
HOUSE BILL 1074

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By Representatives Bush, O'Brien, Shabro, Kirby, Armstrong, Mielke, Pearson, Anderson, Campbell, Miloscia, Sullivan and Carrell

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1 AN ACT Relating to release of vehicles to vehicle owners in cases
2 involving suspended license vehicle impounds; and amending RCW
3 46.55.113 and 46.55.120.

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

5 **Sec. 1.** RCW 46.55.113 and 1998 c 203 s 4 are each amended to read
6 as follows:

7 (1) Whenever the driver of a vehicle is arrested for a violation of
8 RCW 46.61.502 or 46.61.504 or of RCW 46.20.342 or ~~((46.20.420))~~
9 46.20.345, the vehicle is subject to impoundment, pursuant to
10 applicable local ordinance or state agency rule at the direction of a
11 law enforcement officer. In addition, a police officer may take
12 custody of a vehicle and provide for its prompt removal to a place of
13 safety under any of the following circumstances:

14 ~~((1))~~ (a) Whenever a police officer finds a vehicle standing upon
15 the roadway in violation of any of the provisions of RCW 46.61.560, the
16 officer may provide for the removal of the vehicle or require the
17 driver or other person in charge of the vehicle to move the vehicle to
18 a position off the roadway;

1 ~~((+2))~~ (b) Whenever a police officer finds a vehicle unattended
2 upon a highway where the vehicle constitutes an obstruction to traffic
3 or jeopardizes public safety;

4 ~~((+3))~~ (c) Whenever a police officer finds an unattended vehicle
5 at the scene of an accident or when the driver of a vehicle involved in
6 an accident is physically or mentally incapable of deciding upon steps
7 to be taken to protect his or her property;

8 ~~((+4))~~ (d) Whenever the driver of a vehicle is arrested and taken
9 into custody by a police officer;

10 ~~((+5))~~ (e) Whenever a police officer discovers a vehicle that the
11 officer determines to be a stolen vehicle;

12 ~~((+6))~~ (f) Whenever a vehicle without a special license plate,
13 card, or decal indicating that the vehicle is being used to transport
14 a disabled person under RCW 46.16.381 is parked in a stall or space
15 clearly and conspicuously marked under RCW 46.61.581 which space is
16 provided on private property without charge or on public property;

17 ~~((+7))~~ (g) Upon determining that a person is operating a motor
18 vehicle without a valid driver's license in violation of RCW 46.20.005
19 or with a license that has been expired for ninety days or more.

20 (2) Whenever the driver of a vehicle is arrested for a violation of
21 RCW 46.20.342, the vehicle may be impounded for reasonable cause.
22 However, before the vehicle is subject to impoundment, a police officer
23 shall attempt in a reasonable and timely manner to contact the owner of
24 the vehicle and may release the vehicle to the owner if the owner is
25 reasonably available, the owner was not in the vehicle at the time of
26 the stop and arrest, and the owner has not received a prior release
27 under this subsection.

28 (3) Nothing in this section may derogate from the powers of police
29 officers under the common law. For the purposes of this section, a
30 place of safety may include the business location of a registered tow
31 truck operator.

32 **Sec. 2.** RCW 46.55.120 and 2000 c 193 s 1 are each amended to read
33 as follows:

34 (1) Vehicles or other items of personal property registered or
35 titled with the department that are impounded by registered tow truck
36 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140
37 may be redeemed only under the following circumstances:

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

32 If a vehicle is impounded because the operator is in violation of
33 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
34 days at the written direction of the agency ordering the vehicle
35 impounded. However, if the department's records show that the operator
36 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
37 similar local ordinance within the past five years, the vehicle may be
38 held at the written direction of the agency ordering the vehicle

1 impounded for up to sixty days, and for up to ninety days if the
2 operator has two or more such prior offenses. If a vehicle is
3 impounded because the operator is arrested for a violation of RCW
4 46.20.342, the vehicle may not be released until a person eligible to
5 redeem it under this subsection (1)(a) satisfies the requirements of
6 (e) of this subsection, including paying all towing, removal, and
7 storage fees, notwithstanding the fact that the hold was ordered by a
8 government agency.

9 (b) If the vehicle is directed to be held for a suspended license
10 impound, a person who desires to redeem the vehicle at the end of the
11 period of impound shall within five days of the impound at the request
12 of the tow truck operator pay a security deposit to the tow truck
13 operator of not more than one-half of the applicable impound storage
14 rate for each day of the proposed suspended license impound. The tow
15 truck operator shall credit this amount against the final bill for
16 removal, towing, and storage upon redemption. The tow truck operator
17 may accept other sufficient security in lieu of the security deposit.
18 If the person desiring to redeem the vehicle does not pay the security
19 deposit or provide other security acceptable to the tow truck operator,
20 the tow truck operator may process and sell at auction the vehicle as
21 an abandoned vehicle within the normal time limits set out in RCW
22 46.55.130(1). The security deposit required by this section may be
23 paid and must be accepted at any time up to twenty-four hours before
24 the beginning of the auction to sell the vehicle as abandoned. The
25 registered owner is not eligible to purchase the vehicle at the
26 auction, and the tow truck operator shall sell the vehicle to the
27 highest bidder who is not the registered owner.

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

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

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

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

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

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

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

1 towing, storage, or other impoundment charges permitted under this
2 chapter. Upon receipt of a timely hearing request, the court shall
3 proceed to hear and determine the validity of the impoundment.

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

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

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

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

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

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

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

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

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