
ENGROSSED SUBSTITUTE HOUSE BILL 1221

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Ballasiotes, Sheahan, Robertson, Chandler, Cody, Crouse, K. Schmidt, Costa, Scott, Buck, Kessler, Schoesler, Chopp, Johnson, Honeyford, O'Brien, Wensman, Sheldon, McDonald, Zellinsky, Thompson, H. Sommers and Mason)

Read first time 03/05/97.

1 AN ACT Relating to the impoundment and forfeiture of vehicles being
2 operated by persons who have a suspended or revoked driver's license;
3 amending RCW 46.55.105, 46.55.113, 46.55.110, 46.55.120, 46.55.130,
4 46.55.010, 46.55.100, 46.12.095, and 46.12.101; adding a new section to
5 chapter 46.20 RCW; adding a new section to chapter 46.55 RCW; adding a
6 new section to chapter 46.12 RCW; creating a new section; and repealing
7 RCW 46.20.344.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the license to
10 drive a motor vehicle on the public highways is suspended or revoked in
11 order to protect public safety following a driver's failure to comply
12 with the laws of this state. Over six hundred persons are killed in
13 traffic accidents in Washington annually, and more than eighty-four
14 thousand persons are injured. It is estimated that of the three
15 million four hundred thousand drivers' licenses issued to citizens of
16 Washington, more than two hundred sixty thousand are suspended or
17 revoked at any given time. Suspended drivers are more likely to be
18 involved in causing traffic accidents, including fatal accidents, than
19 properly licensed drivers, and pose a serious threat to the lives and

1 property of Washington residents. Statistics show that suspended
2 drivers are three times more likely to kill or seriously injure others
3 in the commission of traffic felony offenses than are validly licensed
4 drivers. In addition to not having a driver's license, most such
5 drivers also lack required liability insurance, increasing the
6 financial burden upon other citizens through uninsured losses and
7 higher insurance costs for validly licensed drivers. Because of the
8 threat posed by suspended drivers, all registered owners of motor
9 vehicles in Washington have a duty to not allow their vehicles to be
10 driven by a suspended driver.

11 Despite the existence of criminal penalties for driving with a
12 suspended or revoked license, an estimated seventy-five percent of
13 these drivers continue to drive anyway. Existing sanctions are not
14 sufficient to deter or prevent persons with a suspended or revoked
15 license from driving. It is common for suspended drivers to resume
16 driving immediately after being stopped, cited, and released by a
17 police officer and to continue to drive while a criminal prosecution
18 for suspended driving is pending. More than half of all suspended
19 drivers charged with the crime of driving while suspended or revoked
20 fail to appear for court hearings. Vehicle impoundment will provide an
21 immediate consequence which will increase deterrence and reduce
22 unlawful driving by preventing a suspended driver access to that
23 vehicle. Vehicle impoundment will also provide an appropriate measure
24 of accountability for registered owners who permit suspended drivers to
25 drive their vehicles. Impoundment of vehicles driven by suspended
26 drivers has been shown to reduce future driving while suspended or
27 revoked offenses for up to two years afterwards, and the recidivism
28 rate for drivers whose cars were not impounded was one hundred percent
29 higher than for drivers whose cars were impounded. In order to
30 adequately protect public safety and to enforce the state's driver
31 licensing laws, it is necessary to authorize the impoundment of any
32 vehicle when it is found to be operated by a driver with a suspended or
33 revoked license, and to provide in certain circumstances for the
34 forfeiture of such vehicles where the owner continues to drive despite
35 having been previously convicted of the crime of driving with a
36 suspended or revoked license in violation of RCW 46.20.342 and
37 46.20.420.

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

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

9 (2) If a vehicle is impounded under this section because the
10 operator is in violation of RCW 46.20.342(1)(c), the vehicle shall not
11 be released until a person eligible to redeem it under RCW
12 46.55.120(1)(a) satisfies the requirements of RCW 46.55.120(1)(b),
13 including paying all towing, removal, and storage fees, notwithstanding
14 the fact that the hold was ordered by a government agency. However, if
15 the department's records show that the operator has been convicted of
16 a violation of RCW 46.20.342 or a similar local ordinance within the
17 past five years, the vehicle may be held for up to fifteen days at the
18 written direction of the agency ordering the vehicle impounded.

19 (3) If a vehicle is impounded under this section because the
20 operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle
21 may be held for up to fifteen days and must not be released until a
22 person eligible to redeem it under RCW 46.55.120(1)(a) satisfies the
23 requirements of RCW 46.55.120(1)(b), including paying all towing,
24 removal, and storage fees, notwithstanding the fact that the hold was
25 ordered by a government agency. However, if the department's records
26 show that the operator has been convicted of a violation of RCW
27 46.20.342(1) (a) or (b) or a similar local ordinance within the past
28 five years and the operator has a financial interest in the vehicle,
29 the vehicle is subject to forfeiture. If the vehicle is forfeited,
30 then the forfeiting agency shall pay all the impoundment, towing, and
31 storage fees for the vehicle and shall be entitled to recover those
32 fees from the operator of the forfeited vehicle, including any
33 attorneys' fees, costs of collection, and interest at the statutory
34 rate for judgment interest from the date of payment by the forfeiting
35 agency of such fees.

36 (4) A forfeiture proceeding is commenced by the law enforcement
37 agency causing notice of the intended forfeiture of the seized vehicle
38 to be served not less than ten days after seizure on the registered tow
39 truck operator which impounded the vehicle, the owner of the vehicle

1 seized, the person in charge of the vehicle when it was seized, and any
2 person having a known right or interest in the vehicle, including a
3 community property interest. The notice may be served by any method
4 authorized by law or court rule, including, but not limited to, service
5 by certified mail with return receipt requested. Service by mail is
6 complete upon mailing. Notice in the case of a vehicle subject to a
7 security interest that has been perfected on a certificate of title
8 must be made by service upon the secured party or the secured party's
9 assignee at the address shown on the financing statement, the
10 certificate of title, or the transitional ownership record. Once the
11 registered tow truck operator which impounded the vehicle receives
12 notice, the vehicle must not be released except upon written order of
13 the chief law enforcement officer of the agency directing the
14 impoundment or his or her designee, an administrative law judge, or a
15 court.

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

18 (6) Notwithstanding RCW 46.52.120(2), in any hearing under RCW
19 46.55.120 to contest the validity of the impoundment or under this
20 section to contest the validity of the forfeiture, an abstract of the
21 person's driving record may be admitted as and is prima facie evidence
22 of the status of the person's driving privilege and that the person was
23 convicted of each offense shown by the abstract. In addition, a
24 certified vehicle registration of the vehicle sought to be forfeited
25 shall be admissible without further evidentiary foundation.

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

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

32 (1) The abandonment of any vehicle creates a prima facie
33 presumption that the last registered owner of record is responsible for
34 the abandonment and is liable for costs incurred in removing, storing,
35 and disposing of the abandoned vehicle, less amounts realized at
36 auction.

37 (2) If an unauthorized vehicle is found abandoned under subsection
38 (1) of this section and removed at the direction of law enforcement,

1 the last registered owner of record is guilty of a traffic infraction,
2 unless the vehicle is redeemed as provided in RCW 46.55.120. In
3 addition to any other monetary penalty payable under chapter 46.63 RCW,
4 the court shall not consider all monetary penalties as having been paid
5 until the court is satisfied that the person found to have committed
6 the infraction has made restitution in the amount of the deficiency
7 remaining after disposal of the vehicle under RCW 46.55.140.

8 (3) A vehicle theft report filed with a law enforcement agency
9 relieves the last registered owner of liability under subsection (2) of
10 this section for failure to redeem the vehicle. However, the last
11 registered owner remains liable for the costs incurred in removing,
12 storing, and disposing of the abandoned vehicle under subsection (1) of
13 this section. Nothing in this section limits in any way the registered
14 owner's rights in a civil action or as restitution in a criminal action
15 against a person responsible for the theft of the vehicle.

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

36 ~~((4))~~ (5) For the purposes of reporting notices of traffic
37 infraction to the department under RCW 46.20.270 and 46.52.100, and for
38 purposes of reporting notices of failure to appear, respond, or comply
39 regarding a notice of traffic infraction to the department under RCW

1 46.63.070(5), a traffic infraction under subsection (2) of this section
2 is not considered to be a standing, stopping, or parking violation.

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

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

9 Whenever the driver of a vehicle is arrested for a violation of RCW
10 46.61.502 or 46.61.504, the arresting officer may take custody of the
11 vehicle and provide for its prompt removal to a place of safety. In
12 addition, a police officer may take custody of a vehicle and provide
13 for its prompt removal to a place of safety under any of the following
14 circumstances:

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

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

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

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

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

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

36 (7) Upon determining that a person is operating a motor vehicle
37 without a valid driver's license in violation of RCW 46.20.021 or with
38 a license that has been expired for ninety days or more(~~(, or with a~~

1 ~~suspended or revoked license in violation of RCW 46.20.342 or~~
2 ~~46.20.420))~~.

3 Nothing in this section may derogate from the powers of police
4 officers under the common law. For the purposes of this section, a
5 place of safety may include the business location of a registered tow
6 truck operator.

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

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

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

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

35 (4) No notices need be sent to the legal or registered owners of an
36 impounded vehicle or other item of personal property registered or
37 titled with the department, if the vehicle or personal property has
38 been redeemed.

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

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

8 (a) Only the legal owner, the registered owner, a person authorized
9 in writing by the registered owner or the vehicle's insurer, a person
10 who is determined and verified by the operator to have the permission
11 of the registered owner of the vehicle or other item of personal
12 property registered or titled with the department, or one who has
13 purchased a vehicle or item of personal property registered or titled
14 with the department from the registered owner who produces proof of
15 ownership or written authorization and signs a receipt therefor, may
16 redeem an impounded vehicle or items of personal property registered or
17 titled with the department. In addition, a person redeeming a vehicle
18 impounded under section 2 of this act must prior to redemption
19 establish with the agency that ordered the vehicle impounded that he or
20 she has a valid driver's license and is in compliance with RCW
21 46.30.020. A vehicle impounded under section 2 of this act can only be
22 released pursuant to a written order from the agency that ordered the
23 vehicle impounded.

24 (b) The vehicle or other item of personal property registered or
25 titled with the department shall be released upon the presentation to
26 any person having custody of the vehicle of commercially reasonable
27 tender sufficient to cover the costs of towing, storage, or other
28 services rendered during the course of towing, removing, impounding, or
29 storing any such vehicle. In addition, if a vehicle is impounded under
30 section 2 of this act and was being operated by the registered owner
31 when it was impounded, it must not be released to any person until the
32 registered owner establishes with the agency that ordered the vehicle
33 impounded that any penalties, fines, or forfeitures owed by him or her
34 have been satisfied. Commercially reasonable tender shall include,
35 without limitation, cash, major bank credit cards, or personal checks
36 drawn on in-state banks if accompanied by two pieces of valid
37 identification, one of which may be required by the operator to have a
38 photograph. If the towing firm can determine through the customer's
39 bank or a check verification service that the presented check would not

1 be paid by the bank or guaranteed by the service, the towing firm may
2 refuse to accept the check. Any person who stops payment on a personal
3 check or credit card, or does not make restitution within ten days from
4 the date a check becomes insufficient due to lack of funds, to a towing
5 firm that has provided a service pursuant to this section or in any
6 other manner defrauds the towing firm in connection with services
7 rendered pursuant to this section shall be liable for damages in the
8 amount of twice the towing and storage fees, plus costs and reasonable
9 attorney's fees.

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

19 (b) Any person seeking to redeem an impounded vehicle under this
20 section has a right to a hearing in the district or municipal court for
21 the jurisdiction in which the vehicle was impounded to contest the
22 validity of the impoundment or the amount of towing and storage
23 charges. The district court has jurisdiction to determine the issues
24 involving all impoundments including those authorized by the state or
25 its agents. The municipal court has jurisdiction to determine the
26 issues involving impoundments authorized by agents of the municipality.
27 Any request for a hearing shall be made in writing on the form provided
28 for that purpose and must be received by the district or municipal
29 court within ten days of the date the opportunity was provided for in
30 subsection (2)(a) of this section. At the time of the filing of the
31 hearing request, the petitioner shall pay to the court clerk a filing
32 fee in the same amount required for the filing of a suit in the small
33 claims department of a district court. If the hearing request is not
34 received by the district or municipal court within the ten-day period,
35 the right to a hearing is waived and the registered owner is liable for
36 any towing, storage, or other impoundment charges permitted under this
37 chapter. Upon receipt of a timely hearing request, the district or
38 municipal court shall proceed to hear and determine the validity of the
39 impoundment.

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

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

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

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

25 (e) If the impoundment is determined to be in violation of this
26 chapter, then the registered and legal owners of the vehicle or other
27 item of personal property registered or titled with the department
28 shall bear no impoundment, towing, or storage fees, and any security
29 shall be returned or discharged as appropriate, and the person or
30 agency who authorized the impoundment shall be liable for any towing,
31 storage, or other impoundment fees permitted under this chapter. The
32 court shall enter judgment in favor of the registered tow truck
33 operator against the person or agency authorizing the impound for the
34 impoundment, towing, and storage fees paid. In addition, the court
35 shall enter judgment in favor of the registered and legal owners of the
36 vehicle, or other item of personal property registered or titled with
37 the department, for the amount of the filing fee required by law for
38 the impound hearing petition as well as reasonable damages for loss of
39 the use of the vehicle during the time the same was impounded, for not

1 less than fifty dollars per day, against the person or agency
2 authorizing the impound. However, if an impoundment under section 2 of
3 this act is determined to be in violation of this chapter, then the law
4 enforcement officer directing the impoundment and the local government
5 employing the officer are not liable for damages if the officer relied
6 in good faith and without gross negligence on the records of the
7 department in ascertaining that the operator of the vehicle had a
8 suspended or revoked driver's license. If any judgment entered is not
9 paid within fifteen days of notice in writing of its entry, the court
10 shall award reasonable attorneys' fees and costs against the defendant
11 in any action to enforce the judgment. Notice of entry of judgment may
12 be made by registered or certified mail, and proof of mailing may be
13 made by affidavit of the party mailing the notice. Notice of the entry
14 of the judgment shall read essentially as follows:

15 TO:
16 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
17 Court located at in the sum of
18 \$., in an action entitled, Case No.
19 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
20 will be awarded against you under RCW . . . if the judgment is
21 not paid within 15 days of the date of this notice.
22 DATED this day of, 19. . .
23 Signature
24 Typed name and address
25 of party mailing notice

26 (4) Any impounded abandoned vehicle or item of personal property
27 registered or titled with the department that is not redeemed within
28 fifteen days of mailing of the notice of custody and sale as required
29 by RCW 46.55.110(2) shall be sold at public auction in accordance with
30 all the provisions and subject to all the conditions of RCW 46.55.130.
31 A vehicle or item of personal property registered or titled with the
32 department may be redeemed at any time before the start of the auction
33 upon payment of the applicable towing and storage fees.

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

36 (1) If, after the expiration of fifteen days from the date of
37 mailing of notice of custody and sale required in RCW 46.55.110(2) to

1 the registered and legal owners, the vehicle remains unclaimed and has
2 not been listed as a stolen vehicle, then the registered tow truck
3 operator having custody of the vehicle shall conduct a sale of the
4 vehicle at public auction after having first published a notice of the
5 date, place, and time of the auction in a newspaper of general
6 circulation in the county in which the vehicle is located not less than
7 three days and no more than ten days before the date of the auction.
8 The notice shall contain a description of the vehicle including the
9 make, model, year, and license number and a notification that a three-
10 hour public viewing period will be available before the auction. The
11 auction shall be held during daylight hours of a normal business day.

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

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

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

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

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

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

29 (f) The successful bidder shall apply for title within fifteen
30 days;

31 (g) The registered tow truck operator shall post a copy of the
32 auction procedure at the bidding site. If the bidding site is
33 different from the licensed office location, the operator shall post a
34 clearly visible sign at the office location that describes in detail
35 where the auction will be held. At the bidding site a copy of the
36 newspaper advertisement that lists the vehicles for sale shall be
37 posted;

38 (h) All surplus moneys derived from the auction after satisfaction
39 of the registered tow truck operator's lien shall be remitted within

1 thirty days to the department for deposit in the state motor vehicle
2 fund. A report identifying the vehicles resulting in any surplus shall
3 accompany the remitted funds. If the director subsequently receives a
4 valid claim from the registered vehicle owner of record as determined
5 by the department within one year from the date of the auction, the
6 surplus moneys shall be remitted to such owner;

7 (i) If an operator receives no bid, or if the operator is the
8 successful bidder at auction, the operator shall, within (~~thirty~~)
9 forty-five days sell the vehicle to a licensed vehicle wrecker, hulk
10 hauler, or scrap processor by use of the abandoned vehicle report-
11 affidavit of sale, or the operator shall apply for title to the
12 vehicle.

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

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

19 (b) The failure of the registered tow truck operator to comply with
20 the time limits provided in this chapter limits the accumulation of
21 storage charges to five days except where delay is unavoidable.
22 Providing incorrect or incomplete identifying information to the
23 department in the abandoned vehicle report shall be considered a
24 failure to comply with these time limits if correct information is
25 available.

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

28 In any administrative or judicial proceeding involving a forfeiture
29 of a vehicle under section 2 of this act, the chief law enforcement
30 officer or court shall provide for the protection of a bona fide
31 community property interest in the vehicle of a person other than the
32 person whose operation of the vehicle with a suspended or revoked
33 license led to the forfeiture.

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

36 The definitions set forth in this section apply throughout this
37 chapter:

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

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

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

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

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

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

18 (a) Is three years old or older;

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

22 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

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

10 *Subject to removal after:*

11 (a) *Public locations:*

12 (i) *Constituting an accident or a traffic hazard as*
13 *defined in RCW 46.55.113 Immediately*

14 (ii) *On a highway and tagged as described in RCW*
15 *46.55.085 24 hours*

16 (iii) *In a publicly owned or controlled parking facility,*
17 *properly posted under RCW*
18 *46.55.070 Immediately*

19 (b) *Private locations:*

20 (i) *On residential property Immediately*

21 (ii) *On private, nonresidential property, properly*
22 *posted under RCW 46.55.070 Immediately*

23 (iii) *On private, nonresidential property,*
24 *not posted 24 hours*

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

27 (1) At the time of impoundment the registered tow truck operator
28 providing the towing service shall give immediate notification, by
29 telephone or radio, to a law enforcement agency having jurisdiction who
30 shall maintain a log of such reports. A law enforcement agency, or a
31 private communication center acting on behalf of a law enforcement
32 agency, shall within six to twelve hours of the impoundment, provide to
33 a requesting operator the name and address of the legal and registered
34 owners of the vehicle, and the registered owner of any personal
35 property registered or titled with the department that is attached to
36 or contained in or on the impounded vehicle, the vehicle identification
37 number, and any other necessary, pertinent information. The initial

1 notice of impoundment shall be followed by a written or electronic
2 facsimile notice within twenty-four hours. In the case of a vehicle
3 from another state, time requirements of this subsection do not apply
4 until the requesting law enforcement agency in this state receives the
5 information.

6 (2) The operator shall immediately send an abandoned vehicle report
7 to the department for any vehicle, and for any items of personal
8 property registered or titled with the department, that are in the
9 operator's possession after the (~~ninety-six~~) one hundred twenty hour
10 abandonment period. Such report need not be sent when the impoundment
11 is pursuant to a writ, court order, or police hold. The owner
12 notification and abandonment process shall be initiated by the
13 registered tow truck operator immediately following notification by a
14 court or law enforcement officer that the writ, court order, or police
15 hold is no longer in effect.

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

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

25 (5) If the operator sends an abandoned vehicle report to the
26 department and the department finds no owner information, an operator
27 may proceed with an inspection of the vehicle and any other items of
28 personal property registered or titled with the department to determine
29 whether owner identification is within the vehicle.

30 (6) If the operator finds no owner identification, the operator
31 shall immediately notify the appropriate law enforcement agency, which
32 shall search the vehicle and any other items of personal property
33 registered or titled with the department for the vehicle identification
34 number or other appropriate identification numbers and check the
35 necessary records to determine the vehicle's or other property's
36 owners.

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

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

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

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

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

22 (a) If the security interest was perfected under the law of the
23 jurisdiction where the vehicle was when the security interest was
24 attached, the following rules apply:

25 (b) If the name of the secured party is shown on the existing
26 certificate of ownership issued by that jurisdiction, the security
27 interest continues perfected in this state. The name of the secured
28 party shall be shown on the certificate of ownership issued for the
29 vehicle by this state. The security interest continues perfected in
30 this state upon the issuance of such ownership certificate.

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

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

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

1 (1) If an owner transfers his or her interest in a vehicle, other
2 than by the creation, deletion, or change of a security interest, the
3 owner shall, at the time of the delivery of the vehicle, execute an
4 assignment to the transferee and provide an odometer disclosure
5 statement under RCW 46.12.124 on the certificate of ownership or as the
6 department otherwise prescribes, and cause the certificate and
7 assignment to be transmitted to the transferee. (~~Within five days,~~
8 ~~excluding Saturdays, Sundays, and state and federal holidays,~~) The
9 owner shall notify the department or its agents or subagents, in
10 writing, on the appropriate form, of the date of the sale or transfer,
11 the name and address of the owner and of the transferee, the
12 transferee's driver's license number, if available, and such
13 description of the vehicle, including the vehicle identification
14 number, the license plate number, or both, as may be required in the
15 appropriate form provided for that purpose by the department. The
16 report of sale is deemed properly filed if all required information is
17 provided on the form and includes a department authorized notation or
18 receipt that the document was received by the department or its agents
19 or subagents on or before the fifth day following the date of sale of
20 the vehicle, excluding Saturdays, Sundays, and state and federal
21 holidays. Any report of sale processed and recorded by the
22 department's agents or subagents may be subject to fees as specified in
23 RCW 46.01.140 (4)(a) or (5)(b).

24 (2) The requirements of subsection (1) of this section to provide
25 an odometer disclosure statement apply to the transfer of vehicles held
26 for lease when transferred to a lessee and then to the lessor at the
27 end of the leasehold and to vehicles held in a fleet when transferred
28 to a purchaser.

29 (3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the
30 transferee shall within fifteen days after delivery to the transferee
31 of the vehicle, execute the application for a new certificate of
32 ownership in the same space provided therefor on the certificate or as
33 the department prescribes, and cause the certificates and application
34 to be transmitted to the department.

35 (4) Upon request of the owner or transferee, a secured party in
36 possession of the certificate of ownership shall, unless the transfer
37 was a breach of its security agreement, either deliver the certificate
38 to the transferee for transmission to the department or, when the
39 secured party receives the owner's assignment from the transferee, it

1 shall transmit the transferee's application for a new certificate, the
2 existing certificate, and the required fee to the department.
3 Compliance with this section does not affect the rights of the secured
4 party.

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

9 (6) If the purchaser or transferee fails or neglects to make
10 application to transfer the certificate of ownership and license
11 registration within fifteen days after the date of delivery of the
12 vehicle, he or she shall on making application for transfer be assessed
13 a twenty-five dollar penalty on the sixteenth day and two dollars
14 additional for each day thereafter, but not to exceed one hundred
15 dollars. The director may by rule establish conditions under which the
16 penalty will not be assessed when an application for transfer is
17 delayed for reasons beyond the control of the purchaser. Conditions
18 for not assessing the penalty may be established for but not limited to
19 delays caused by:

- 20 (a) The department requesting additional supporting documents;
- 21 (b) Extended hospitalization or illness of the purchaser;
- 22 (c) Failure of a legal owner to release his or her interest;
- 23 (d) Failure, negligence, or nonperformance of the department,
24 auditor, or subagent.

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

28 (7) Upon receipt of an application for reissue or replacement of a
29 certificate of ownership and transfer of license registration,
30 accompanied by the endorsed certificate of ownership or other
31 documentary evidence as is deemed necessary, the department shall, if
32 the application is in order and if all provisions relating to the
33 certificate of ownership and license registration have been complied
34 with, issue new certificates of title and license registration as in
35 the case of an original issue and shall transmit the fees together with
36 an itemized detailed report to the state treasurer, to be deposited in
37 the motor vehicle fund.

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

4 NEW SECTION. **Sec. 13.** A new section is added to chapter 46.12 RCW
5 to read as follows:

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

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

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

18 (b) To the best of the knowledge of the selling dealer or new
19 security interest holder, the certificate of ownership will not be
20 received for submission to the department within twenty calendar days
21 of the date of sale of the vehicle, or if no sale is involved, within
22 twenty calendar days of the date the security agreement or contract is
23 executed.

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

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

31 (a) The date of sale;

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

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

34 (d) If there are multiple security interest holders, the priorities
35 of interest if the security interest holders do not jointly hold a
36 single security interest;

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

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

3 (5) The report of sale form prescribed by the department under RCW
4 46.12.101 may be utilized by a vehicle dealer as the transitional
5 ownership record.

6 (6) Notwithstanding the provisions of RCW 46.12.095 (1) and (2),
7 compliance with the requirements of this section shall result in
8 perfection of a security interest in the vehicle as of the time the
9 security interest was created. Upon receipt of the certificate of
10 ownership for the vehicle, or upon receipt of written confirmation that
11 only an electronic record of ownership exists or that the certificate
12 of ownership has been lost or destroyed, the selling dealer or new
13 security interest holder shall promptly submit the same to the
14 department together with an application for a new certificate of
15 ownership containing the name and address of the secured party and
16 tender the required fee as provided in RCW 46.12.095(1).

17 (7) The department shall adopt rules in accordance with chapter
18 34.05 RCW to develop the form for the transitional ownership record.

19 NEW SECTION. **Sec. 14.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are
20 each repealed.

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