
SENATE BILL 5649

State of Washington 56th Legislature 1999 Regular Session

By Senators Haugen, Sellar and Goings

Read first time 02/01/1999. Referred to Committee on Transportation.

1 AN ACT Relating to notice of and payment of security for long-term
2 vehicle impounds; and amending RCW 46.55.010, 46.55.080, 46.55.100,
3 46.55.110, 46.55.120, 46.55.130, 46.61.625, and 46.70.180.

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

5 **Sec. 1.** RCW 46.55.010 and 1998 c 203 s 8 are each amended to read
6 as follows:

7 The definitions set forth in this section apply throughout this
8 chapter:

9 (1) "Abandoned vehicle" means a vehicle that a registered tow truck
10 operator has impounded and held in the operator's possession for one
11 hundred twenty consecutive hours.

12 (2) "Abandoned vehicle report" means the document prescribed by the
13 state that the towing operator forwards to the department after a
14 vehicle has become abandoned.

15 (3) "Impound" means to take and hold a vehicle in legal custody.
16 There are two types of impounds--public and private.

17 (a) "Public impound" means that the vehicle has been impounded at
18 the direction of a law enforcement officer or by a public official

1 having jurisdiction over the public property upon which the vehicle was
2 located.

3 (b) "Private impound" means that the vehicle has been impounded at
4 the direction of a person having control or possession of the private
5 property upon which the vehicle was located.

6 (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as
7 meeting at least three of the following requirements:

8 (a) Is three years old or older;

9 (b) Is extensively damaged, such damage including but not limited
10 to any of the following: A broken window or windshield, or missing
11 wheels, tires, motor, or transmission;

12 (c) Is apparently inoperable;

13 (d) Has an approximate fair market value equal only to the
14 approximate value of the scrap in it.

15 (5) "Long-term impound" means an impound for up to thirty, sixty,
16 or ninety days ordered under RCW 46.55.120 because the driver was in
17 violation of RCW 46.20.342.

18 (6) "Master log" means the document or an electronic facsimile
19 prescribed by the department and the Washington state patrol in which
20 an operator records transactions involving impounded vehicles.

21 ~~((6))~~ (7) "Registered tow truck operator" or "operator" means any
22 person who engages in the impounding, transporting, or storage of
23 unauthorized vehicles or the disposal of abandoned vehicles.

24 ~~((7))~~ (8) "Residential property" means property that has no more
25 than four living units located on it.

26 ~~((8))~~ (9) "Tow truck" means a motor vehicle that is equipped for
27 and used in the business of towing vehicles with equipment as approved
28 by the state patrol.

29 ~~((9))~~ (10) "Tow truck number" means the number issued by the
30 department to tow trucks used by a registered tow truck operator in the
31 state of Washington.

32 ~~((10))~~ (11) "Tow truck permit" means the permit issued annually
33 by the department that has the classification of service the tow truck
34 may provide stamped upon it.

35 ~~((11))~~ (12) "Tow truck service" means the transporting upon the
36 public streets and highways of this state of vehicles, together with
37 personal effects and cargo, by a tow truck of a registered operator.

1 (~~(12)~~) (13) "Unauthorized vehicle" means a vehicle that is
 2 subject to impoundment after being left unattended in one of the
 3 following public or private locations for the indicated period of time:

4 Subject to removal after:

- 5 (a) Public locations:
 - 6 (i) Constituting an accident or a traffic hazard as
 - 7 defined in RCW 46.55.113 Immediately
 - 8 (ii) On a highway and tagged as described in RCW
 - 9 46.55.085 24 hours
 - 10 (iii) In a publicly owned or controlled parking facility,
 - 11 properly posted under RCW
 - 12 46.55.070 Immediately
- 13 (b) Private locations:
 - 14 (i) On residential property Immediately
 - 15 (ii) On private, nonresidential property, properly
 - 16 posted under RCW 46.55.070 Immediately
 - 17 (iii) On private, nonresidential property,
 - 18 not posted 24 hours

19 **Sec. 2.** RCW 46.55.080 and 1989 c 111 s 8 are each amended to read
 20 as follows:

21 (1) If a vehicle is in violation of the time restrictions of RCW
 22 46.55.010(~~(12)~~) (13), it may be impounded by a registered tow truck
 23 operator at the direction of a law enforcement officer or other public
 24 official with jurisdiction if the vehicle is on public property, or at
 25 the direction of the property owner or an agent if it is on private
 26 property. A law enforcement officer may also direct the impoundment of
 27 a vehicle pursuant to a writ or court order.

28 (2) The person requesting a private impound or a law enforcement
 29 officer or public official requesting a public impound shall provide a
 30 signed authorization for the impound at the time and place of the
 31 impound to the registered tow truck operator before the operator may
 32 proceed with the impound. A registered tow truck operator, employee,
 33 or his or her agent may not serve as an agent of a property owner for
 34 the purposes of signing an impound authorization or, independent of the
 35 property owner, identify a vehicle for impound.

1 (3) In the case of a private impound, the impound authorization
2 shall include the following statement: "A person authorizing this
3 impound, if the impound is found in violation of chapter 46.55 RCW, may
4 be held liable for the costs incurred by the vehicle owner."

5 (4) A registered tow truck operator shall record and keep in the
6 operator's files the date and time that a vehicle is put in the
7 operator's custody and released. The operator shall make an entry into
8 a master log regarding transactions relating to impounded vehicles.
9 The operator shall make this master log available, upon request, to
10 representatives of the department or the state patrol.

11 (5) A person who engages in or offers to engage in the activities
12 of a registered tow truck operator may not be associated in any way
13 with a person or business whose main activity is authorizing the
14 impounding of vehicles.

15 **Sec. 3.** RCW 46.55.100 and 1998 c 203 s 9 are each amended to read
16 as follows:

17 (1) At the time of impoundment the registered tow truck operator
18 providing the towing service shall give immediate notification, by
19 telephone or radio, to a law enforcement agency having jurisdiction who
20 shall maintain a log of such reports. A law enforcement agency, or a
21 private communication center acting on behalf of a law enforcement
22 agency, shall within six to twelve hours of the impoundment, provide to
23 a requesting operator the name and address of the legal and registered
24 owners of the vehicle, and the registered owner of any personal
25 property registered or titled with the department that is attached to
26 or contained in or on the impounded vehicle, the vehicle identification
27 number, and any other necessary, pertinent information. The initial
28 notice of impoundment shall be followed by a written or electronic
29 facsimile notice within twenty-four hours. In the case of a vehicle
30 from another state, time requirements of this subsection do not apply
31 until the requesting law enforcement agency in this state receives the
32 information.

33 (2) The operator shall immediately send an abandoned vehicle report
34 to the department for any vehicle, and for any items of personal
35 property registered or titled with the department, that are in the
36 operator's possession after the one hundred twenty hour abandonment
37 period. Such report need not be sent when the impoundment is pursuant
38 to a writ, court order, or police hold other than a long-term impound.

1 The owner notification and abandonment process shall be initiated by
2 the registered tow truck operator immediately following notification by
3 a court or law enforcement officer that the writ, court order, or
4 police hold other than a long-term impound is no longer in effect.

5 (3) Following the submittal of an abandoned vehicle report, the
6 department shall provide the registered tow truck operator with owner
7 information within seventy-two hours.

8 (4) Within fourteen days of the sale of an abandoned vehicle at
9 public auction, the towing operator shall send a copy of the abandoned
10 vehicle report showing the disposition of the abandoned vehicle and any
11 other items of personal property registered or titled with the
12 department to the crime information center of the Washington state
13 patrol.

14 (5) If the operator sends an abandoned vehicle report to the
15 department and the department finds no owner information, an operator
16 may proceed with an inspection of the vehicle and any other items of
17 personal property registered or titled with the department to determine
18 whether owner identification is within the vehicle.

19 (6) If the operator finds no owner identification, the operator
20 shall immediately notify the appropriate law enforcement agency, which
21 shall search the vehicle and any other items of personal property
22 registered or titled with the department for the vehicle identification
23 number or other appropriate identification numbers and check the
24 necessary records to determine the vehicle's or other property's
25 owners.

26 **Sec. 4.** RCW 46.55.110 and 1998 c 203 s 3 are each amended to read
27 as follows:

28 (1) When an unauthorized vehicle is impounded, the impounding
29 towing operator shall notify the legal and registered owners of the
30 impoundment of the unauthorized vehicle and the owners of any other
31 items of personal property registered or titled with the department.
32 The notification shall be sent by first-class mail within twenty-four
33 hours after the impoundment to the last known registered and legal
34 owners of the vehicle, and the owners of any other items of personal
35 property registered or titled with the department, as provided by the
36 law enforcement agency, and shall inform the owners of the identity of
37 the person or agency authorizing the impound. The notification shall
38 include the name of the impounding tow firm, its address, and telephone

1 number. The notice shall also include the location, time of the
2 impound, and by whose authority the vehicle was impounded. The notice
3 shall also include the written notice of the right of redemption and
4 opportunity for a hearing to contest the validity of the impoundment
5 pursuant to RCW 46.55.120.

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

17 (3) In the case of an abandoned vehicle, or other item of personal
18 property registered or titled with the department, within twenty-four
19 hours after receiving information on the owners from the department
20 through the abandoned vehicle report, the tow truck operator shall send
21 by certified mail, with return receipt requested, a notice of custody
22 and sale to the legal and registered owners.

23 ~~((+3))~~ (4) If the date on which a notice required by subsection
24 ~~((+2))~~ (3) of this section is to be mailed falls upon a Saturday,
25 Sunday, or a postal holiday, the notice may be mailed on the next day
26 that is neither a Saturday, Sunday, nor a postal holiday.

27 ~~((+4))~~ (5) No notices need be sent to the legal or registered
28 owners of an impounded vehicle or other item of personal property
29 registered or titled with the department, if the vehicle or personal
30 property has been redeemed.

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

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

37 (a) Only the legal owner, the registered owner, a person authorized
38 in writing by the registered owner or the vehicle's insurer, a person

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

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

1 and storage fees, notwithstanding the fact that the hold was ordered by
2 a government agency.

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

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

23 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer
24 may 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 long-term impound. A motor vehicle dealer may not knowingly
27 engage in collusion with a registered owner to repossess and then
28 return or resell a vehicle to the registered owner in an attempt to
29 avoid a long-term impound.

30 (e) The vehicle or other item of personal property registered or
31 titled with the department shall be released upon the presentation to
32 any person having custody of the vehicle of commercially reasonable
33 tender sufficient to cover the costs of towing, storage, or other
34 services rendered during the course of towing, removing, impounding, or
35 storing any such vehicle, with credit being given for the amount of any
36 security deposit paid under (b) of this subsection. In addition, if a
37 vehicle is impounded because the operator was arrested for a violation
38 of RCW 46.20.342 or 46.20.420 and was being operated by the registered
39 owner when it was impounded, it must not be released to any person

1 until the registered owner establishes with the agency that ordered the
2 vehicle impounded that any penalties, fines, or forfeitures owed by him
3 or her have been satisfied. Commercially reasonable tender shall
4 include, without limitation, cash, major bank credit cards, or personal
5 checks drawn on in-state banks if accompanied by two pieces of valid
6 identification, one of which may be required by the operator to have a
7 photograph. If the towing firm can determine through the customer's
8 bank or a check verification service that the presented check would not
9 be paid by the bank or guaranteed by the service, the towing firm may
10 refuse to accept the check. Any person who stops payment on a personal
11 check or credit card, or does not make restitution within ten days from
12 the date a check becomes insufficient due to lack of funds, to a towing
13 firm that has provided a service pursuant to this section or in any
14 other manner defrauds the towing firm in connection with services
15 rendered pursuant to this section shall be liable for damages in the
16 amount of twice the towing and storage fees, plus costs and reasonable
17 attorney's fees.

18 (2)(a) The registered tow truck operator shall give to each person
19 who seeks to redeem an impounded vehicle, or item of personal property
20 registered or titled with the department, written notice of the right
21 of redemption and opportunity for a hearing, which notice shall be
22 accompanied by a form to be used for requesting a hearing, the name of
23 the person or agency authorizing the impound, and a copy of the towing
24 and storage invoice. The registered tow truck operator shall maintain
25 a record evidenced by the redeeming person's signature that such
26 notification was provided.

27 (b) Any person seeking to redeem an impounded vehicle under this
28 section has a right to a hearing in the district or municipal court for
29 the jurisdiction in which the vehicle was impounded to contest the
30 validity of the impoundment or the amount of towing and storage
31 charges. The district court has jurisdiction to determine the issues
32 involving all impoundments including those authorized by the state or
33 its agents. The municipal court has jurisdiction to determine the
34 issues involving impoundments authorized by agents of the municipality.
35 Any request for a hearing shall be made in writing on the form provided
36 for that purpose and must be received by the appropriate court within
37 ten days of the date the opportunity was provided for in subsection
38 (2)(a) of this section. At the time of the filing of the hearing
39 request, the petitioner shall pay to the court clerk a filing fee in

1 the same amount required for the filing of a suit in district court.
2 If the hearing request is not received by the court within the ten-day
3 period, the right to a hearing is waived and the registered owner is
4 liable for any towing, storage, or other impoundment charges permitted
5 under this chapter. Upon receipt of a timely hearing request, the
6 court shall proceed to hear and determine the validity of the
7 impoundment.

8 (3)(a) The court, within five days after the request for a hearing,
9 shall notify the registered tow truck operator, the person requesting
10 the hearing if not the owner, the registered and legal owners of the
11 vehicle or other item of personal property registered or titled with
12 the department, and the person or agency authorizing the impound in
13 writing of the hearing date and time.

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

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

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

31 (e) If the impoundment is determined to be in violation of this
32 chapter, then the registered and legal owners of the vehicle or other
33 item of personal property registered or titled with the department
34 shall bear no impoundment, towing, or storage fees, and any security
35 shall be returned or discharged as appropriate, and the person or
36 agency who authorized the impoundment shall be liable for any towing,
37 storage, or other impoundment fees permitted under this chapter. The
38 court shall enter judgment in favor of the registered tow truck
39 operator against the person or agency authorizing the impound for the

1 impoundment, towing, and storage fees paid. In addition, the court
2 shall enter judgment in favor of the registered and legal owners of the
3 vehicle, or other item of personal property registered or titled with
4 the department, for the amount of the filing fee required by law for
5 the impound hearing petition as well as reasonable damages for loss of
6 the use of the vehicle during the time the same was impounded, for not
7 less than fifty dollars per day, against the person or agency
8 authorizing the impound. However, if an impoundment arising from an
9 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in
10 violation of this chapter, then the law enforcement officer directing
11 the impoundment and the government employing the officer are not liable
12 for damages if the officer relied in good faith and without gross
13 negligence on the records of the department in ascertaining that the
14 operator of the vehicle had a suspended or revoked driver's license.
15 If any judgment entered is not paid within fifteen days of notice in
16 writing of its entry, the court shall award reasonable attorneys' fees
17 and costs against the defendant in any action to enforce the judgment.
18 Notice of entry of judgment may be made by registered or certified
19 mail, and proof of mailing may be made by affidavit of the party
20 mailing the notice. Notice of the entry of the judgment shall read
21 essentially as follows:

22 TO:
23 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
24 Court located at in the sum of
25 \$., in an action entitled, Case No.
26 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
27 will be awarded against you under RCW . . . if the judgment is
28 not paid within 15 days of the date of this notice.
29 DATED this day of, (year) . . .
30 Signature
31 Typed name and address
32 of party mailing notice

33 (4) Any impounded abandoned vehicle or item of personal property
34 registered or titled with the department that is not redeemed within
35 fifteen days of mailing of the notice of custody and sale as required
36 by RCW 46.55.110(~~(+2)~~) (3) shall be sold at public auction in
37 accordance with all the provisions and subject to all the conditions of
38 RCW 46.55.130. A vehicle or item of personal property registered or

1 titled with the department may be redeemed at any time before the start
2 of the auction upon payment of the applicable towing and storage fees.

3 **Sec. 6.** RCW 46.55.130 and 1998 c 203 s 6 are each amended to read
4 as follows:

5 (1) If, after the expiration of fifteen days from the date of
6 mailing of notice of custody and sale required in RCW 46.55.110(~~(+2)~~)
7 (3) to the registered and legal owners, the vehicle remains unclaimed
8 and has not been listed as a stolen vehicle, or for which a long-term
9 impound has been directed but no security paid under RCW 46.55.120,
10 then the registered tow truck operator having custody of the vehicle
11 shall conduct a sale of the vehicle at public auction after having
12 first published a notice of the date, place, and time of the auction in
13 a newspaper of general circulation in the county in which the vehicle
14 is located not less than three days and no more than ten days before
15 the date of the auction. The notice shall contain a description of the
16 vehicle including the make, model, year, and license number and a
17 notification that a three-hour public viewing period will be available
18 before the auction. The auction shall be held during daylight hours of
19 a normal business day.

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

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

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

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

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

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

37 (f) The successful bidder shall apply for title within fifteen
38 days;

1 (g) The registered tow truck operator shall post a copy of the
2 auction procedure at the bidding site. If the bidding site is
3 different from the licensed office location, the operator shall post a
4 clearly visible sign at the office location that describes in detail
5 where the auction will be held. At the bidding site a copy of the
6 newspaper advertisement that lists the vehicles for sale shall be
7 posted;

8 (h) All surplus moneys derived from the auction after satisfaction
9 of the registered tow truck operator's lien shall be remitted within
10 thirty days to the department for deposit in the state motor vehicle
11 fund. A report identifying the vehicles resulting in any surplus shall
12 accompany the remitted funds. If the director subsequently receives a
13 valid claim from the registered vehicle owner of record as determined
14 by the department within one year from the date of the auction, the
15 surplus moneys shall be remitted to such owner;

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

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

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

27 (b) The failure of the registered tow truck operator to comply with
28 the time limits provided in this chapter limits the accumulation of
29 storage charges to five days except where delay is unavoidable.
30 Providing incorrect or incomplete identifying information to the
31 department in the abandoned vehicle report shall be considered a
32 failure to comply with these time limits if correct information is
33 available.

34 **Sec. 7.** RCW 46.61.625 and 1995 c 360 s 10 are each amended to read
35 as follows:

36 (1) No person or persons shall occupy any trailer while it is being
37 moved upon a public highway, except a person occupying a proper

1 position for steering a trailer designed to be steered from a rear-end
2 position.

3 (2) No person or persons may occupy a vehicle while it is being
4 towed by a tow truck as defined in RCW 46.55.010(~~(+8)~~)).

5 **Sec. 8.** RCW 46.70.180 and 1997 c 153 s 1 are each amended to read
6 as follows:

7 Each of the following acts or practices is unlawful:

8 (1) To cause or permit to be advertised, printed, displayed,
9 published, distributed, broadcasted, televised, or disseminated in any
10 manner whatsoever, any statement or representation with regard to the
11 sale or financing of a vehicle which is false, deceptive, or
12 misleading, including but not limited to the following:

13 (a) That no down payment is required in connection with the sale of
14 a vehicle when a down payment is in fact required, or that a vehicle
15 may be purchased for a smaller down payment than is actually required;

16 (b) That a certain percentage of the sale price of a vehicle may be
17 financed when such financing is not offered in a single document
18 evidencing the entire security transaction;

19 (c) That a certain percentage is the amount of the service charge
20 to be charged for financing, without stating whether this percentage
21 charge is a monthly amount or an amount to be charged per year;

22 (d) That a new vehicle will be sold for a certain amount above or
23 below cost without computing cost as the exact amount of the factory
24 invoice on the specific vehicle to be sold;

25 (e) That a vehicle will be sold upon a monthly payment of a certain
26 amount, without including in the statement the number of payments of
27 that same amount which are required to liquidate the unpaid purchase
28 price.

29 (2) To incorporate within the terms of any purchase and sale
30 agreement any statement or representation with regard to the sale or
31 financing of a vehicle which is false, deceptive, or misleading,
32 including but not limited to terms that include as an added cost to the
33 selling price of a vehicle an amount for licensing or transfer of title
34 of that vehicle which is not actually due to the state, unless such
35 amount has in fact been paid by the dealer prior to such sale.

36 (3) To set up, promote, or aid in the promotion of a plan by which
37 vehicles are to be sold to a person for a consideration and upon
38 further consideration that the purchaser agrees to secure one or more

1 persons to participate in the plan by respectively making a similar
2 purchase and in turn agreeing to secure one or more persons likewise to
3 join in said plan, each purchaser being given the right to secure
4 money, credits, goods, or something of value, depending upon the number
5 of persons joining the plan.

6 (4) To commit, allow, or ratify any act of "bushing" which is
7 defined as follows: Taking from a prospective buyer of a vehicle a
8 written order or offer to purchase, or a contract document signed by
9 the buyer, which:

10 (a) Is subject to the dealer's, or his or her authorized
11 representative's future acceptance, and the dealer fails or refuses
12 within three calendar days, exclusive of Saturday, Sunday, or legal
13 holiday, and prior to any further negotiations with said buyer, either
14 (i) to deliver to the buyer the dealer's signed acceptance, or (ii) to
15 void the order, offer, or contract document and tender the return of
16 any initial payment or security made or given by the buyer, including
17 but not limited to money, check, promissory note, vehicle keys, a
18 trade-in, or certificate of title to a trade-in; or

19 (b) Permits the dealer to renegotiate a dollar amount specified as
20 trade-in allowance on a vehicle delivered or to be delivered by the
21 buyer as part of the purchase price, for any reason except:

22 (i) Failure to disclose that the vehicle's certificate of ownership
23 has been branded for any reason, including, but not limited to, status
24 as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

25 (ii) Substantial physical damage or latent mechanical defect
26 occurring before the dealer took possession of the vehicle and which
27 could not have been reasonably discoverable at the time of the taking
28 of the order, offer, or contract; or

29 (iii) Excessive additional miles or a discrepancy in the mileage.
30 "Excessive additional miles" means the addition of five hundred miles
31 or more, as reflected on the vehicle's odometer, between the time the
32 vehicle was first valued by the dealer for purposes of determining its
33 trade-in value and the time of actual delivery of the vehicle to the
34 dealer. "A discrepancy in the mileage" means (A) a discrepancy between
35 the mileage reflected on the vehicle's odometer and the stated mileage
36 on the signed odometer statement; or (B) a discrepancy between the
37 mileage stated on the signed odometer statement and the actual mileage
38 on the vehicle; or

1 (c) Fails to comply with the obligation of any written warranty or
2 guarantee given by the dealer requiring the furnishing of services or
3 repairs within a reasonable time.

4 (5) To commit any offense relating to odometers, as such offenses
5 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
6 violation of this subsection is a class C felony punishable under
7 chapter 9A.20 RCW.

8 (6) For any vehicle dealer or vehicle salesperson to refuse to
9 furnish, upon request of a prospective purchaser, for vehicles
10 previously registered to a business or governmental entity, the name
11 and address of the business or governmental entity.

12 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
13 46.37.425.

14 (8) To commit any offense relating to a dealer's temporary license
15 permit, including but not limited to failure to properly complete each
16 such permit, or the issuance of more than one such permit on any one
17 vehicle. However, a dealer may issue a second temporary permit on a
18 vehicle if the following conditions are met:

19 (a) The lienholder fails to deliver the vehicle title to the dealer
20 within the required time period;

21 (b) The dealer has satisfied the lien; and

22 (c) The dealer has proof that payment of the lien was made within
23 two calendar days, exclusive of Saturday, Sunday, or a legal holiday,
24 after the sales contract has been executed by all parties and all
25 conditions and contingencies in the sales contract have been met or
26 otherwise satisfied.

27 (9) For a dealer, salesman, or mobile home manufacturer, having
28 taken an instrument or cash "on deposit" from a purchaser prior to the
29 delivery of the bargained-for vehicle, to commingle the "on deposit"
30 funds with assets of the dealer, salesman, or mobile home manufacturer
31 instead of holding the "on deposit" funds as trustee in a separate
32 trust account until the purchaser has taken delivery of the bargained-
33 for vehicle. Delivery of a manufactured home shall be deemed to occur
34 in accordance with RCW 46.70.135(5). Failure, immediately upon
35 receipt, to endorse "on deposit" instruments to such a trust account,
36 or to set aside "on deposit" cash for deposit in such trust account,
37 and failure to deposit such instruments or cash in such trust account
38 by the close of banking hours on the day following receipt thereof,
39 shall be evidence of intent to commit this unlawful practice:

1 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
2 trust account which equals his or her customary total customer deposits
3 for vehicles for future delivery. For purposes of this section, "on
4 deposit" funds received from a purchaser of a manufactured home means
5 those funds that a seller requires a purchaser to advance before
6 ordering the manufactured home, but does not include any loan proceeds
7 or moneys that might have been paid on an installment contract.

8 (10) For a dealer or manufacturer to fail to comply with the
9 obligations of any written warranty or guarantee given by the dealer or
10 manufacturer requiring the furnishing of goods and services or repairs
11 within a reasonable period of time, or to fail to furnish to a
12 purchaser, all parts which attach to the manufactured unit including
13 but not limited to the undercarriage, and all items specified in the
14 terms of a sales agreement signed by the seller and buyer.

15 (11) For a vehicle dealer to pay to or receive from any person,
16 firm, partnership, association, or corporation acting, either directly
17 or through a subsidiary, as a buyer's agent for consumers, any
18 compensation, fee, purchase moneys or funds that have been deposited
19 into or withdrawn out of any account controlled or used by any buyer's
20 agent, gratuity, or reward in connection with the purchase or sale of
21 a new motor vehicle.

22 (12) For a buyer's agent, acting directly or through a subsidiary,
23 to pay to or to receive from any motor vehicle dealer any compensation,
24 fee, gratuity, or reward in connection with the purchase or sale of a
25 new motor vehicle. In addition, it is unlawful for any buyer's agent
26 to engage in any of the following acts on behalf of or in the name of
27 the consumer:

28 (a) Receiving or paying any purchase moneys or funds into or out of
29 any account controlled or used by any buyer's agent;

30 (b) Signing any vehicle purchase orders, sales contract, odometer
31 statements, or title documents, or having the name of the buyer's agent
32 appear on the vehicle purchase order, sales contract, or title; or

33 (c) Signing any other documentation relating to the purchase, sale,
34 or transfer of any new motor vehicle.

35 It is unlawful for a buyer's agent to use a power of attorney
36 obtained from the consumer to accomplish or effect the purchase, sale,
37 or transfer of ownership documents of any new motor vehicle by any
38 means which would otherwise be prohibited under (a) through (c) of this

1 subsection. However, the buyer's agent may use a power of attorney for
2 physical delivery of motor vehicle license plates to the consumer.

3 Further, it is unlawful for a buyer's agent to engage in any false,
4 deceptive, or misleading advertising, disseminated in any manner
5 whatsoever, including but not limited to making any claim or statement
6 that the buyer's agent offers, obtains, or guarantees the lowest price
7 on any motor vehicle or words to similar effect.

8 (13) For a buyer's agent to arrange for or to negotiate the
9 purchase, or both, of a new motor vehicle through an out-of-state
10 dealer without disclosing in writing to the customer that the new
11 vehicle would not be subject to chapter 19.118 RCW. In addition, it is
12 unlawful for any buyer's agent to fail to have a written agreement with
13 the customer that: (a) Sets forth the terms of the parties' agreement;
14 (b) discloses to the customer the total amount of any fees or other
15 compensation being paid by the customer to the buyer's agent for the
16 agent's services; and (c) further discloses whether the fee or any
17 portion of the fee is refundable. The department of licensing shall by
18 December 31, 1996, in rule, adopt standard disclosure language for
19 buyer's agent agreements under RCW 46.70.011, 46.70.070, and this
20 section.

21 (14) Being a manufacturer, other than a motorcycle manufacturer
22 governed by chapter 46.94 RCW, to:

23 (a) Coerce or attempt to coerce any vehicle dealer to order or
24 accept delivery of any vehicle or vehicles, parts or accessories, or
25 any other commodities which have not been voluntarily ordered by the
26 vehicle dealer: PROVIDED, That recommendation, endorsement,
27 exposition, persuasion, urging, or argument are not deemed to
28 constitute coercion;

29 (b) Cancel or fail to renew the franchise or selling agreement of
30 any vehicle dealer doing business in this state without fairly
31 compensating the dealer at a fair going business value for his or her
32 capital investment which shall include but not be limited to tools,
33 equipment, and parts inventory possessed by the dealer on the day he or
34 she is notified of such cancellation or termination and which are still
35 within the dealer's possession on the day the cancellation or
36 termination is effective, if: (i) The capital investment has been
37 entered into with reasonable and prudent business judgment for the
38 purpose of fulfilling the franchise; and (ii) the cancellation or
39 nonrenewal was not done in good faith. Good faith is defined as the

1 duty of each party to any franchise to act in a fair and equitable
2 manner towards each other, so as to guarantee one party freedom from
3 coercion, intimidation, or threats of coercion or intimidation from the
4 other party: PROVIDED, That recommendation, endorsement, exposition,
5 persuasion, urging, or argument are not deemed to constitute a lack of
6 good faith.

7 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
8 vehicles through any false, deceptive, or misleading sales or financing
9 practices including but not limited to those practices declared
10 unlawful in this section;

11 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
12 practice forbidden in this section by either threats of actual
13 cancellation or failure to renew the dealer's franchise agreement;

14 (e) Refuse to deliver any vehicle publicly advertised for immediate
15 delivery to any duly licensed vehicle dealer having a franchise or
16 contractual agreement for the retail sale of new and unused vehicles
17 sold or distributed by such manufacturer within sixty days after such
18 dealer's order has been received in writing unless caused by inability
19 to deliver because of shortage or curtailment of material, labor,
20 transportation, or utility services, or by any labor or production
21 difficulty, or by any cause beyond the reasonable control of the
22 manufacturer;

23 (f) To provide under the terms of any warranty that a purchaser of
24 any new or unused vehicle that has been sold, distributed for sale, or
25 transferred into this state for resale by the vehicle manufacturer may
26 only make any warranty claim on any item included as an integral part
27 of the vehicle against the manufacturer of that item.

28 Nothing in this section may be construed to impair the obligations
29 of a contract or to prevent a manufacturer, distributor,
30 representative, or any other person, whether or not licensed under this
31 chapter, from requiring performance of a written contract entered into
32 with any licensee hereunder, nor does the requirement of such
33 performance constitute a violation of any of the provisions of this
34 section if any such contract or the terms thereof requiring
35 performance, have been freely entered into and executed between the
36 contracting parties. This paragraph and subsection (14)(b) of this
37 section do not apply to new motor vehicle manufacturers governed by
38 chapter 46.96 RCW.

1 (15) Unlawful transfer of an ownership interest in a motor vehicle
2 as defined in RCW 19.116.050.

3 (16) To engage knowingly in collusion with a registered owner of
4 a vehicle to repossess and return or resell the vehicle to the
5 registered owner in an attempt to avoid a long-term impound under
6 chapter 46.55 RCW.

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