the period of home  
5 impoundment.

6 **Sec. 8.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read  
7 as follows:

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

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

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

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

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

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

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

27 (a) Is three years old or older;

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

31 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

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

21 Subject to removal after:

- 22 (a) Public locations:
  - 23 (i) Constituting an accident or a traffic hazard as
  - 24 defined in RCW 46.55.113 . . . . . Immediately
  - 25 (ii) On a highway and tagged as described in RCW
  - 26 46.55.085 . . . . . 24 hours
  - 27 (iii) In a publicly owned or controlled parking facility,
  - 28 properly posted under RCW
  - 29 46.55.070 . . . . . Immediately
- 30 (b) Private locations:
  - 31 (i) On residential property . . . . . Immediately
  - 32 (ii) On private, nonresidential property, properly
  - 33 posted under RCW 46.55.070 . . . . . Immediately
  - 34 (iii) On private, nonresidential property,
  - 35 not posted . . . . . 24 hours

36 **Sec. 9.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read  
37 as follows:

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

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

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

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

36 (5) If the operator sends an abandoned vehicle report to the  
37 department and the department finds no owner information, an operator  
38 may proceed with an inspection of the vehicle and any other items of

1 personal property registered or titled with the department to determine  
2 whether owner identification is within the vehicle.

3 (6) If the operator finds no owner identification, the operator  
4 shall immediately notify the appropriate law enforcement agency, which  
5 shall search the vehicle and any other items of personal property  
6 registered or titled with the department for the vehicle identification  
7 number or other appropriate identification numbers and check the  
8 necessary records to determine the vehicle's or other property's  
9 owners.

10 **Sec. 10.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended  
11 to read as follows:

12 A security interest in a vehicle other than one held as inventory  
13 by a manufacturer or a dealer and for which a certificate of ownership  
14 is required is perfected only by compliance with the requirements of  
15 section 12 of this act under the circumstances provided for therein or  
16 by compliance with the requirements of this section:

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

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

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

33 (a) If the security interest was perfected under the law of the  
34 jurisdiction where the vehicle was when the security interest was  
35 attached, the following rules apply:

36 (b) If the name of the secured party is shown on the existing  
37 certificate of ownership issued by that jurisdiction, the security  
38 interest continues perfected in this state. The name of the secured



1 party shall be shown on the certificate of ownership issued for the  
2 vehicle by this state. The security interest continues perfected in  
3 this state upon the issuance of such ownership certificate.

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

8 **Sec. 11.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to  
9 read as follows:

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

12 (1) If an owner transfers his or her interest in a vehicle, other  
13 than by the creation, deletion, or change of a security interest, the  
14 owner shall, at the time of the delivery of the vehicle, execute an  
15 assignment to the transferee and provide an odometer disclosure  
16 statement under RCW 46.12.124 on the certificate of ownership or as the  
17 department otherwise prescribes, and cause the certificate and  
18 assignment to be transmitted to the transferee. (~~Within five days,~~  
19 ~~excluding Saturdays, Sundays, and state and federal holidays,~~) The  
20 owner shall notify the department or its agents or subagents, in  
21 writing, on the appropriate form, of the date of the sale or transfer,  
22 the name and address of the owner and of the transferee, the  
23 transferee's driver's license number if available, and such description  
24 of the vehicle, including the vehicle identification number, the  
25 license plate number, or both, as may be required in the appropriate  
26 form provided or approved for that purpose by the department. The  
27 report of sale will be deemed properly filed if all information  
28 required in this section is provided on the form and includes a  
29 department-authorized notation that the document was received by the  
30 department, its agents, or subagents on or before the fifth day after  
31 the sale of the vehicle, excluding Saturdays, Sundays, and state and  
32 federal holidays. Agents and subagents shall immediately  
33 electronically transmit the seller's report of sale to the department.  
34 Reports of sale processed and recorded by the department's agents or  
35 subagents may be subject to fees as specified in RCW 46.01.140 (4)(a)  
36 or (5)(b).

37 (2) The requirements of subsection (1) of this section to provide  
38 an odometer disclosure statement apply to the transfer of vehicles held

1 for lease when transferred to a lessee and then to the lessor at the  
2 end of the leasehold and to vehicles held in a fleet when transferred  
3 to a purchaser.

4 (3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the  
5 transferee shall within fifteen days after delivery to the transferee  
6 of the vehicle, execute the application for a new certificate of  
7 ownership in the same space provided therefor on the certificate or as  
8 the department prescribes, and cause the certificates and application  
9 to be transmitted to the department.

10 (4) Upon request of the owner or transferee, a secured party in  
11 possession of the certificate of ownership shall, unless the transfer  
12 was a breach of its security agreement, either deliver the certificate  
13 to the transferee for transmission to the department or, when the  
14 secured party receives the owner's assignment from the transferee, it  
15 shall transmit the transferee's application for a new certificate, the  
16 existing certificate, and the required fee to the department.  
17 Compliance with this section does not affect the rights of the secured  
18 party.

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

23 (6) If the purchaser or transferee fails or neglects to make  
24 application to transfer the certificate of ownership and license  
25 registration within fifteen days after the date of delivery of the  
26 vehicle, he or she shall on making application for transfer be assessed  
27 a twenty-five dollar penalty on the sixteenth day and two dollars  
28 additional for each day thereafter, but not to exceed one hundred  
29 dollars. The director may by rule establish conditions under which the  
30 penalty will not be assessed when an application for transfer is  
31 delayed for reasons beyond the control of the purchaser. Conditions  
32 for not assessing the penalty may be established for but not limited to  
33 delays caused by:

- 34 (a) The department requesting additional supporting documents;
- 35 (b) Extended hospitalization or illness of the purchaser;
- 36 (c) Failure of a legal owner to release his or her interest;
- 37 (d) Failure, negligence, or nonperformance of the department,  
38 auditor, or subagent.

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

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

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

17 NEW SECTION. **Sec. 12.** A new section is added to chapter 46.12 RCW  
18 to read as follows:

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

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

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

31 (b) To the best of the knowledge of the selling dealer or new  
32 security interest holder, the certificate of ownership will not be  
33 received for submission to the department within twenty calendar days  
34 of the date of sale of the vehicle, or if no sale is involved, within  
35 twenty calendar days of the date the security agreement or contract is  
36 executed.

37 (3) A person shall submit the transitional ownership record to the  
38 department or to any of its agents or subagents. Agents and subagents

1 shall immediately electronically transmit the transitional ownership  
2 records to the department. A transitional ownership document processed  
3 and recorded by an agent or subagent may be subject to fees as  
4 specified in RCW 46.01.140(4)(a) or (5)(b).

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

7 (a) The date of sale;

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

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

10 (d) If there are multiple security interest holders, the priorities  
11 of interest if the security interest holders do not jointly hold a  
12 single security interest;

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

15 (f) The name of the selling dealer or security interest holder who  
16 is submitting the transitional ownership record; and

17 (g) The transferee's driver's license number, if available.

18 (5) The report of sale form prescribed or approved by the  
19 department under RCW 46.12.101 may be used by a vehicle dealer as the  
20 transitional ownership record.

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

32 NEW SECTION. **Sec. 13.** If this act mandates an increased level of  
33 service by local governments, the local government may, under RCW  
34 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the  
35 legislature. The claims shall be subject to verification by the office  
36 of financial management.

