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HOUSE BILL 2025

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Van Luven, Cooper, Haigh and DeBolt

Read first time 02/12/1999. Referred to Committee on Transportation.

1            AN ACT Relating to abandoned vehicle impounds and auctions;  
2 amending RCW 18.11.070, 46.55.120, and 46.55.130; and adding a new  
3 section to chapter 46.55 RCW.

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

5            **Sec. 1.** RCW 18.11.070 and 1989 c 307 s 43 are each amended to read  
6 as follows:

7            (1) It is unlawful for any person to act as an auctioneer or for an  
8 auction company to engage in any business in this state without a  
9 license.

10           (2) This chapter does not apply to:

11           (a) An auction of goods conducted by an individual who personally  
12 owns those goods and who did not acquire those goods for resale;

13           (b) An auction conducted by or under the direction of a public  
14 authority;

15           (c) An auction held under judicial order in the settlement of a  
16 decedent's estate;

17           (d) An auction which is required by law to be at auction;

1 (e) An auction conducted by or on behalf of a political  
2 organization or a charitable corporation or association if the person  
3 conducting the sale receives no compensation;

4 (f) An auction of livestock or agricultural products which is  
5 conducted under chapter 16.65 or 20.01 RCW. Auctions not regulated  
6 under chapter 16.65 or 20.01 RCW shall be fully subject to the  
7 provisions of this chapter;

8 (g) An auction held under chapter 19.150 RCW; (~~(e)~~)

9 (h) An auction of an abandoned vehicle under chapter 46.55 RCW; or

10 (i) An auction of fur pelts conducted by any cooperative  
11 association organized under chapter 23.86 RCW or its wholly owned  
12 subsidiary. In order to qualify for this exemption, the fur pelts must  
13 be from members of the association. However, the association, without  
14 loss of the exemption, may auction pelts that it purchased from  
15 nonmembers for the purpose of completing lots or orders, so long as the  
16 purchased pelts do not exceed fifteen percent of the total pelts  
17 auctioned.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.55 RCW  
19 to read as follows:

20 The Washington state patrol shall provide by rule for a uniform  
21 impound authorization and inventory form. All law enforcement agencies  
22 must use this form for all vehicle impounds after June 30, 2001.

23 **Sec. 3.** RCW 46.55.120 and 1998 c 203 s 5 are each amended to read  
24 as follows:

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

29 (a) Only the legal owner, the registered owner, a person authorized  
30 in writing by the registered owner or the vehicle's insurer, a person  
31 who is determined and verified by the operator to have the permission  
32 of the registered owner of the vehicle or other item of personal  
33 property registered or titled with the department, or one who has  
34 purchased a vehicle or item of personal property registered or titled  
35 with the department from the registered owner who produces proof of  
36 ownership or written authorization and signs a receipt therefor, may  
37 redeem an impounded vehicle or items of personal property registered or

1 titled with the department. In addition, a vehicle impounded because  
2 the operator is in violation of RCW 46.20.342(1)(c) shall not be  
3 released until a person eligible to redeem it under this subsection  
4 (1)(a) satisfies the requirements of (b) of this subsection, including  
5 paying all towing, removal, and storage fees, notwithstanding the fact  
6 that the hold was ordered by a government agency. If the department's  
7 records show that the operator has been convicted of a violation of RCW  
8 46.20.342 or a similar local ordinance within the past five years, the  
9 vehicle may be held for up to thirty days at the written direction of  
10 the agency ordering the vehicle impounded. A vehicle impounded because  
11 the operator is arrested for a violation of RCW 46.20.342 may be  
12 released only pursuant to a written order from the agency that ordered  
13 the vehicle impounded. An agency may issue a written order to release  
14 pursuant to a provision of an applicable state agency rule or local  
15 ordinance authorizing release on the basis of economic or personal  
16 hardship to the spouse of the operator, taking into consideration  
17 public safety factors, including the operator's criminal history and  
18 driving record.

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

34 (b) The vehicle or other item of personal property registered or  
35 titled with the department shall be released upon the presentation to  
36 any person having custody of the vehicle of commercially reasonable  
37 tender sufficient to cover the costs of towing, storage, or other  
38 services rendered during the course of towing, removing, impounding, or  
39 storing any such vehicle. In addition, if a vehicle is impounded

1 because the operator was arrested for a violation of RCW 46.20.342 or  
2 46.20.420 and was being operated by the registered owner when it was  
3 impounded, it must not be released to any person until the registered  
4 owner establishes with the agency that ordered the vehicle impounded  
5 that any penalties, fines, or forfeitures owed by him or her have been  
6 satisfied. Commercially reasonable tender shall include, without  
7 limitation, cash, major bank credit cards, or personal checks drawn on  
8 in-state banks if accompanied by two pieces of valid identification,  
9 one of which may be required by the operator to have a photograph. If  
10 the towing firm can determine through the customer's bank or a check  
11 verification service that the presented check would not be paid by the  
12 bank or guaranteed by the service, the towing firm may refuse to accept  
13 the check. Any person who stops payment on a personal check or credit  
14 card, or does not make restitution within ten days from the date a  
15 check becomes insufficient due to lack of funds, to a towing firm that  
16 has provided a service pursuant to this section or in any other manner  
17 defrauds the towing firm in connection with services rendered pursuant  
18 to this section shall be liable for damages in the amount of twice the  
19 towing and storage fees, plus costs and reasonable attorney's fees.

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

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

1 (2)(a) of this section and more than five days before the date of the  
2 auction. At the time of the filing of the hearing request, the  
3 petitioner shall pay to the court clerk a filing fee in the same amount  
4 required for the filing of a suit in district court. If the hearing  
5 request is not received by the court within the ten-day period, the  
6 right to a hearing is waived and the registered owner is liable for any  
7 towing, storage, or other impoundment charges permitted under this  
8 chapter. Upon receipt of a timely hearing request, the court shall  
9 proceed to hear and determine the validity of the impoundment.

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

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

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

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

33 (e) If the impoundment is determined to be in violation of this  
34 chapter, then the registered and legal owners of the vehicle or other  
35 item of personal property registered or titled with the department  
36 shall bear no impoundment, towing, or storage fees, and any security  
37 shall be returned or discharged as appropriate, and the person or  
38 agency who authorized the impoundment shall be liable for any towing,  
39 storage, or other impoundment fees permitted under this chapter. The

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

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

35 (4) Any impounded abandoned vehicle or item of personal property  
36 registered or titled with the department that is not redeemed within  
37 fifteen days of mailing of the notice of custody and sale as required  
38 by RCW 46.55.110(2) shall be sold at public auction in accordance with

1 all the provisions and subject to all the conditions of RCW 46.55.130.  
2 A vehicle or item of personal property registered or titled with the  
3 department may be redeemed at any time before the start of the auction  
4 upon payment of the applicable towing and storage fees.

5 **Sec. 4.** RCW 46.55.130 and 1998 c 203 s 6 are each amended to read  
6 as follows:

7 (1) If, after the expiration of fifteen days from the date of  
8 mailing of notice of custody and sale required in RCW 46.55.110(2) to  
9 the registered and legal owners, the vehicle remains unclaimed and has  
10 not been listed as a stolen vehicle, then the registered tow truck  
11 operator having custody of the vehicle shall conduct a sale of the  
12 vehicle at public auction after having first published a notice of the  
13 date, place, and time of the auction in a newspaper of general  
14 circulation in the county in which the vehicle is located not less than  
15 three days and no more than ten days before the date of the auction.  
16 The notice shall contain a description of the vehicle including the  
17 make, model, year, and license number and a notification that a three-  
18 hour public viewing period will be available before the auction. The  
19 auction shall be held during daylight hours of a normal business day.

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

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

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

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

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

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

37 (f) The successful bidder shall apply for title within fifteen  
38 days;

1 (g) The registered tow truck operator shall post a copy of the  
2 auction procedure at the bidding site. If the bidding site is  
3 different from the licensed office location, the operator shall post a  
4 clearly visible sign at the office location that describes in detail  
5 where the auction will be held. At the bidding site a copy of the  
6 newspaper advertisement that lists the vehicles for sale shall be  
7 posted;

8 (h) All surplus moneys derived from the auction after satisfaction  
9 of the registered tow truck operator's lien shall be remitted within  
10 thirty days to the department for deposit in the state motor vehicle  
11 fund. A report identifying the vehicles resulting in any surplus shall  
12 accompany the remitted funds. If the director subsequently receives a  
13 valid claim from the registered vehicle owner of record as determined  
14 by the department within one year from the date of the auction, the  
15 surplus moneys shall be remitted to such owner;

16 (i) If an operator receives no bid, or if the operator is the  
17 successful bidder at auction, the operator shall, within forty-five  
18 days sell the vehicle to a licensed vehicle wrecker, hulk hauler, or  
19 scrap processor by use of the abandoned vehicle report-affidavit of  
20 sale, or the operator shall apply for title to the vehicle.

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

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

27 (b) The failure of the registered tow truck operator to comply with  
28 the time limits provided in this chapter limits the accumulation of  
29 storage charges to ~~((five))~~ fifteen days except where delay is  
30 unavoidable. Providing incorrect or incomplete identifying information  
31 to the department in the abandoned vehicle report shall be considered  
32 a failure to comply with these time limits if correct information is  
33 available.

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