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HOUSE BILL 1269

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Bush and Campbell

Read first time 01/22/2001. Referred to Committee on Transportation.

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

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

4 **Sec. 1.** RCW 46.55.120 and 2000 c 193 s 1 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, 46.55.113, or 9A.88.140  
9 may be 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 (e) 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 or from the court having jurisdiction. An agency  
13 may issue a written order to release pursuant to a provision of an  
14 applicable state agency rule or local ordinance authorizing release on  
15 the basis of: Economic or personal hardship to the spouse of the  
16 operator, taking into consideration public safety factors, including  
17 the operator's criminal history and driving record; or economic or  
18 personal hardship to the owner of the vehicle if the owner was not the  
19 operator of the vehicle when it was impounded and if the owner has not  
20 received a prior release under this provision for hardship to the  
21 owner.

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

37 (b) If the vehicle is directed to be held for a suspended license  
38 impound, a person who desires to redeem the vehicle at the end of the  
39 period of impound shall within five days of the impound at the request

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

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

21 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
22 or lender with a perfected security interest in the vehicle may redeem  
23 or lawfully repossess a vehicle immediately by payment of the costs of  
24 removal, towing, and storage, whereupon the vehicle will not be held  
25 for a suspended license impound. A motor vehicle dealer or lender with  
26 a perfected security interest in the vehicle may not knowingly and  
27 intentionally engage in collusion with a registered owner to repossess  
28 and then return or resell a vehicle to the registered owner in an  
29 attempt to avoid a suspended license impound. However, this provision  
30 does not preclude a vehicle dealer or a lender with a perfected  
31 security interest in the vehicle from repossessing the vehicle and then  
32 selling, leasing, or otherwise disposing of it in accordance with  
33 chapter ((62A.9)) 62A.9A RCW, including providing redemption rights to  
34 the debtor under RCW ((62A.9-506)) 62A.9A-623. If the debtor is the  
35 registered owner of the vehicle, the debtor's right to redeem the  
36 vehicle under chapter ((62A.9)) 62A.9A RCW is conditioned upon the  
37 debtor obtaining and providing proof from the impounding authority or  
38 court having jurisdiction that any fines, penalties, and forfeitures  
39 owed by the registered owner, as a result of the suspended license

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

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

1           (2)(a) The registered tow truck operator shall give to each person  
2 who seeks to redeem an impounded vehicle, or item of personal property  
3 registered or titled with the department, written notice of the right  
4 of redemption and opportunity for a hearing, which notice shall be  
5 accompanied by a form to be used for requesting a hearing, the name of  
6 the person or agency authorizing the impound, and a copy of the towing  
7 and storage invoice. The registered tow truck operator shall maintain  
8 a record evidenced by the redeeming person's signature that such  
9 notification was provided.

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

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

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

1 impoundment in lieu of the officer's personal appearance at the  
2 hearing.

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

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

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

1 Notice of entry of judgment may be made by registered or certified  
2 mail, and proof of mailing may be made by affidavit of the party  
3 mailing the notice. Notice of the entry of the judgment shall read  
4 essentially as follows:

5 TO: . . . . .

6 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
7 . . . . . Court located at . . . . . in the sum of  
8 \$. . . . ., in an action entitled . . . . ., Case No.

9 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
10 will be awarded against you under RCW . . . if the judgment is  
11 not paid within 15 days of the date of this notice.

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

13 Signature . . . . .

14 Typed name and address  
15 of party mailing notice

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

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