

2 ESHB 1131 - S COMM AMD
3 By Committee on Judiciary

4 ADOPTED 4/6/99

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

7 NEW SECTION. **Sec. 1.** The legislature finds that most law
8 enforcement effort to prevent prostitution is directed at punishing
9 prostitutes. The legislature also finds that many patrons of
10 prostitutes use motor vehicles in order to obtain the services of
11 prostitutes and that successful prevention of prostitution involves
12 efforts to curtail the demand for services offered by prostitutes. It
13 is the intent of the legislature to decrease the demand for
14 prostitution services and thereby eliminate the economic foundation for
15 the prostitution industry. It is also the intent of the legislature to
16 eliminate traffic congestion and other concerns to neighborhoods and
17 business areas caused by patrons cruising in motor vehicles in areas of
18 high prostitution activity.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.88 RCW
20 to read as follows:

21 (1) When sentencing or imposing conditions on a person convicted
22 of, or receiving a deferred sentence or deferred prosecution for,
23 violating RCW 9A.88.110 or 9.68A.100, the court must impose a
24 requirement that the offender:

25 (a) Not be subsequently arrested for patronizing a prostitute or
26 patronizing a juvenile prostitute; and

27 (b) Remain outside the geographical area, prescribed by the court,
28 in which the person was arrested for violating RCW 9A.88.110 or
29 9.68A.100, unless such a requirement would interfere with the person's
30 legitimate employment or residence or otherwise be infeasible.

31 (2) This requirement is in addition to the penalties set forth in
32 RCW 9A.88.110, 9A.88.120, and 9.68A.100.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.88 RCW
34 to read as follows:

1 (1) Upon an arrest for a suspected violation of patronizing a
2 prostitute or patronizing a juvenile prostitute, the arresting law
3 enforcement officer may impound the person's vehicle if (a) the motor
4 vehicle was used in the commission of the crime; (b) the person
5 arrested is the owner of the vehicle; and (c) the person arrested has
6 previously been convicted of patronizing a prostitute, under RCW
7 9A.88.110, or patronizing a juvenile prostitute, under RCW 9.68A.100.

8 (2) Impoundments performed under this section shall be in
9 accordance with chapter 46.55 RCW.

10 **Sec. 4.** RCW 9.68A.100 and 1989 c 32 s 8 are each amended to read
11 as follows:

12 A person is guilty of patronizing a juvenile prostitute if that
13 person engages or agrees or offers to engage in sexual conduct with a
14 minor in return for a fee, and is guilty of a class C felony punishable
15 under chapter 9A.20 RCW. In addition to any other penalty provided
16 under chapter 9A.20 RCW, a person guilty of patronizing a juvenile
17 prostitute is subject to the provisions under sections 2 and 3 of this
18 act.

19 **Sec. 5.** RCW 46.55.120 and 1998 c 203 s 5 are each amended to read
20 as follows:

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

26 (a) Only the legal owner, the registered owner, a person authorized
27 in writing by the registered owner or the vehicle's insurer, a person
28 who is determined and verified by the operator to have the permission
29 of the registered owner of the vehicle or other item of personal
30 property registered or titled with the department, or one who has
31 purchased a vehicle or item of personal property registered or titled
32 with the department from the registered owner who produces proof of
33 ownership or written authorization and signs a receipt therefor, may
34 redeem an impounded vehicle or items of personal property registered or
35 titled with the department. In addition, a vehicle impounded because
36 the operator is in violation of RCW 46.20.342(1)(c) shall not be
37 released until a person eligible to redeem it under this subsection

1 (1)(a) satisfies the requirements of (b) of this subsection, including
2 paying all towing, removal, and storage fees, notwithstanding the fact
3 that the hold was ordered by a government agency. If the department's
4 records show that the operator has been convicted of a violation of RCW
5 46.20.342 or a similar local ordinance within the past five years, the
6 vehicle may be held for up to thirty days at the written direction of
7 the agency ordering the vehicle impounded. A vehicle impounded because
8 the operator is arrested for a violation of RCW 46.20.342 may be
9 released only pursuant to a written order from the agency that ordered
10 the vehicle impounded. An agency may issue a written order to release
11 pursuant to a provision of an applicable state agency rule or local
12 ordinance authorizing release on the basis of economic or personal
13 hardship to the spouse of the operator, taking into consideration
14 public safety factors, including the operator's criminal history and
15 driving record.

16 If a vehicle is impounded because the operator is in violation of
17 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
18 days at the written direction of the agency ordering the vehicle
19 impounded. However, if the department's records show that the operator
20 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
21 similar local ordinance within the past five years, the vehicle may be
22 held at the written direction of the agency ordering the vehicle
23 impounded for up to sixty days, and for up to ninety days if the
24 operator has two or more such prior offenses. If a vehicle is
25 impounded because the operator is arrested for a violation of RCW
26 46.20.342, the vehicle may not be released until a person eligible to
27 redeem it under this subsection (1)(a) satisfies the requirements of
28 (b) of this subsection, including paying all towing, removal, and
29 storage fees, notwithstanding the fact that the hold was ordered by a
30 government agency.

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. In addition, if a vehicle is impounded
37 because the operator was arrested for a violation of RCW 46.20.342 or
38 46.20.420 and was being operated by the registered owner when it was
39 impounded, it must not be released to any person until the registered

1 owner establishes with the agency that ordered the vehicle impounded
2 that any penalties, fines, or forfeitures owed by him or her have been
3 satisfied. Commercially reasonable tender shall include, without
4 limitation, cash, major bank credit cards, or personal checks drawn on
5 in-state banks if accompanied by two pieces of valid identification,
6 one of which may be required by the operator to have a photograph. If
7 the towing firm can determine through the customer's bank or a check
8 verification service that the presented check would not be paid by the
9 bank or guaranteed by the service, the towing firm may refuse to accept
10 the check. Any person who stops payment on a personal check or credit
11 card, or does not make restitution within ten days from the date a
12 check becomes insufficient due to lack of funds, to a towing firm that
13 has provided a service pursuant to this section or in any other manner
14 defrauds the towing firm in connection with services rendered pursuant
15 to this section shall be liable for damages in the amount of twice the
16 towing and storage fees, plus costs and reasonable attorney's fees.

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

26 (b) Any person seeking to redeem an impounded vehicle under this
27 section has a right to a hearing in the district or municipal court for
28 the jurisdiction in which the vehicle was impounded to contest the
29 validity of the impoundment or the amount of towing and storage
30 charges. The district court has jurisdiction to determine the issues
31 involving all impoundments including those authorized by the state or
32 its agents. The municipal court has jurisdiction to determine the
33 issues involving impoundments authorized by agents of the municipality.
34 Any request for a hearing shall be made in writing on the form provided
35 for that purpose and must be received by the appropriate court within
36 ten days of the date the opportunity was provided for in subsection
37 (2)(a) of this section. At the time of the filing of the hearing
38 request, the petitioner shall pay to the court clerk a filing fee in
39 the same amount required for the filing of a suit in district court.

1 If the hearing request is not received by the court within the ten-day
2 period, the right to a hearing is waived and the registered owner is
3 liable for any towing, storage, or other impoundment charges permitted
4 under this chapter. Upon receipt of a timely hearing request, the
5 court shall proceed to hear and determine the validity of the
6 impoundment.

7 (3)(a) The court, within five days after the request for a hearing,
8 shall notify the registered tow truck operator, the person requesting
9 the hearing if not the owner, the registered and legal owners of the
10 vehicle or other item of personal property registered or titled with
11 the department, and the person or agency authorizing the impound in
12 writing of the hearing date and time.

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

19 (c) At the conclusion of the hearing, the court shall determine
20 whether the impoundment was proper, whether the towing or storage fees
21 charged were in compliance with the posted rates, and who is
22 responsible for payment of the fees. The court may not adjust fees or
23 charges that are in compliance with the posted or contracted rates.

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

30 (e) If the impoundment is determined to be in violation of this
31 chapter, then the registered and legal owners of the vehicle or other
32 item of personal property registered or titled with the department
33 shall bear no impoundment, towing, or storage fees, and any security
34 shall be returned or discharged as appropriate, and the person or
35 agency who authorized the impoundment shall be liable for any towing,
36 storage, or other impoundment fees permitted under this chapter. The
37 court shall enter judgment in favor of the registered tow truck
38 operator against the person or agency authorizing the impound for the
39 impoundment, towing, and storage fees paid. In addition, the court

1 shall enter judgment in favor of the registered and legal owners of the
2 vehicle, or other item of personal property registered or titled with
3 the department, for the amount of the filing fee required by law for
4 the impound hearing petition as well as reasonable damages for loss of
5 the use of the vehicle during the time the same was impounded, for not
6 less than fifty dollars per day, against the person or agency
7 authorizing the impound. However, if an impoundment arising from an
8 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in
9 violation of this chapter, then the law enforcement officer directing
10 the impoundment and the government employing the officer are not liable
11 for damages if the officer relied in good faith and without gross
12 negligence on the records of the department in ascertaining that the
13 operator of the vehicle had a suspended or revoked driver's license.
14 If any judgment entered is not paid within fifteen days of notice in
15 writing of its entry, the court shall award reasonable attorneys' fees
16 and costs against the defendant in any action to enforce the judgment.
17 Notice of entry of judgment may be made by registered or certified
18 mail, and proof of mailing may be made by affidavit of the party
19 mailing the notice. Notice of the entry of the judgment shall read
20 essentially as follows:

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

32 (4) Any impounded abandoned vehicle or item of personal property
33 registered or titled with the department that is not redeemed within
34 fifteen days of mailing of the notice of custody and sale as required
35 by RCW 46.55.110(2) shall be sold at public auction in accordance with
36 all the provisions and subject to all the conditions of RCW 46.55.130.
37 A vehicle or item of personal property registered or titled with the

1 department may be redeemed at any time before the start of the auction
2 upon payment of the applicable towing and storage fees."

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6 On page 1, line 1 of the title, after "prostitutes;" strike the
7 remainder of the title and insert "amending RCW 9.68A.100 and
8 46.55.120; adding new sections to chapter 9A.88 RCW; creating a new
9 section; and prescribing penalties."

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