

2 SHB 1558 - S COMM AMD
3 By Committee on Transportation

4 ADOPTED 4/14/99

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

7 "Sec. 1. RCW 46.55.120 and 1998 c 203 s 5 are each amended to read
8 as follows:

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

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

1 hardship to the spouse of the operator, taking into consideration
2 public safety factors, including the operator's criminal history and
3 driving record.

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

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

1 refuse to accept the check. Any person who stops payment on a personal
2 check or credit card, or does not make restitution within ten days from
3 the date a check becomes insufficient due to lack of funds, to a towing
4 firm that has provided a service pursuant to this section or in any
5 other manner defrauds the towing firm in connection with services
6 rendered pursuant to this section shall be liable for damages in the
7 amount of twice the towing and storage fees, plus costs and reasonable
8 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 appropriate court within
28 ten days of the date the opportunity was provided for in subsection
29 (2)(a) of this section. At the time of the filing of the hearing
30 request, the petitioner shall pay to the court clerk a filing fee in
31 the same amount required for the filing of a suit in district court.
32 If the hearing request is not received by the court within the ten-day
33 period, the right to a hearing is waived and the registered owner is
34 liable for any towing, storage, or other impoundment charges permitted
35 under this chapter. Upon receipt of a timely hearing request, the
36 court shall proceed to hear and determine the validity of the
37 impoundment.

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

1 the hearing if not the owner, the registered and legal owners of the
2 vehicle or other item of personal property registered or titled with
3 the department, and the person or agency authorizing the impound in
4 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 court shall determine
12 whether the impoundment was proper, whether the towing or storage fees
13 charged were in compliance with the posted rates, and who is
14 responsible for payment of the fees. The court may not adjust fees or
15 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, (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."

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33 By Committee on Transportation

34 ADOPTED 4/14/99

1 On page 1, line 1 of the title, after "vehicles;" strike the
2 remainder of the title and insert "and amending RCW 46.55.120."

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