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HOUSE BILL 1620

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By Representatives Delvin, O'Brien, Mielke, Kirby, Ericksen, Esser, Lovick, Cooper, B. Chandler, Ruderman, Mulliken and Dunn

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1 AN ACT Relating to removing the requirement that tow truck  
2 operators accept personal checks for the redemption of vehicles; and  
3 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 2000 c 193 s 1 are each amended to read  
6 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)) 62A.9A RCW, including providing redemption rights to  
31 the debtor under ((RCW 62A.9-506)) chapter 62A.9A RCW. If the debtor  
32 is the registered owner of the vehicle, the debtor's right to redeem  
33 the vehicle under chapter ((62A.9)) 62A.9A RCW is conditioned upon the  
34 debtor obtaining and providing proof from the impounding authority or  
35 court having jurisdiction that any fines, penalties, and forfeitures  
36 owed by the registered owner, as a result of the suspended license  
37 impound, have been paid, and proof of the payment must be tendered to  
38 the vehicle dealer or lender at the time the debtor tenders all other  
39 obligations required to redeem the vehicle. Vehicle dealers or lenders

1 are not liable for damages if they rely in good faith on an order from  
2 the impounding agency or a court in releasing a vehicle held under a  
3 suspended license impound.

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

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

1 accompanied by a form to be used for requesting a hearing, the name of  
2 the person or agency authorizing the impound, and a copy of the towing  
3 and storage invoice. The registered tow truck operator shall maintain  
4 a record evidenced by the redeeming person's signature that such  
5 notification was provided.

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

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

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

38 (c) At the conclusion of the hearing, the court shall determine  
39 whether the impoundment was proper, whether the towing or storage fees

1 charged were in compliance with the posted rates, and who is  
2 responsible for payment of the fees. The court may not adjust fees or  
3 charges that are in compliance with the posted or contracted rates.

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

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

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