

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2343

56th Legislature
2000 Regular Session

Passed by the House March 6, 2000
Yeas 96 Nays 1

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate March 1, 2000
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2343** 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**

SUBSTITUTE HOUSE BILL 2343

Passed Legislature - 2000 Regular Session

AS AMENDED BY THE SENATE

Passed Legislature - 2000 Regular Session

State of Washington 56th Legislature 2000 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hatfield, Benson and Esser)

Read first time 02/01/2000. Referred to Committee on .

1 AN ACT Relating to the redemption of vehicles through credit cards
2 and checks drawn on financial institutions; amending RCW 46.55.130; and
3 reenacting and amending RCW 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.

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 (e) 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) If the vehicle is directed to be held for a suspended license
35 impound, a person who desires to redeem the vehicle at the end of the
36 period of impound shall within five days of the impound at the request
37 of the tow truck operator pay a security deposit to the tow truck
38 operator of not more than one-half of the applicable impound storage
39 rate for each day of the proposed suspended license impound. The tow

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

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

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

1 faith on an order from the impounding agency or a court in releasing a
2 vehicle held under a suspended license impound.

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

35 (2)(a) The registered tow truck operator shall give to each person
36 who seeks to redeem an impounded vehicle, or item of personal property
37 registered or titled with the department, written notice of the right
38 of redemption and opportunity for a hearing, which notice shall be
39 accompanied by a form to be used for requesting a hearing, the name of

1 the person or agency authorizing the impound, and a copy of the towing
2 and storage invoice. The registered tow truck operator shall maintain
3 a record evidenced by the redeeming person's signature that such
4 notification was provided.

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

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

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

37 (c) At the conclusion of the hearing, the court shall determine
38 whether the impoundment was proper, whether the towing or storage fees
39 charged were in compliance with the posted rates, and who is

1 responsible for payment of the fees. The court may not adjust fees or
2 charges that are in compliance with the posted or contracted rates.

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

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

1 TO:
2 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
3 Court located at in the sum of
4 \$., in an action entitled, Case No.
5 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
6 will be awarded against you under RCW . . . if the judgment is
7 not paid within 15 days of the date of this notice.
8 DATED this day of, (year) . . .
9 Signature
10 Typed name and address
11 of party mailing notice

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

20 **Sec. 2.** RCW 46.55.130 and 1998 c 203 s 6 are each amended to read
21 as follows:

22 (1) If, after the expiration of fifteen days from the date of
23 mailing of notice of custody and sale required in RCW 46.55.110(~~(+2)~~)
24 (3) to the registered and legal owners, the vehicle remains unclaimed
25 and has not been listed as a stolen vehicle, or a suspended license
26 impound has been directed, but no security paid under RCW 46.55.120,
27 then the registered tow truck operator having custody of the vehicle
28 shall conduct a sale of the vehicle at public auction after having
29 first published a notice of the date, place, and time of the auction in
30 a newspaper of general circulation in the county in which the vehicle
31 is located not less than three days and no more than ten days before
32 the date of the auction. The notice shall contain a description of the
33 vehicle including the make, model, year, and license number and a
34 notification that a three-hour public viewing period will be available
35 before the auction. The auction shall be held during daylight hours of
36 a normal business day.

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

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

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

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

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

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

16 (f) The successful bidder shall apply for title within fifteen
17 days;

18 (g) The registered tow truck operator shall post a copy of the
19 auction procedure at the bidding site. If the bidding site is
20 different from the licensed office location, the operator shall post a
21 clearly visible sign at the office location that describes in detail
22 where the auction will be held. At the bidding site a copy of the
23 newspaper advertisement that lists the vehicles for sale shall be
24 posted;

25 (h) All surplus moneys derived from the auction after satisfaction
26 of the registered tow truck operator's lien shall be remitted within
27 thirty days to the department for deposit in the state motor vehicle
28 fund. A report identifying the vehicles resulting in any surplus shall
29 accompany the remitted funds. If the director subsequently receives a
30 valid claim from the registered vehicle owner of record as determined
31 by the department within one year from the date of the auction, the
32 surplus moneys shall be remitted to such owner;

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

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

4 (4)(a) In no case may the accumulation of storage charges exceed
5 fifteen days from the date of receipt of the information by the
6 operator from the department as provided by RCW 46.55.110(~~(+2)~~) (3).

7 (b) The failure of the registered tow truck operator to comply with
8 the time limits provided in this chapter limits the accumulation of
9 storage charges to five days except where delay is unavoidable.
10 Providing incorrect or incomplete identifying information to the
11 department in the abandoned vehicle report shall be considered a
12 failure to comply with these time limits if correct information is
13 available. However, storage charges begin to accrue again on the date
14 the correct and complete information is provided to the department by
15 the registered tow truck operator.

--- END ---