
HOUSE BILL 1713

State of Washington

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By Representatives Mielke, Dunn, Boldt, Hatfield, Campbell, Santos,
G. Chandler, Veloria and Schindler

Read first time 02/01/2001. Referred to Committee on Transportation.

1 AN ACT Relating to release of an impounded commercial vehicle that
2 was driven by a person with a suspended license without the owner's
3 knowledge; 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 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)~~) (f) of this subsection,
5 including paying all towing, removal, and storage fees, notwithstanding
6 the fact that the hold was ordered by a government agency. If the
7 department's records show that the operator has been convicted of a
8 violation of RCW 46.20.342 or a similar local ordinance within the past
9 five years, the vehicle may be held for up to thirty days at the
10 written direction of the agency ordering the vehicle impounded. A
11 vehicle impounded because the operator is arrested for a violation of
12 RCW 46.20.342 may be released only pursuant to a written order from the
13 agency that ordered the vehicle impounded or from the court having
14 jurisdiction. An agency may issue a written order to release pursuant
15 to a provision of an applicable state agency rule or local ordinance
16 authorizing release on the basis of economic or personal hardship to
17 the spouse of the operator, taking into consideration public safety
18 factors, including 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)~~) (f) of this subsection, including paying all towing, removal,
32 and storage fees, notwithstanding the fact that the hold was ordered by
33 a 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, if the owner of a
19 commercial vehicle who was not the driver of the commercial vehicle at
20 the time of the commercial vehicle's impoundment signs a sworn
21 affidavit or declaration attesting to the owner's lack of knowledge of
22 the driver's suspended license and additionally attesting to the
23 existence of business policies in place at the time of the impoundment
24 requiring the driver of a commercial vehicle whose license is suspended
25 to notify the owner of the vehicle of the suspension, the owner may
26 immediately redeem a commercial vehicle he or she owns by payment of
27 the costs of removal, towing, and storage, whereupon the vehicle will
28 not be held for a suspended license impound. In the case of a
29 corporate owner, the duly authorized agent of the corporation may
30 attest on behalf of the corporation.

31 (e) Notwithstanding (b) of this subsection, a motor vehicle dealer
32 or lender with a perfected security interest in the vehicle may redeem
33 or lawfully repossess a vehicle immediately by payment of the costs of
34 removal, towing, and storage, whereupon the vehicle will not be held
35 for a suspended license impound. A motor vehicle dealer or lender with
36 a perfected security interest in the vehicle may not knowingly and
37 intentionally engage in collusion with a registered owner to repossess
38 and then return or resell a vehicle to the registered owner in an
39 attempt to avoid a suspended license impound. However, this provision

1 does not preclude a vehicle dealer or a lender with a perfected
2 security interest in the vehicle from repossessing the vehicle and then
3 selling, leasing, or otherwise disposing of it in accordance with
4 chapter 62A.9A RCW, including providing redemption rights to the debtor
5 under RCW (~~(62A.9-506)~~) 62A.9A-623. If the debtor is the registered
6 owner of the vehicle, the debtor's right to redeem the vehicle under
7 chapter 62A.9A RCW is conditioned upon the debtor obtaining and
8 providing proof from the impounding authority or court having
9 jurisdiction that any fines, penalties, and forfeitures owed by the
10 registered owner, as a result of the suspended license impound, have
11 been paid, and proof of the payment must be tendered to the vehicle
12 dealer or lender at the time the debtor tenders all other obligations
13 required to redeem the vehicle. Vehicle dealers or lenders are not
14 liable for damages if they rely in good faith on an order from the
15 impounding agency or a court in releasing a vehicle held under a
16 suspended license impound.

17 ~~((e))~~ (f) The vehicle or other item of personal property
18 registered or titled with the department shall be released upon the
19 presentation to any person having custody of the vehicle of
20 commercially reasonable tender sufficient to cover the costs of towing,
21 storage, or other services rendered during the course of towing,
22 removing, impounding, or storing any such vehicle, with credit being
23 given for the amount of any security deposit paid under (b) of this
24 subsection. In addition, if a vehicle is impounded because the
25 operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and
26 was being operated by the registered owner when it was impounded under
27 local ordinance or agency rule, it must not be released to any person
28 until the registered owner establishes with the agency that ordered the
29 vehicle impounded or the court having jurisdiction that any penalties,
30 fines, or forfeitures owed by him or her have been satisfied.
31 Registered tow truck operators are not liable for damages if they rely
32 in good faith on an order from the impounding agency or a court in
33 releasing a vehicle held under a suspended license impound.
34 Commercially reasonable tender shall include, without limitation, cash,
35 major bank credit cards issued by financial institutions, or personal
36 checks drawn on Washington state branches of financial institutions if
37 accompanied by two pieces of valid identification, one of which may be
38 required by the operator to have a photograph. If the towing firm
39 cannot determine through the customer's bank or a check verification

1 service that the presented check would be paid by the bank or
2 guaranteed by the service, the towing firm may refuse to accept the
3 check. Any person who stops payment on a personal check or credit
4 card, or does not make restitution within ten days from the date a
5 check becomes insufficient due to lack of funds, to a towing firm that
6 has provided a service pursuant to this section or in any other manner
7 defrauds the towing firm in connection with services rendered pursuant
8 to this section shall be liable for damages in the amount of twice the
9 towing and storage fees, plus costs and reasonable attorney's fees.

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

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

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

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

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

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

24 (e) If the impoundment is determined to be in violation of this
25 chapter, then the registered and legal owners of the vehicle or other
26 item of personal property registered or titled with the department
27 shall bear no impoundment, towing, or storage fees, and any security
28 shall be returned or discharged as appropriate, and the person or
29 agency who authorized the impoundment shall be liable for any towing,
30 storage, or other impoundment fees permitted under this chapter. The
31 court shall enter judgment in favor of the registered tow truck
32 operator against the person or agency authorizing the impound for the
33 impoundment, towing, and storage fees paid. In addition, the court
34 shall enter judgment in favor of the registered and legal owners of the
35 vehicle, or other item of personal property registered or titled with
36 the department, for the amount of the filing fee required by law for
37 the impound hearing petition as well as reasonable damages for loss of
38 the use of the vehicle during the time the same was impounded, for not
39 less than fifty dollars per day, against the person or agency

1 authorizing the impound. However, if an impoundment arising from an
2 alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in
3 violation of this chapter, then the law enforcement officer directing
4 the impoundment and the government employing the officer are not liable
5 for damages if the officer relied in good faith and without gross
6 negligence on the records of the department in ascertaining that the
7 operator of the vehicle had a suspended or revoked driver's license.
8 If any judgment entered is not paid within fifteen days of notice in
9 writing of its entry, the court shall award reasonable attorneys' fees
10 and costs against the defendant in any action to enforce the judgment.
11 Notice of entry of judgment may be made by registered or certified
12 mail, and proof of mailing may be made by affidavit of the party
13 mailing the notice. Notice of the entry of the judgment shall read
14 essentially as follows:

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

26 (4) Any impounded abandoned vehicle or item of personal property
27 registered or titled with the department that is not redeemed within
28 fifteen days of mailing of the notice of custody and sale as required
29 by RCW 46.55.110(3) shall be sold at public auction in accordance with
30 all the provisions and subject to all the conditions of RCW 46.55.130.
31 A vehicle or item of personal property registered or titled with the
32 department may be redeemed at any time before the start of the auction
33 upon payment of the applicable towing and storage fees.

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