
HOUSE BILL 2437

State of Washington

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By Representatives DeBolt, Ericksen, McDonald, Fortunato, Kastama and Bush

Read first time 01/13/2000. Referred to Committee on Transportation.

1 AN ACT Relating to abandoned vehicles; amending RCW 46.55.085,
2 46.55.105, 46.55.110, 46.63.030, 46.63.060, 46.63.070, and 46.63.110;
3 and prescribing penalties.

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

5 **Sec. 1.** RCW 46.55.085 and 1993 c 121 s 1 are each amended to read
6 as follows:

7 (1) A law enforcement officer discovering an unauthorized vehicle
8 left within a highway right of way shall attach to the vehicle a
9 readily visible notification sticker. The sticker shall contain the
10 following information:

11 (a) The date and time the sticker was attached;

12 (b) The identity of the officer;

13 (c) A statement that if the vehicle is not removed within twenty-
14 four hours from the time the sticker is attached, the registered owner
15 will have committed a traffic infraction with a mandatory fine of \$250
16 and a court appearance and the vehicle may be taken into custody and
17 stored at the owner's expense; and

18 (d) The address and telephone number where additional information
19 may be obtained.

1 (2) If the vehicle has current Washington registration plates, the
2 officer shall check the records to learn the identity of the last owner
3 of record. The officer or his department shall make a reasonable
4 effort to contact the owner by telephone in order to give the owner the
5 information on the notification sticker.

6 (3) If the vehicle is not removed within twenty-four hours from the
7 time the notification sticker is attached, the law enforcement officer
8 may take custody of the vehicle and provide for the vehicle's removal
9 to a place of safety. A vehicle that does not pose a safety hazard may
10 remain on the roadside for more than twenty-four hours if the owner or
11 operator is unable to remove it from the place where it is located and
12 so notifies law enforcement officials and requests assistance.

13 (4) For the purposes of this section a place of safety includes the
14 business location of a registered tow truck operator.

15 **Sec. 2.** RCW 46.55.105 and 1999 c 86 s 5 are each amended to read
16 as follows:

17 (1) The abandonment of any vehicle creates a prima facie
18 presumption that the last registered owner of record is responsible for
19 the abandonment and is liable for costs incurred in removing, storing,
20 and disposing of the abandoned vehicle, less amounts realized at
21 auction.

22 (2) If an unauthorized vehicle is found abandoned under subsection
23 (1) of this section and removed at the direction of law enforcement,
24 the last registered owner of record is guilty of ((a)) the traffic
25 infraction of "littering--abandoned vehicle," unless the vehicle is
26 redeemed as provided in RCW 46.55.120. In addition to any other
27 monetary penalty payable under chapter 46.63 RCW, the court shall not
28 consider all monetary penalties as having been paid until the court is
29 satisfied that the person found to have committed the infraction has
30 made restitution in the amount of the deficiency remaining after
31 disposal of the vehicle under RCW 46.55.140.

32 (3) A vehicle theft report filed with a law enforcement agency
33 relieves the last registered owner of liability under subsection (2) of
34 this section for failure to redeem the vehicle. However, the last
35 registered owner remains liable for the costs incurred in removing,
36 storing, and disposing of the abandoned vehicle under subsection (1) of
37 this section. Nothing in this section limits in any way the registered

1 owner's rights in a civil action or as restitution in a criminal action
2 against a person responsible for the theft of the vehicle.

3 (4) Properly filing a report of sale or transfer regarding the
4 vehicle involved in accordance with RCW 46.12.101(1) relieves the last
5 registered owner of liability under subsections (1) and (2) of this
6 section. If the date of sale as indicated on the report of sale is on
7 or before the date of impoundment, the buyer identified on the latest
8 properly filed report of sale with the department is assumed liable for
9 the costs incurred in removing, storing, and disposing of the abandoned
10 vehicle, less amounts realized at auction. If the date of sale is
11 after the date of impoundment, the previous registered owner is assumed
12 to be liable for such costs. A licensed vehicle dealer is not liable
13 under subsections (1) and (2) of this section if the dealer, as
14 transferee or assignee of the last registered owner of the vehicle
15 involved, has complied with the requirements of RCW 46.70.122 upon
16 selling or otherwise disposing of the vehicle, or if the dealer has
17 timely filed a transitional ownership record or report of sale under
18 RCW 46.12.103. In that case the person to whom the licensed vehicle
19 dealer has sold or transferred the vehicle is assumed liable for the
20 costs incurred in removing, storing, and disposing of the abandoned
21 vehicle, less amounts realized at auction.

22 (5) For the purposes of reporting notices of traffic infraction to
23 the department under RCW 46.20.270 and 46.52.101, and for purposes of
24 reporting notices of failure to appear, respond, or comply regarding a
25 notice of traffic infraction to the department under RCW 46.63.070(5),
26 a traffic infraction under subsection (2) of this section is not
27 considered to be a standing, stopping, or parking violation.

28 (6) A notice of infraction for a violation of this section may be
29 filed with a court of limited jurisdiction organized under Title 3, 35,
30 or 35A RCW, or with a violations bureau subject to the court's
31 jurisdiction.

32 **Sec. 3.** RCW 46.55.110 and 1999 c 398 s 6 are each amended to read
33 as follows:

34 (1) When an unauthorized vehicle is impounded, the impounding
35 towing operator shall notify the legal and registered owners of the
36 impoundment of the unauthorized vehicle and the owners of any other
37 items of personal property registered or titled with the department.
38 The notification shall be sent by first-class mail within twenty-four

1 hours after the impoundment to the last known registered and legal
2 owners of the vehicle, and the owners of any other items of personal
3 property registered or titled with the department, as provided by the
4 law enforcement agency, and shall inform the owners of the identity of
5 the person or agency authorizing the impound. The notification shall
6 include the name of the impounding tow firm, its address, and telephone
7 number. The notice shall also include the location, time of the
8 impound, and by whose authority the vehicle was impounded. The notice
9 shall also include the written notice of the right of redemption and
10 opportunity for a hearing to contest the validity of the impoundment
11 pursuant to RCW 46.55.120.

12 (2) In addition, if a suspended license impound has been ordered,
13 the notice must state the length of the impound, the requirement of the
14 posting of a security deposit to ensure payment of the costs of
15 removal, towing, and storage, notification that if the security deposit
16 is not posted the vehicle will immediately be processed and sold at
17 auction as an abandoned vehicle, and the requirements set out in RCW
18 46.55.120(1)(b) regarding the payment of the costs of removal, towing,
19 and storage as well as providing proof of satisfaction of any
20 penalties, fines, or forfeitures before redemption. The notice must
21 also state that the registered owner is ineligible to purchase the
22 vehicle at the abandoned vehicle auction, if held.

23 (3) In the case of an abandoned vehicle, or other item of personal
24 property registered or titled with the department, within twenty-four
25 hours after receiving information on the owners from the department
26 through the abandoned vehicle report, the tow truck operator shall send
27 by certified mail, with return receipt requested, a notice of custody
28 and sale to the legal and registered owners and of the penalties for
29 the traffic infraction "littering--abandoned vehicle."

30 (4) If the date on which a notice required by subsection (3) of
31 this section is to be mailed falls upon a Saturday, Sunday, or a postal
32 holiday, the notice may be mailed on the next day that is neither a
33 Saturday, Sunday, nor a postal holiday.

34 (5) No notices need be sent to the legal or registered owners of an
35 impounded vehicle or other item of personal property registered or
36 titled with the department, if the vehicle or personal property has
37 been redeemed.

1 **Sec. 4.** RCW 46.63.030 and 1995 c 219 s 5 are each amended to read
2 as follows:

3 (1) A law enforcement officer has the authority to issue a notice
4 of traffic infraction:

5 (a) When the infraction is committed in the officer's presence;

6 (b) When the officer is acting upon the request of a law
7 enforcement officer in whose presence the traffic infraction was
8 committed; or

9 (c) If an officer investigating at the scene of a motor vehicle
10 accident has reasonable cause to believe that the driver of a motor
11 vehicle involved in the accident has committed a traffic infraction.

12 (2) A court may issue a notice of traffic infraction upon receipt
13 of a written statement of the officer that there is reasonable cause to
14 believe that an infraction was committed.

15 (3) If any motor vehicle without a driver is found parked,
16 standing, or stopped in violation of this title or an equivalent
17 administrative regulation or local law, ordinance, regulation, or
18 resolution, the officer finding the vehicle shall take its registration
19 number and may take any other information displayed on the vehicle
20 which may identify its user, and shall conspicuously affix to the
21 vehicle a notice of traffic infraction. In the case of an abandoned
22 vehicle, the notice must be entitled "Littering--Abandoned vehicle,"
23 and give notice of the monetary penalty and mandatory court appearance
24 by the registered owner.

25 (4) In the case of failure to redeem an abandoned vehicle under RCW
26 46.55.120, upon receiving a complaint by a registered tow truck
27 operator that has incurred costs in removing, storing, and disposing of
28 an abandoned vehicle, an officer of the law enforcement agency
29 responsible for directing the removal of the vehicle shall send a
30 notice of infraction by certified mail to the last known address of the
31 registered owner of the vehicle. The officer shall append to the
32 notice of infraction, on a form prescribed by the department of
33 licensing, a notice indicating the amount of costs incurred as a result
34 of removing, storing, and disposing of the abandoned vehicle, less any
35 amount realized at auction, and a statement that monetary penalties for
36 the infraction will not be considered as having been paid until the
37 monetary penalty payable under this chapter has been paid and the court
38 is satisfied that the person has made restitution in the amount of the
39 deficiency remaining after disposal of the vehicle.

1 **Sec. 5.** RCW 46.63.060 and 1993 c 501 s 9 are each amended to read
2 as follows:

3 (1) A notice of traffic infraction represents a determination that
4 an infraction has been committed. The determination will be final
5 unless contested as provided in this chapter.

6 (2) The form for the notice of traffic infraction shall be
7 prescribed by rule of the supreme court and shall include the
8 following:

9 (a) A statement that the notice represents a determination that a
10 traffic infraction has been committed by the person named in the notice
11 and that the determination shall be final unless contested as provided
12 in this chapter;

13 (b) A statement that a traffic infraction is a noncriminal offense
14 for which imprisonment may not be imposed as a sanction; that the
15 penalty for a traffic infraction may include sanctions against the
16 person's driver's license including suspension, revocation, or denial;
17 that the penalty for a traffic infraction related to standing,
18 stopping, or parking may include nonrenewal of the vehicle license;

19 (c) A statement of the specific traffic infraction for which the
20 notice was issued;

21 (d) A statement of the monetary penalty established for the traffic
22 infraction;

23 (e) A statement of the options provided in this chapter for
24 responding to the notice and the procedures necessary to exercise these
25 options;

26 (f) A statement that at any hearing to contest the determination
27 the state has the burden of proving, by a preponderance of the
28 evidence, that the infraction was committed; and that the person may
29 subpoena witnesses including the officer who issued the notice of
30 infraction;

31 (g) A statement that at any hearing requested for the purpose of
32 explaining mitigating circumstances surrounding the commission of the
33 infraction the person will be deemed to have committed the infraction
34 and may not subpoena witnesses;

35 (h) A statement that the person must respond to the notice as
36 provided in this chapter within fifteen days or the person's driver's
37 license or driving privilege will be suspended by the department until
38 any penalties imposed pursuant to this chapter have been satisfied;

1 (i) A statement that failure to appear at a hearing requested for
2 the purpose of contesting the determination or for the purpose of
3 explaining mitigating circumstances will result in the suspension of
4 the person's driver's license or driving privilege((~~7~~)); or in the case
5 of a standing, stopping, or parking violation, refusal of the
6 department to renew the vehicle license, until any penalties imposed
7 pursuant to this chapter have been satisfied; or in the case of an
8 abandoned vehicle, suspension of the person's driver's license, until
9 any penalties imposed under this chapter have been satisfied;

10 (j) A statement, which the person shall sign, that the person
11 promises to respond to the notice of infraction in one of the ways
12 provided in this chapter.

13 **Sec. 6.** RCW 46.63.070 and 1993 c 501 s 10 are each amended to read
14 as follows:

15 (1) Any person who receives a notice of traffic infraction shall
16 respond to such notice as provided in this section within fifteen days
17 of the date of the notice.

18 (2) If the person determined to have committed the infraction does
19 not contest the determination the person shall respond by completing
20 the appropriate portion of the notice of infraction and submitting it,
21 either by mail or in person, to the court specified on the notice. A
22 check or money order in the amount of the penalty prescribed for the
23 infraction must be submitted with the response. When a response which
24 does not contest the determination is received, an appropriate order
25 shall be entered in the court's records, and a record of the response
26 and order shall be furnished to the department in accordance with RCW
27 46.20.270. However, a court appearance is required for a person
28 determined to have committed the infraction of "Littering--Abandoned
29 vehicle" under RCW 46.55.105(2) regardless of whether the person
30 contests the determination.

31 (3) If the person determined to have committed the infraction
32 wishes to contest the determination the person shall respond by
33 completing the portion of the notice of infraction requesting a hearing
34 and submitting it, either by mail or in person, to the court specified
35 on the notice. The court shall notify the person in writing of the
36 time, place, and date of the hearing, and that date shall not be sooner
37 than seven days from the date of the notice, except by agreement, or in

1 the case of a violation of RCW 46.55.105(2), not sooner than sixty days
2 from the date of the notice, except by agreement.

3 (4) If the person determined to have committed the infraction does
4 not contest the determination but wishes to explain mitigating
5 circumstances surrounding the infraction the person shall respond by
6 completing the portion of the notice of infraction requesting a hearing
7 for that purpose and submitting it, either by mail or in person, to the
8 court specified on the notice. The court shall notify the person in
9 writing of the time, place, and date of the hearing. In the case of a
10 violation of RCW 46.55.105(2), the hearing may not be sooner than sixty
11 days from the date of the notice, except by agreement.

12 (5) If any person issued a notice of traffic infraction:

13 (a) Fails to respond to the notice of traffic infraction as
14 provided in subsection (2) of this section; or

15 (b) Fails to appear at a hearing requested pursuant to subsection
16 (3) or (4) of this section;

17 the court shall enter an appropriate order assessing the monetary
18 penalty prescribed for the traffic infraction and any other penalty
19 authorized by this chapter and shall notify the department in
20 accordance with RCW 46.20.270, of the failure to respond to the notice
21 of infraction or to appear at a requested hearing.

22 **Sec. 7.** RCW 46.63.110 and 1997 c 331 s 3 are each amended to read
23 as follows:

24 (1) A person found to have committed a traffic infraction shall be
25 assessed a monetary penalty. No penalty may exceed two hundred and
26 fifty dollars for each offense unless authorized by this chapter or
27 title. The mandatory penalty for "Littering--Abandoned vehicle" under
28 RCW 46.55.105(2) is two hundred fifty dollars, no part of which may be
29 suspended, waived, or reduced, and the court shall also suspend the
30 driver's license of the person for ninety days or until all penalties
31 are paid, whichever is later.

32 (2) The supreme court shall prescribe by rule a schedule of
33 monetary penalties for designated traffic infractions. This rule shall
34 also specify the conditions under which local courts may exercise
35 discretion in assessing fines and penalties for traffic infractions.
36 The legislature respectfully requests the supreme court to adjust this
37 schedule every two years for inflation.

1 (3) There shall be a penalty of twenty-five dollars for failure to
2 respond to a notice of traffic infraction except where the infraction
3 relates to parking as defined by local law, ordinance, regulation, or
4 resolution or failure to pay a monetary penalty imposed pursuant to
5 this chapter. The mandatory penalty for failure to respond to an
6 infraction under RCW 46.55.105(2) is two hundred fifty dollars, no part
7 of which may be suspended, waived, or reduced, and the court shall also
8 suspend the driver's license of the person for ninety days or until all
9 penalties are paid, whichever is later. A local legislative body may
10 set a monetary penalty not to exceed twenty-five dollars for failure to
11 respond to a notice of traffic infraction relating to parking as
12 defined by local law, ordinance, regulation, or resolution. The local
13 court, whether a municipal, police, or district court, shall impose the
14 monetary penalty set by the local legislative body.

15 (4) Monetary penalties provided for in chapter 46.70 RCW which are
16 civil in nature and penalties which may be assessed for violations of
17 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
18 are not subject to the limitation on the amount of monetary penalties
19 which may be imposed pursuant to this chapter.

20 (5) Whenever a monetary penalty is imposed by a court under this
21 chapter it is immediately payable. If the person is unable to pay at
22 that time the court may, in its discretion, grant an extension of the
23 period in which the penalty may be paid. If the penalty is not paid on
24 or before the time established for payment the court shall notify the
25 department of the failure to pay the penalty, and the department shall
26 suspend the person's driver's license or driving privilege until the
27 penalty has been paid and the penalty provided in subsection (3) of
28 this section has been paid.

29 (6) In addition to any other penalties imposed under this section
30 and not subject to the limitation of subsection (1) of this section, a
31 person found to have committed a traffic infraction shall be assessed
32 a fee of five dollars per infraction. Under no circumstances shall
33 this fee be reduced or waived. Revenue from this fee shall be
34 forwarded to the state treasurer for deposit in the emergency medical
35 services and trauma care system trust account under RCW 70.168.040.

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