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SENATE BILL 5576

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State of Washington

56th Legislature

1999 Regular Session

By Senators Gardner, Horn, Haugen, Honeyford, Kline and Goings; by request of Washington State Patrol

Read first time 01/28/1999. Referred to Committee on Transportation.

1 AN ACT Relating to release of impounded vehicles; and amending RCW  
2 46.55.120.

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

4 **Sec. 1.** RCW 46.55.120 and 1998 c 203 s 5 are each amended to read  
5 as follows:

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

10 (a) Only the legal owner, the registered owner, a person authorized  
11 in writing by the registered owner or the vehicle's insurer, a person  
12 who is determined and verified by the operator to have the permission  
13 of the registered owner of the vehicle or other item of personal  
14 property registered or titled with the department, or one who has  
15 purchased a vehicle or item of personal property registered or titled  
16 with the department from the registered owner who produces proof of  
17 ownership or written authorization and signs a receipt therefor, may  
18 redeem an impounded vehicle or items of personal property registered or  
19 titled with the department. In addition, a vehicle impounded because

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

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

33 (b) The vehicle or other item of personal property registered or  
34 titled with the department shall be released upon the presentation to  
35 any person having custody of the vehicle of commercially reasonable  
36 tender sufficient to cover the costs of towing, storage, or other  
37 services rendered during the course of towing, removing, impounding, or  
38 storing any such vehicle. In addition, if a vehicle is impounded  
39 because the operator was arrested for a violation of RCW 46.20.342 or

1 46.20.420 and was being operated by the registered owner when it was  
2 impounded, it must not be released to any person until the registered  
3 owner establishes with the (~~agency that ordered the vehicle~~  
4 ~~impounded~~) court having jurisdiction that any penalties, fines, or  
5 forfeitures owed by him or her have been satisfied. Commercially  
6 reasonable tender shall include, without limitation, cash, major bank  
7 credit cards, or personal checks drawn on in-state banks if accompanied  
8 by two pieces of valid identification, one of which may be required by  
9 the operator to have a photograph. If the towing firm can determine  
10 through the customer's bank or a check verification service that the  
11 presented check would not be paid by the bank or guaranteed by the  
12 service, the towing firm may refuse to accept the check. Any person  
13 who stops payment on a personal check or credit card, or does not make  
14 restitution within ten days from the date a check becomes insufficient  
15 due to lack of funds, to a towing firm that has provided a service  
16 pursuant to this section or in any other manner defrauds the towing  
17 firm in connection with services rendered pursuant to this section  
18 shall be liable for damages in the amount of twice the towing and  
19 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. At the time of the filing of the hearing  
2 request, the petitioner shall pay to the court clerk a filing fee in  
3 the same amount required for the filing of a suit in district court.  
4 If the hearing request is not received by the court within the ten-day  
5 period, the right to a hearing is waived and the registered owner is  
6 liable for any towing, storage, or other impoundment charges permitted  
7 under this chapter. Upon receipt of a timely hearing request, the  
8 court shall proceed to hear and determine the validity of the  
9 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.

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