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**SUBSTITUTE SENATE BILL 5135**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Roach, Fairley, Johnson, Winsley and Oke)

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 46.55.113, 46.55.120, 46.55.010, 46.55.100, 46.12.095, and  
4 46.12.101; adding a new section to chapter 46.20 RCW; adding a new  
5 section to chapter 46.55 RCW; adding a new section to chapter 46.12  
6 RCW; creating a new section; 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, and to provide in certain circumstances for the  
33 forfeiture of such vehicles where the owner continues to drive despite  
34 having been previously convicted of the crime of driving with a  
35 suspended or revoked license in violation of RCW 46.20.342 and  
36 46.20.420.

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

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

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

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

33 (4) A forfeiture proceeding is commenced by the law enforcement  
34 agency causing notice of the intended forfeiture of the seized vehicle  
35 to be served not less than ten days after seizure on the registered tow  
36 truck operator which impounded the vehicle, the owner of the vehicle  
37 seized, the person in charge of the vehicle when it was seized, and any  
38 person having a known right or interest in the vehicle, including a  
39 community property interest. The notice may be served by any method

1 authorized by law or court rule, including, but not limited to, service  
2 by certified mail with return receipt requested. Service by mail is  
3 complete upon mailing. Notice in the case of a vehicle subject to a  
4 security interest that has been perfected on a certificate of title  
5 must be made by service upon the secured party or the secured party's  
6 assignee at the address shown on the financing statement or the  
7 certificate of title. Once the registered tow truck operator which  
8 impounded the vehicle receives notice, the vehicle must not be released  
9 except upon written order of the chief law enforcement officer of the  
10 agency directing the impoundment or his or her designee, an  
11 administrative law judge, or a court.

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

14 (6) Notwithstanding RCW 46.52.120(2), in any hearing under RCW  
15 46.55.120 to contest the validity of the impoundment or under this  
16 section to contest the validity of the forfeiture, an abstract of the  
17 person's driving record may be admitted as and is prima facie evidence  
18 of the status of the person's driving privilege and that the person was  
19 convicted of each offense shown by the abstract. In addition, a  
20 certified vehicle registration of the vehicle sought to be forfeited  
21 shall be admissible without further evidentiary foundation.

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

26 **Sec. 3.** RCW 46.55.113 and 1996 c 89 s 1 are each amended to read  
27 as follows:

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

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

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

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

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

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

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

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

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

26 **Sec. 4.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read  
27 as follows:

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

33 (a) Only the legal owner, the registered owner, a person authorized  
34 in writing by the registered owner or the vehicle's insurer, a person  
35 who is determined and verified by the operator to have the permission  
36 of the registered owner of the vehicle or other item of personal  
37 property registered or titled with the department, or one who has  
38 purchased a vehicle or item of personal property registered or titled

1 with the department from the registered owner who produces proof of  
2 ownership or written authorization and signs a receipt therefor, may  
3 redeem an impounded vehicle or items of personal property registered or  
4 titled with the department. In addition, a person redeeming a vehicle  
5 impounded under section 2 of this act must prior to redemption  
6 establish with the agency that ordered the vehicle impounded that he or  
7 she has a valid driver's license and is in compliance with RCW  
8 46.30.020. A vehicle impounded under section 2 of this act can only be  
9 released pursuant to a written order from the agency that ordered the  
10 vehicle impounded.

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

36 (2)(a) The registered tow truck operator shall give to each person  
37 who seeks to redeem an impounded vehicle, or item of personal property  
38 registered or titled with the department, written notice of the right  
39 of redemption and opportunity for a hearing, which notice shall be

1 accompanied by a form to be used for requesting a hearing, the name of  
2 the person or agency authorizing the impound, and a copy of the towing  
3 and storage invoice. The registered tow truck operator shall maintain  
4 a record evidenced by the redeeming person's signature that such  
5 notification was provided.

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

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

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

36 (c) At the conclusion of the hearing, the district or municipal  
37 court shall determine whether the impoundment was proper, whether the  
38 towing or storage fees charged were in compliance with the posted  
39 rates, and who is responsible for payment of the fees. The court may

1 not adjust fees or charges that are in compliance with the posted or  
2 contracted rates.

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

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

37 TO: . . . . .  
38 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
39 . . . . . Court located at . . . . . in the sum of



1 \$. . . . ., in an action entitled . . . . ., Case No.  
2 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
3 will be awarded against you under RCW . . . if the judgment is  
4 not paid within 15 days of the date of this notice.  
5 DATED this . . . . day of . . . . ., 19. . .

6 Signature . . . . .  
7 Typed name and address  
8 of party mailing notice

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

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

19 In any administrative or judicial proceeding involving a forfeiture  
20 of a vehicle under section 2 of this act, the chief law enforcement  
21 officer or court shall provide for the protection of a bona fide  
22 community property interest in the vehicle of a person other than the  
23 person whose operation of the vehicle with a suspended or revoked  
24 license led to the forfeiture.

25 **Sec. 6.** 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.

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

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

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

10 (a) Is three years old or older;

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

14 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

37 (12) "Unauthorized vehicle" means a vehicle that is subject to  
38 impoundment after being left unattended in one of the following public  
39 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. 7.** 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

1 operator's possession after the (~~ninety-six~~) one hundred twenty hour  
2 abandonment period. Such report need not be sent when the impoundment  
3 is pursuant to a writ, court order, or police hold. The owner  
4 notification and abandonment process shall be initiated by the  
5 registered tow truck operator immediately following notification by a  
6 court or law enforcement officer that the writ, court order, or police  
7 hold is no longer in effect.

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

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

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

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

29 **Sec. 8.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended  
30 to read as follows:

31 A security interest in a vehicle other than one held as inventory  
32 by a manufacturer or a dealer and for which a certificate of ownership  
33 is required is perfected only by compliance with the requirements of  
34 section 10 of this act under the circumstances provided for therein or  
35 by compliance with the requirements of this section:

36 (1) A security interest is perfected (~~only~~) by the department's  
37 receipt of: (a) The existing certificate, if any, and (b) an

1 application for a certificate of ownership containing the name and  
2 address of the secured party, and (c) tender of the required fee.

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

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

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

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

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

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

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

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

1 ~~excluding Saturdays, Sundays, and state and federal holidays,))~~ The  
2 owner shall notify the department or its agents or subagents, in  
3 writing, on the appropriate form, of the date of the sale or transfer,  
4 the name and address of the owner and of the transferee, the  
5 transferee's driver's license number, if available, and such  
6 description of the vehicle, including the vehicle identification  
7 number, the license plate number, or both, as may be required in the  
8 appropriate form provided for that purpose by the department. The  
9 report of sale is deemed properly filed if all required information is  
10 provided on the form and includes a department authorized notation that  
11 the document was received by the department or its agents or subagents  
12 on or before the fifth day following the date of sale of the vehicle,  
13 excluding Saturdays, Sundays, and state and federal holidays. Any  
14 report 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. 10.** 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 acceptable as an ownership  
5 record only if the certificate of ownership for the motor vehicle:

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

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

15 (3) A person shall submit the transitional ownership record to the  
16 department or to any of its authorized subagents or auditors, and pay  
17 a filing fee of five dollars. The fee shall be paid at the time of  
18 submission of the record unless the department by rule establishes an  
19 alternative payment method.

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

22 (a) The date of sale, or if no sale is involved, the date the  
23 contract or security agreement creating the security interest being  
24 perfected was signed;

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

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

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

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

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

34 (5) The report of sale form prescribed by the department under RCW  
35 46.12.101 may be utilized by a vehicle dealer as the transitional  
36 ownership record.

37 (6) Notwithstanding the provisions of RCW 46.12.095 (1) and (2),  
38 compliance with the requirements of this section shall result in  
39 perfection of a security interest in the vehicle as of the time the



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

9 (7) The department shall adopt rules in accordance with chapter  
10 34.05 RCW to develop the form for the transitional ownership record.

11 NEW SECTION. **Sec. 11.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are  
12 each repealed.

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