

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1221

55th Legislature
1998 Regular Session

Passed by the House March 9, 1998
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1998
Yeas 43 Nays 4

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1221** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1221

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

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, 46.55.110, 46.55.113, 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 46.55 RCW; adding a new section to chapter 46.12 RCW; creating
6 new sections; and repealing RCW 46.20.344.

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

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

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

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

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

3 (1) The abandonment of any vehicle creates a prima facie
4 presumption that the last registered owner of record is responsible for
5 the abandonment and is liable for costs incurred in removing, storing,
6 and disposing of the abandoned vehicle, less amounts realized at
7 auction.

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

17 (3) A vehicle theft report filed with a law enforcement agency
18 relieves the last registered owner of liability under subsection (2) of
19 this section for failure to redeem the vehicle. However, the last
20 registered owner remains liable for the costs incurred in removing,
21 storing, and disposing of the abandoned vehicle under subsection (1) of
22 this section. Nothing in this section limits in any way the registered
23 owner's rights in a civil action or as restitution in a criminal action
24 against a person responsible for the theft of the vehicle.

25 (4) Properly filing a report of sale or transfer regarding the
26 vehicle involved in accordance with RCW 46.12.101(1) (~~or a vehicle~~
27 theft report filed with a law enforcement agency)) relieves the last
28 registered owner of liability under subsections (1) and (2) of this
29 section. If the date of sale as indicated on the report of sale is on
30 or before the date of impoundment, the buyer identified on the latest
31 properly filed report of sale with the department is assumed liable for
32 the costs incurred in removing, storing, and disposing of the abandoned
33 vehicle, less amounts realized at auction. If the date of sale is
34 after the date of impoundment, the previous registered owner is assumed
35 to be liable for such costs. A licensed vehicle dealer is not liable
36 under subsections (1) and (2) of this section if the dealer, as
37 transferee or assignee of the last registered owner of the vehicle
38 involved, has complied with the requirements of RCW 46.70.122 upon
39 selling or otherwise disposing of the vehicle, or if the dealer has

1 timely filed a transitional ownership record or report of sale under
2 section 12 of this act. In that case the person to whom the licensed
3 vehicle dealer has sold or transferred the vehicle is assumed liable
4 for the costs incurred in removing, storing, and disposing of the
5 abandoned vehicle, less amounts realized at auction.

6 ((+4)) (5) For the purposes of reporting notices of traffic
7 infraction to the department under RCW 46.20.270 and 46.52.100, and for
8 purposes of reporting notices of failure to appear, respond, or comply
9 regarding a notice of traffic infraction to the department under RCW
10 46.63.070(5), a traffic infraction under subsection (2) of this section
11 is not considered to be a standing, stopping, or parking violation.

12 ((+5)) (6) A notice of infraction for a violation of this section
13 may be filed with a court of limited jurisdiction organized under Title
14 3, 35, or 35A RCW, or with a violations bureau subject to the court's
15 jurisdiction.

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

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

34 (2) In the case of an abandoned vehicle, or other item of personal
35 property registered or titled with the department, within twenty-four
36 hours after receiving information on the owners from the department
37 through the abandoned vehicle report, the tow truck operator shall send

1 by certified mail, with return receipt requested, a notice of custody
2 and sale to the legal and registered owners.

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

7 (4) No notices need be sent to the legal or registered owners of an
8 impounded vehicle or other item of personal property registered or
9 titled with the department, if the vehicle or personal property has
10 been redeemed.

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

13 Whenever the driver of a vehicle is arrested for a violation of RCW
14 46.61.502 or 46.61.504 or of RCW 46.20.342 or 46.20.420, the
15 (~~arresting officer may take custody of the vehicle and provide for its~~
16 ~~prompt removal to a place of safety~~) vehicle is subject to
17 impoundment, pursuant to applicable local ordinance or state agency
18 rule at the direction of a law enforcement officer. In addition, a

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

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

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

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

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

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

37 (6) Whenever a vehicle without a special license plate, card, or
38 decal indicating that the vehicle is being used to transport a disabled

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

4 (7) Upon determining that a person is operating a motor vehicle
5 without a valid driver's license in violation of RCW 46.20.005 or with
6 a license that has been expired for ninety days or more(~~(, or with a~~
7 ~~suspended or revoked license in violation of RCW 46.20.342 or~~
8 ~~46.20.420))~~).

9 Nothing in this section may derogate from the powers of police
10 officers under the common law. For the purposes of this section, a
11 place of safety may include the business location of a registered tow
12 truck operator.

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

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

19 (a) Only the legal owner, the registered owner, a person authorized
20 in writing by the registered owner or the vehicle's insurer, a person
21 who is determined and verified by the operator to have the permission
22 of the registered owner of the vehicle or other item of personal
23 property registered or titled with the department, or one who has
24 purchased a vehicle or item of personal property registered or titled
25 with the department from the registered owner who produces proof of
26 ownership or written authorization and signs a receipt therefor, may
27 redeem an impounded vehicle or items of personal property registered or
28 titled with the department. In addition, a vehicle impounded because
29 the operator is in violation of RCW 46.20.342(1)(c) shall not be
30 released until a person eligible to redeem it under this subsection
31 (1)(a) satisfies the requirements of (b) of this subsection, including
32 paying all towing, removal, and storage fees, notwithstanding the fact
33 that the hold was ordered by a government agency. If the department's
34 records show that the operator has been convicted of a violation of RCW
35 46.20.342 or a similar local ordinance within the past five years, the
36 vehicle may be held for up to thirty days at the written direction of
37 the agency ordering the vehicle impounded. A vehicle impounded because
38 the operator is arrested for a violation of RCW 46.20.342 may be

1 released only pursuant to a written order from the agency that ordered
2 the vehicle impounded. An agency may issue a written order to release
3 pursuant to a provision of an applicable state agency rule or local
4 ordinance authorizing release on the basis of economic or personal
5 hardship to the spouse of the operator, taking into consideration
6 public safety factors, including the operator's criminal history and
7 driving record.

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

23 (b) The vehicle or other item of personal property registered or
24 titled with the department shall be released upon the presentation to
25 any person having custody of the vehicle of commercially reasonable
26 tender sufficient to cover the costs of towing, storage, or other
27 services rendered during the course of towing, removing, impounding, or
28 storing any such vehicle. In addition, if a vehicle is impounded
29 because the operator was arrested for a violation of RCW 46.20.342 or
30 46.20.420 and was being operated by the registered owner when it was
31 impounded, it must not be released to any person until the registered
32 owner establishes with the agency that ordered the vehicle impounded
33 that any penalties, fines, or forfeitures owed by him or her have been
34 satisfied. Commercially reasonable tender shall include, without
35 limitation, cash, major bank credit cards, or personal checks drawn on
36 in-state banks if accompanied by two pieces of valid identification,
37 one of which may be required by the operator to have a photograph. If
38 the towing firm can determine through the customer's bank or a check
39 verification service that the presented check would not be paid by the

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

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

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

38 (3)(a) The ((district)) court, within five days after the request
39 for a hearing, shall notify the registered tow truck operator, the

1 person requesting the hearing if not the owner, the registered and
2 legal owners of the vehicle or other item of personal property
3 registered or titled with the department, and the person or agency
4 authorizing the impound in writing of the hearing date and time.

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

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

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

22 (e) If the impoundment is determined to be in violation of this
23 chapter, then the registered and legal owners of the vehicle or other
24 item of personal property registered or titled with the department
25 shall bear no impoundment, towing, or storage fees, and any security
26 shall be returned or discharged as appropriate, and the person or
27 agency who authorized the impoundment shall be liable for any towing,
28 storage, or other impoundment fees permitted under this chapter. The
29 court shall enter judgment in favor of the registered tow truck
30 operator against the person or agency authorizing the impound for the
31 impoundment, towing, and storage fees paid. In addition, the court
32 shall enter judgment in favor of the registered and legal owners of the
33 vehicle, or other item of personal property registered or titled with
34 the department, for the amount of the filing fee required by law for
35 the impound hearing petition as well as reasonable damages for loss of
36 the use of the vehicle during the time the same was impounded, for not
37 less than fifty dollars per day, against the person or agency
38 authorizing the impound. However, if an impoundment arising from an
39 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in

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

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

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

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

34 (1) If, after the expiration of fifteen days from the date of
35 mailing of notice of custody and sale required in RCW 46.55.110(2) to
36 the registered and legal owners, the vehicle remains unclaimed and has
37 not been listed as a stolen vehicle, then the registered tow truck

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

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

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

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

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

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

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

27 (f) The successful bidder shall apply for title within fifteen
28 days;

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

36 (h) All surplus moneys derived from the auction after satisfaction
37 of the registered tow truck operator's lien shall be remitted within
38 thirty days to the department for deposit in the state motor vehicle
39 fund. A report identifying the vehicles resulting in any surplus shall

1 accompany the remitted funds. If the director subsequently receives a
2 valid claim from the registered vehicle owner of record as determined
3 by the department within one year from the date of the auction, the
4 surplus moneys shall be remitted to such owner;

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

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

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

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

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

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

30 (2) Any local government ordinance or state agency rule that
31 provides for impoundment and redemption of vehicles may allow for
32 alternative home impoundment of vehicles for all or part of the
33 impoundment periods authorized in RCW 46.55.120. Home impoundment is
34 an alternative to impoundment by a registered tow truck operator. Home
35 impoundment consists of removing a vehicle to the registered owner's
36 residence or other property, or to another place authorized by the
37 ordinance or rule, and placing a boot or other device on the vehicle to
38 render it immobile. The jurisdiction authorizing home impoundment may

1 charge a reasonable rental fee for the use of the boot or other device
2 during the period of home impoundment. The local government ordinance
3 or state agency rule may provide that the owner or driver of the
4 vehicle may elect whether to be subject to impoundment under RCW
5 46.55.120 or home impoundment under this section.

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

10 (4) At the end of the period of home impoundment, the vehicle may
11 be released only after all rental fees have been paid and only to a
12 person who would qualify to redeem an impounded vehicle under RCW
13 46.55.120.

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

18 (6) A local ordinance or state agency rule may provide that if the
19 boot or other device on a vehicle in home impoundment is tampered with,
20 damaged, removed, or rendered inoperative, the vehicle may be released
21 only upon payment of all applicable rental fees plus payment of a fee
22 equal to the impoundment costs that would have been incurred had the
23 vehicle been impounded under RCW 46.55.120 during the period of home
24 impoundment.

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

27 The definitions set forth in this section apply throughout this
28 chapter:

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

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

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

37 (a) "Public impound" means that the vehicle has been impounded at
38 the direction of a law enforcement officer or by a public official

1 having jurisdiction over the public property upon which the vehicle was
2 located.

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

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

8 (a) Is three years old or older;

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

12 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

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

Subject to removal after:

(a) Public locations:

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

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

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

(b) Private locations:

(i) On residential property Immediately

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

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

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

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

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle, and for any items of personal property registered or titled with the department, that are in the operator's possession after the (~~ninety-six~~) one hundred twenty hour abandonment period. Such report need not be sent when the impoundment

1 is pursuant to a writ, court order, or police hold. The owner
2 notification and abandonment process shall be initiated by the
3 registered tow truck operator immediately following notification by a
4 court or law enforcement officer that the writ, court order, or police
5 hold is no longer in effect.

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

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

15 (5) If the operator sends an abandoned vehicle report to the
16 department and the department finds no owner information, an operator
17 may proceed with an inspection of the vehicle and any other items of
18 personal property registered or titled with the department to determine
19 whether owner identification is within the vehicle.

20 (6) If the operator finds no owner identification, the operator
21 shall immediately notify the appropriate law enforcement agency, which
22 shall search the vehicle and any other items of personal property
23 registered or titled with the department for the vehicle identification
24 number or other appropriate identification numbers and check the
25 necessary records to determine the vehicle's or other property's
26 owners.

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

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

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

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

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

13 (a) If the security interest was perfected under the law of the
14 jurisdiction where the vehicle was when the security interest was
15 attached, the following rules apply:

16 (b) If the name of the secured party is shown on the existing
17 certificate of ownership issued by that jurisdiction, the security
18 interest continues perfected in this state. The name of the secured
19 party shall be shown on the certificate of ownership issued for the
20 vehicle by this state. The security interest continues perfected in
21 this state upon the issuance of such ownership certificate.

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

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

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

30 (1) If an owner transfers his or her interest in a vehicle, other
31 than by the creation, deletion, or change of a security interest, the
32 owner shall, at the time of the delivery of the vehicle, execute an
33 assignment to the transferee and provide an odometer disclosure
34 statement under RCW 46.12.124 on the certificate of ownership or as the
35 department otherwise prescribes, and cause the certificate and
36 assignment to be transmitted to the transferee. ~~((Within five days,~~
37 ~~excluding Saturdays, Sundays, and state and federal holidays,))~~ The
38 owner shall notify the department or its agents or subagents, in

1 writing, on the appropriate form, of the date of the sale or transfer,
2 the name and address of the owner and of the transferee, the
3 transferee's driver's license number if available, and such description
4 of the vehicle, including the vehicle identification number, the
5 license plate number, or both, as may be required in the appropriate
6 form provided or approved for that purpose by the department. The
7 report of sale will be deemed properly filed if all information
8 required in this section is provided on the form and includes a
9 department-authorized notation that the document was received by the
10 department, its agents, or subagents on or before the fifth day after
11 the sale of the vehicle, excluding Saturdays, Sundays, and state and
12 federal holidays. Agents and subagents shall immediately
13 electronically transmit the seller's report of sale to the department.
14 Reports of sale processed and recorded by the department's agents or
15 subagents may be subject to fees as specified in RCW 46.01.140 (4)(a)
16 or (5)(b).

17 (2) The requirements of subsection (1) of this section to provide
18 an odometer disclosure statement apply to the transfer of vehicles held
19 for lease when transferred to a lessee and then to the lessor at the
20 end of the leasehold and to vehicles held in a fleet when transferred
21 to a purchaser.

22 (3) Except as provided in RCW ((46.12.120)) 46.70.122 the
23 transferee shall within fifteen days after delivery to the transferee
24 of the vehicle, execute the application for a new certificate of
25 ownership in the same space provided therefor on the certificate or as
26 the department prescribes, and cause the certificates and application
27 to be transmitted to the department.

28 (4) Upon request of the owner or transferee, a secured party in
29 possession of the certificate of ownership shall, unless the transfer
30 was a breach of its security agreement, either deliver the certificate
31 to the transferee for transmission to the department or, when the
32 secured party receives the owner's assignment from the transferee, it
33 shall transmit the transferee's application for a new certificate, the
34 existing certificate, and the required fee to the department.
35 Compliance with this section does not affect the rights of the secured
36 party.

37 (5) If a security interest is reserved or created at the time of
38 the transfer, the certificate of ownership shall be retained by or

1 delivered to the person who becomes the secured party, and the parties
2 shall comply with the provisions of RCW 46.12.170.

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

- 14 (a) The department requesting additional supporting documents;
- 15 (b) Extended hospitalization or illness of the purchaser;
- 16 (c) Failure of a legal owner to release his or her interest;
- 17 (d) Failure, negligence, or nonperformance of the department,
18 auditor, or subagent.

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

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

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

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

37 (1) The purpose of a transitional ownership record is to enable a
38 security interest in a motor vehicle to be perfected in a timely manner

1 when the certificate of ownership is not available at the time the
2 security interest is created, and to provide for timely notification to
3 security interest holders under chapter 46.55 RCW.

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

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

11 (b) To the best of the knowledge of the selling dealer or new
12 security interest holder, the certificate of ownership will not be
13 received for submission to the department within twenty calendar days
14 of the date of sale of the vehicle, or if no sale is involved, within
15 twenty calendar days of the date the security agreement or contract is
16 executed.

17 (3) A person shall submit the transitional ownership record to the
18 department or to any of its agents or subagents. Agents and subagents
19 shall immediately electronically transmit the transitional ownership
20 records to the department. A transitional ownership document processed
21 and recorded by an agent or subagent may be subject to fees as
22 specified in RCW 46.01.140(4)(a) or (5)(b).

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

25 (a) The date of sale;

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

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

28 (d) If there are multiple security interest holders, the priorities
29 of interest if the security interest holders do not jointly hold a
30 single security interest;

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

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

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

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

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

12 NEW SECTION. **Sec. 13.** If this act mandates an increased level of
13 service by local governments, the local government may, under RCW
14 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the
15 legislature. The claims shall be subject to verification by the office
16 of financial management.

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

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