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HOUSE BILL 2693

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State of Washington

56th Legislature

2000 Regular Session

By Representative Bush

Read first time . Referred to Committee on .

1 AN ACT Relating to hardship waivers for vehicle owners in cases of  
2 suspended license vehicle impounds; and reenacting and amending RCW  
3 46.55.120.

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

5 **Sec. 1.** RCW 46.55.120 and 1999 c 398 s 7 and 1999 c 327 s 5 are  
6 each reenacted and amended to read as follows:

7 (1) Vehicles or other items of personal property registered or  
8 titled with the department that are impounded by registered tow truck  
9 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140  
10 may be redeemed only under the following circumstances:

11 (a) Only the legal owner, the registered owner, a person authorized  
12 in writing by the registered owner or the vehicle's insurer, a person  
13 who is determined and verified by the operator to have the permission  
14 of the registered owner of the vehicle or other item of personal  
15 property registered or titled with the department, or one who has  
16 purchased a vehicle or item of personal property registered or titled  
17 with the department from the registered owner who produces proof of  
18 ownership or written authorization and signs a receipt therefor, may  
19 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 (e) 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 or from the court having jurisdiction. An agency  
14 may issue a written order to release pursuant to a provision of an  
15 applicable state agency rule or local ordinance authorizing release on  
16 the basis of: Economic or personal hardship to the spouse of the  
17 operator, taking into consideration public safety factors, including  
18 the operator's criminal history and driving record; or economic or  
19 personal hardship to the owner of the vehicle if the owner was not the  
20 operator of the vehicle when it was impounded and if the owner has not  
21 received a prior release under this provision for hardship to the  
22 owner.

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

38 (b) If the vehicle is directed to be held for a suspended license  
39 impound, a person who desires to redeem the vehicle at the end of the

1 period of impound shall within five days of the impound at the request  
2 of the tow truck operator pay a security deposit to the tow truck  
3 operator of not more than one-half of the applicable impound storage  
4 rate for each day of the proposed suspended license impound. The tow  
5 truck operator shall credit this amount against the final bill for  
6 removal, towing, and storage upon redemption. The tow truck operator  
7 may accept other sufficient security in lieu of the security deposit.  
8 If the person desiring to redeem the vehicle does not pay the security  
9 deposit or provide other security acceptable to the tow truck operator,  
10 the tow truck operator may process and sell at auction the vehicle as  
11 an abandoned vehicle within the normal time limits set out in RCW  
12 46.55.130(1). The security deposit required by this section may be  
13 paid and must be accepted at any time up to twenty-four hours before  
14 the beginning of the auction to sell the vehicle as abandoned. The  
15 registered owner is not eligible to purchase the vehicle at the  
16 auction, and the tow truck operator shall sell the vehicle to the  
17 highest bidder who is not the registered owner.

18 (c) Notwithstanding (b) of this subsection, a rental car business  
19 may immediately redeem a rental vehicle it owns by payment of the costs  
20 of removal, towing, and storage, whereupon the vehicle will not be held  
21 for a suspended license impound.

22 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
23 or lender with a perfected security interest in the vehicle may redeem  
24 or lawfully repossess a vehicle immediately by payment of the costs of  
25 removal, towing, and storage, whereupon the vehicle will not be held  
26 for a suspended license impound. A motor vehicle dealer or lender with  
27 a perfected security interest in the vehicle may not knowingly and  
28 intentionally engage in collusion with a registered owner to repossess  
29 and then return or resell a vehicle to the registered owner in an  
30 attempt to avoid a suspended license impound. However, this provision  
31 does not preclude a vehicle dealer or a lender with a perfected  
32 security interest in the vehicle from repossessing the vehicle and then  
33 selling, leasing, or otherwise disposing of it in accordance with  
34 chapter 62A.9 RCW, including providing redemption rights to the debtor  
35 under RCW 62A.9-506. If the debtor is the registered owner of the  
36 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9  
37 RCW is conditioned upon the debtor obtaining and providing proof from  
38 the impounding authority or court having jurisdiction that any fines,  
39 penalties, and forfeitures owed by the registered owner, as a result of

1 the suspended license impound, have been paid, and proof of the payment  
2 must be tendered to the vehicle dealer or lender at the time the debtor  
3 tenders all other obligations required to redeem the vehicle. Vehicle  
4 dealers or lenders are not liable for damages if they rely in good  
5 faith on an order from the impounding agency or a court in releasing a  
6 vehicle held under a suspended license impound.

7 (e) The vehicle or other item of personal property registered or  
8 titled with the department shall be released upon the presentation to  
9 any person having custody of the vehicle of commercially reasonable  
10 tender sufficient to cover the costs of towing, storage, or other  
11 services rendered during the course of towing, removing, impounding, or  
12 storing any such vehicle, with credit being given for the amount of any  
13 security deposit paid under (b) of this subsection. In addition, if a  
14 vehicle is impounded because the operator was arrested for a violation  
15 of RCW 46.20.342 or (~~46.20.420~~) 46.20.345 and was being operated by  
16 the registered owner when it was impounded under local ordinance or  
17 agency rule, it must not be released to any person until the registered  
18 owner establishes with the agency that ordered the vehicle impounded or  
19 the court having jurisdiction that any penalties, fines, or forfeitures  
20 owed by him or her have been satisfied. Registered tow truck operators  
21 are not liable for damages if they rely in good faith on an order from  
22 the impounding agency or a court in releasing a vehicle held under a  
23 suspended license impound. Commercially reasonable tender shall  
24 include, without limitation, cash, major bank credit cards, or personal  
25 checks drawn on in-state banks if accompanied by two pieces of valid  
26 identification, one of which may be required by the operator to have a  
27 photograph. If the towing firm can determine through the customer's  
28 bank or a check verification service that the presented check would not  
29 be paid by the bank or guaranteed by the service, the towing firm may  
30 refuse to accept the check. Any person who stops payment on a personal  
31 check or credit card, or does not make restitution within ten days from  
32 the date a check becomes insufficient due to lack of funds, to a towing  
33 firm that has provided a service pursuant to this section or in any  
34 other manner defrauds the towing firm in connection with services  
35 rendered pursuant to this section shall be liable for damages in the  
36 amount of twice the towing and storage fees, plus costs and reasonable  
37 attorney's fees.

38 (2)(a) The registered tow truck operator shall give to each person  
39 who seeks to redeem an impounded vehicle, or item of personal property

1 registered or titled with the department, written notice of the right  
2 of redemption and opportunity for a hearing, which notice shall be  
3 accompanied by a form to be used for requesting a hearing, the name of  
4 the person or agency authorizing the impound, and a copy of the towing  
5 and storage invoice. The registered tow truck operator shall maintain  
6 a record evidenced by the redeeming person's signature that such  
7 notification was provided.

8 (b) Any person seeking to redeem an impounded vehicle under this  
9 section has a right to a hearing in the district or municipal court for  
10 the jurisdiction in which the vehicle was impounded to contest the  
11 validity of the impoundment or the amount of towing and storage  
12 charges. The district court has jurisdiction to determine the issues  
13 involving all impoundments including those authorized by the state or  
14 its agents. The municipal court has jurisdiction to determine the  
15 issues involving impoundments authorized by agents of the municipality.  
16 Any request for a hearing shall be made in writing on the form provided  
17 for that purpose and must be received by the appropriate court within  
18 ten days of the date the opportunity was provided for in subsection  
19 (2)(a) of this section and more than five days before the date of the  
20 auction. At the time of the filing of the hearing request, the  
21 petitioner shall pay to the court clerk a filing fee in the same amount  
22 required for the filing of a suit in district court. If the hearing  
23 request is not received by the court within the ten-day period, the  
24 right to a hearing is waived and the registered owner is liable for any  
25 towing, storage, or other impoundment charges permitted under this  
26 chapter. Upon receipt of a timely hearing request, the court shall  
27 proceed to hear and determine the validity of the impoundment.

28 (3)(a) The court, within five days after the request for a hearing,  
29 shall notify the registered tow truck operator, the person requesting  
30 the hearing if not the owner, the registered and legal owners of the  
31 vehicle or other item of personal property registered or titled with  
32 the department, and the person or agency authorizing the impound in  
33 writing of the hearing date and time.

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

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

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

12 (e) If the impoundment is determined to be in violation of this  
13 chapter, then the registered and legal owners of the vehicle or other  
14 item of personal property registered or titled with the department  
15 shall bear no impoundment, towing, or storage fees, and any security  
16 shall be returned or discharged as appropriate, and the person or  
17 agency who authorized the impoundment shall be liable for any towing,  
18 storage, or other impoundment fees permitted under this chapter. The  
19 court shall enter judgment in favor of the registered tow truck  
20 operator against the person or agency authorizing the impound for the  
21 impoundment, towing, and storage fees paid. In addition, the court  
22 shall enter judgment in favor of the registered and legal owners of the  
23 vehicle, or other item of personal property registered or titled with  
24 the department, for the amount of the filing fee required by law for  
25 the impound hearing petition as well as reasonable damages for loss of  
26 the use of the vehicle during the time the same was impounded, for not  
27 less than fifty dollars per day, against the person or agency  
28 authorizing the impound. However, if an impoundment arising from an  
29 alleged violation of RCW 46.20.342 or (~~46.20.420~~) 46.20.345 is  
30 determined to be in violation of this chapter, then the law enforcement  
31 officer directing the impoundment and the government employing the  
32 officer are not liable for damages if the officer relied in good faith  
33 and without gross negligence on the records of the department in  
34 ascertaining that the operator of the vehicle had a suspended or  
35 revoked driver's license. If any judgment entered is not paid within  
36 fifteen days of notice in writing of its entry, the court shall award  
37 reasonable attorneys' fees and costs against the defendant in any  
38 action to enforce the judgment. Notice of entry of judgment may be  
39 made by registered or certified mail, and proof of mailing may be made

1 by affidavit of the party mailing the notice. Notice of the entry of  
2 the judgment shall read essentially as follows:

3 TO: . . . . .

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

10 DATED this . . . . day of . . . . ., (year) . . .

11 Signature . . . . .

12 Typed name and address  
13 of party mailing notice

14 (4) Any impounded abandoned vehicle or item of personal property  
15 registered or titled with the department that is not redeemed within  
16 fifteen days of mailing of the notice of custody and sale as required  
17 by RCW 46.55.110(3) shall be sold at public auction in accordance with  
18 all the provisions and subject to all the conditions of RCW 46.55.130.  
19 A vehicle or item of personal property registered or titled with the  
20 department may be redeemed at any time before the start of the auction  
21 upon payment of the applicable towing and storage fees.

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