
SENATE BILL 5342

State of Washington

55th Legislature

1997 Regular Session

By Senators Sellar and Prentice

Read first time 01/23/97. Referred to Committee on Transportation.

1 AN ACT Relating to procedures after vehicle impoundment; and
2 amending RCW 46.55.105, 46.55.110, 46.55.120, and 46.55.130.

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

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

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

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

1 (3) Filing a report of sale or transfer regarding the vehicle
2 involved in accordance with RCW 46.12.101(1) or a vehicle theft report
3 filed with a law enforcement agency relieves the last registered owner
4 of criminal liability under subsections (1) and (2) of this section,
5 but the registered owner remains responsible for the costs incurred in
6 removing, storing, and disposing of the abandoned vehicle, less amounts
7 realized at auction. Nothing in this section limits in any way the
8 registered owner's rights in a civil action against a person
9 responsible either for the theft of the vehicle or for failing to
10 transfer the title after sale.

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

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

21 **Sec. 2.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read
22 as follows:

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

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

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

11 (4) No notices need be sent to the legal or registered owners of an
12 impounded vehicle or other item of personal property registered or
13 titled with the department, if the vehicle or personal property has
14 been redeemed.

15 **Sec. 3.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read
16 as follows:

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

21 (a) Only the legal owner, the registered owner, a person authorized
22 in writing by the registered owner or the vehicle's insurer, a person
23 who is determined and verified by the operator to have the permission
24 of the registered owner of the vehicle or other item of personal
25 property registered or titled with the department, or one who has
26 purchased a vehicle or item of personal property registered or titled
27 with the department from the registered owner who produces proof of
28 ownership or written authorization and signs a receipt therefor, may
29 redeem an impounded vehicle or items of personal property registered or
30 titled with the department.

31 (b) The vehicle or other item of personal property registered or
32 titled with the department shall be released upon the presentation to
33 any person having custody of the vehicle of commercially reasonable
34 tender sufficient to cover the costs of towing, storage, or other
35 services rendered during the course of towing, removing, impounding, or
36 storing any such vehicle. Commercially reasonable tender shall
37 include, without limitation, cash, major bank credit cards, or personal
38 checks drawn on in-state banks if accompanied by two pieces of valid

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

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

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

1 (3)(a) The district court, within five days after the request for
2 a hearing, shall notify the registered tow truck operator, the person
3 requesting the hearing if not the owner, the registered and legal
4 owners of the vehicle or other item of personal property registered or
5 titled with the department, and the person or agency authorizing the
6 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 court shall
14 determine whether the impoundment was proper, whether the towing or
15 storage fees charged were in compliance with the posted rates, and who
16 is responsible for payment of the fees. The court may not adjust fees
17 or charges that are in compliance with the posted or contracted rates.

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

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

1 authorizing the impound. If any judgment entered is not paid within
2 fifteen days of notice in writing of its entry, the court shall award
3 reasonable attorneys' fees and costs against the defendant in any
4 action to enforce the judgment. Notice of entry of judgment may be
5 made by registered or certified mail, and proof of mailing may be made
6 by affidavit of the party mailing the notice. Notice of the entry of
7 the judgment shall read essentially as follows:

8 TO:

9 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
10 Court located at in the sum of
11 \$., in an action entitled, Case No.
12 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
13 will be awarded against you under RCW . . . if the judgment is
14 not paid within 15 days of the date of this notice.

15 DATED this day of, 19. . .

16 Signature
17 Typed name and address
18 of party mailing notice

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

27 **Sec. 4.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read
28 as follows:

29 (1) If, after the expiration of fifteen days from the date of
30 mailing of notice of custody and sale required in RCW 46.55.110(2) to
31 the registered and legal owners, the vehicle remains unclaimed and has
32 not been listed as a stolen vehicle, then the registered tow truck
33 operator having custody of the vehicle shall conduct a sale of the
34 vehicle at public auction after having first published a notice of the
35 date, place, and time of the auction in a newspaper of general
36 circulation in the county in which the vehicle is located not less than
37 three days and no more than ten days before the date of the auction.

1 The notice shall contain a description of the vehicle including the
2 make, model, year, and license number and a notification that a three-
3 hour public viewing period will be available before the auction. The
4 auction shall be held during daylight hours of a normal business day.

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

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

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

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

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

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

22 (f) The successful bidder shall apply for title within fifteen
23 days;

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

31 (h) All surplus moneys derived from the auction after satisfaction
32 of the registered tow truck operator's lien shall be remitted within
33 thirty days to the department for deposit in the state motor vehicle
34 fund. A report identifying the vehicles resulting in any surplus shall
35 accompany the remitted funds. If the director subsequently receives a
36 valid claim from the registered vehicle owner of record as determined
37 by the department within one year from the date of the auction, the
38 surplus moneys shall be remitted to such owner;

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

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

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

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

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