

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1131

56th Legislature
1999 Regular Session

Passed by the House April 19, 1999
Yeas 87 Nays 10

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 6, 1999
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1131** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1131

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Sheahan, Schindler, Crouse, Gombosky, O'Brien, Keiser, Hurst and D. Sommers)

Read first time 03/02/1999.

1 AN ACT Relating to persons who patronize prostitutes; amending RCW
2 9.68A.100 and 46.55.120; adding new sections to chapter 9A.88 RCW;
3 creating a new section; and prescribing penalties.

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

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

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

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

5 (a) Not be subsequently arrested for patronizing a prostitute or
6 patronizing a juvenile prostitute; and

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

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

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

15 (1) Upon an arrest for a suspected violation of patronizing a
16 prostitute or patronizing a juvenile prostitute, the arresting law
17 enforcement officer may impound the person's vehicle if (a) the motor
18 vehicle was used in the commission of the crime; (b) the person
19 arrested is the owner of the vehicle; and (c) the person arrested has
20 previously been convicted of patronizing a prostitute, under RCW
21 9A.88.110, or patronizing a juvenile prostitute, under RCW 9.68A.100.

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

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

26 A person is guilty of patronizing a juvenile prostitute if that
27 person engages or agrees or offers to engage in sexual conduct with a
28 minor in return for a fee, and is guilty of a class C felony punishable
29 under chapter 9A.20 RCW. In addition to any other penalty provided
30 under chapter 9A.20 RCW, a person guilty of patronizing a juvenile
31 prostitute is subject to the provisions under sections 2 and 3 of this
32 act.

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

35 (1) Vehicles or other items of personal property registered or
36 titled with the department that are impounded by registered tow truck

1 operators pursuant to RCW 46.55.080, 46.55.085, (~~(or)~~) 46.55.113, or
2 section 3 of this act may be redeemed only under the following
3 circumstances:

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

31 If a vehicle is impounded because the operator is in violation of
32 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
33 days at the written direction of the agency ordering the vehicle
34 impounded. However, if the department's records show that the operator
35 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
36 similar local ordinance within the past five years, the vehicle may be
37 held at the written direction of the agency ordering the vehicle
38 impounded for up to sixty days, and for up to ninety days if the
39 operator has two or more such prior offenses. If a vehicle is

1 impounded because the operator is arrested for a violation of RCW
2 46.20.342, the vehicle may not be released until a person eligible to
3 redeem it under this subsection (1)(a) satisfies the requirements of
4 (b) of this subsection, including paying all towing, removal, and
5 storage fees, notwithstanding the fact that the hold was ordered by a
6 government agency.

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

32 (2)(a) The registered tow truck operator shall give to each person
33 who seeks to redeem an impounded vehicle, or item of personal property
34 registered or titled with the department, written notice of the right
35 of redemption and opportunity for a hearing, which notice shall be
36 accompanied by a form to be used for requesting a hearing, the name of
37 the person or agency authorizing the impound, and a copy of the towing
38 and storage invoice. The registered tow truck operator shall maintain

1 a record evidenced by the redeeming person's signature that such
2 notification was provided.

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

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

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

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

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

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

37 TO:
38 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
39 Court located at in the sum of

1 \$., in an action entitled, Case No.
2 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
3 will be awarded against you under RCW . . . if the judgment is
4 not paid within 15 days of the date of this notice.

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

6 Signature
7 Typed name and address
8 of party mailing notice

9 (4) Any impounded abandoned vehicle or item of personal property
10 registered or titled with the department that is not redeemed within
11 fifteen days of mailing of the notice of custody and sale as required
12 by RCW 46.55.110(2) shall be sold at public auction in accordance with
13 all the provisions and subject to all the conditions of RCW 46.55.130.
14 A vehicle or item of personal property registered or titled with the
15 department may be redeemed at any time before the start of the auction
16 upon payment of the applicable towing and storage fees.

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