
HOUSE BILL 3034

State of Washington

58th Legislature

2004 Regular Session

By Representatives Darneille and O'Brien

Read first time 01/26/2004. Referred to Committee on Fisheries,
Ecology & Parks.

1 AN ACT Relating to selling or leasing contaminated property;
2 amending RCW 64.44.010, 64.44.030, 64.44.050, 46.55.120, 46.55.130, and
3 70.105D.070; adding a new section to chapter 64.44 RCW; and prescribing
4 penalties.

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

6 **Sec. 1.** RCW 64.44.010 and 1999 c 292 s 2 are each amended to read
7 as follows:

8 The words and phrases defined in this section shall have the
9 following meanings when used in this chapter unless the context clearly
10 indicates otherwise.

11 (1) "Authorized contractor" means a person who decontaminates,
12 demolishes, or disposes of contaminated property as required by this
13 chapter who is certified by the department as provided for in RCW
14 64.44.060.

15 (2) "Contaminated" or "contamination" means polluted by hazardous
16 chemicals so that the property is unfit for human habitation or use due
17 to immediate or long-term hazards. Property that at one time was
18 contaminated but has been satisfactorily decontaminated according to

1 procedures established by the state board of health is not
2 "contaminated."

3 (3) "Hazardous chemicals" means the following substances used in
4 the manufacture of illegal drugs: (a) Hazardous substances as defined
5 in RCW 70.105D.020, and (b) precursor substances as defined in RCW
6 69.43.010 which the state board of health, in consultation with the
7 state board of pharmacy, has determined present an immediate or long-
8 term health hazard to humans.

9 (4) "Officer" means a local health officer authorized under
10 chapters 70.05, 70.08, and 70.46 RCW.

11 (5) "Property" means any property, site, structure, or part of a
12 structure which is involved in the unauthorized manufacture or storage
13 of hazardous chemicals. This includes but is not limited to single-
14 family residences, units of multiplexes, condominiums, apartment
15 buildings, storage units, vessels, boats, motor vehicles including
16 recreational vehicles and motor homes, trailers, manufactured housing,
17 or any shop, booth, or garden.

18 (6) "Prospective owner" means a person, other than the current
19 owner of contaminated property, who has provided a local health officer
20 with a cash bond or other security acceptable to the local health
21 officer as guarantee that a decontamination plan will be completed as
22 approved, and either (a) has reached an agreement with the property's
23 current owner to purchase property that is currently deemed unfit for
24 use under RCW 64.44.030, which purchase agreement is contingent upon
25 completion of the decontamination plan that has been approved by a
26 local health official under RCW 64.44.050; (b) had a valid, documented
27 security, insurable, or other financial interest in the property on the
28 day the local health officer found, under RCW 64.44.030, the property
29 to be contaminated; or (c) is a registered tow truck operator in
30 possession of an abandoned and unredeemed vehicle that the operator
31 would otherwise be eligible to sell at public auction under RCW
32 46.55.120.

33 **Sec. 2.** RCW 64.44.030 and 1999 c 292 s 4 are each amended to read
34 as follows:

35 (1) If after the inspection of the property, the local health
36 officer finds that it, or any part of it, is contaminated, then all of,
37 or that part of, the property determined by the local health official

1 to pose a health hazard due to contamination shall be found unfit for
2 use. The local health officer shall cause to be served an order
3 prohibiting use either personally or by certified mail, with return
4 receipt requested, upon all occupants and persons having any interest
5 therein as shown upon the records of (a) the auditor's office of the
6 county in which such property is located, if the property is real
7 property; or (b) the department of licensing, if the property is a
8 motor vehicle or other personal property that may be subject to chapter
9 46.12 RCW. The local health officer shall also post the order
10 prohibiting use in a conspicuous place on the property.

11 (2) If the whereabouts of such persons is unknown and the same
12 cannot be ascertained by the local health officer in the exercise of
13 reasonable diligence, and the health officer makes an affidavit to that
14 effect, then the serving of the order upon such persons may be made
15 either by personal service or by mailing a copy of the order by
16 certified mail, postage prepaid, return receipt requested, to each
17 person at the address appearing on (a) the last equalized tax
18 assessment roll of the county where the real property is located or at
19 the address known to the county assessor, and the order shall be posted
20 conspicuously at the residence; or (b) the most recent record, if any,
21 maintained by the department of licensing if the property is a motor
22 vehicle or other personal property that may be subject to chapter 46.12
23 RCW. A copy of the order shall also be mailed, addressed to each
24 person or party having a recorded right, title, estate, lien, or
25 interest in the property. The order shall contain a notice that a
26 hearing before the local health board or officer shall be held upon the
27 request of a person required to be notified of the order under this
28 section. The request for a hearing must be made within ten days of
29 serving the order. The hearing shall then be held within not less than
30 twenty days nor more than thirty days after the serving of the order.
31 The officer shall prohibit use as long as the property is found to be
32 contaminated.

33 (3) If the property found by the local health official to be unfit
34 for use is real property, a copy of the order shall also be filed by
35 the local health official with the auditor of the county in which the
36 property is located, and such filing of the complaint or order shall
37 have the same force and effect as other lis pendens notices provided by
38 law.

1 (4) In any hearing concerning whether property is fit for use, the
2 property owner has the burden of showing, by clear and convincing
3 evidence, that the property is decontaminated or fit for use. The
4 owner or any person having an interest in the property may file an
5 appeal on any order issued by the local health board or officer within
6 thirty days from the date of service of the order with the appeals
7 commission established pursuant to RCW 35.80.030. All proceedings
8 before the appeals commission, including any subsequent appeals to
9 superior court, shall be governed by the procedures established in
10 chapter 35.80 RCW.

11 (5)(a) An ownership interest in property that has been found unfit
12 for use under this section is not transferable, unless (i) the finding
13 has been reversed or nullified under subsection (4) of this section; or
14 (ii) the property has been released for reuse in accordance with RCW
15 64.44.050.

16 (b) Any transfer of ownership in violation of this section is
17 voidable at the option of the transferee, and the transferor is (i)
18 guilty of making a false representation concerning title in violation
19 of RCW 9.38.020; and (ii) liable to the transferee for any damages,
20 direct or consequential, as the transferee may show by a preponderance
21 of the evidence to be or have been associated with the transfer.

22 **Sec. 3.** RCW 64.44.050 and 1999 c 292 s 6 are each amended to read
23 as follows:

24 (1) An owner or prospective owner of contaminated property who
25 desires to have the property decontaminated shall use the services of
26 an authorized contractor unless otherwise authorized by the local
27 health officer. The contractor shall prepare and submit a written work
28 plan for decontamination to the local health officer. The local health
29 officer may charge a reasonable fee for review of the work plan. If
30 the work plan is approved and the decontamination is completed and the
31 property is retested according to the plan and properly documented,
32 then the health officer shall allow reuse of the property(~~(.—A)~~), and
33 shall issue to the owner or prospective owner a release for reuse
34 document, describing the property being released and indicating the
35 property was once deemed unfit for use under RCW 64.44.030 due to
36 contamination by hazardous chemicals, but has been decontaminated in

1 accordance with rules of the state department of health. The local
2 health official may charge a reasonable fee for making certified copies
3 of release for reuse documents.

4 (2)(a) The seller or lessor of the property that has been released
5 for reuse under this section shall provide to the purchaser or lessee
6 of the property the original or certified copy of the release for reuse
7 document issued under subsection (1) of this section, if the agreement
8 to sell or lease the decontaminated property occurs within the
9 applicable period described in (b) of this subsection.

10 (b) Subsection (2)(a) of this section applies to any sale or lease
11 of property by any owner if the owner was provided the original or
12 certified copy of the release for reuse document issued under
13 subsection (1) of this section and the sale or lease occurs before (i)
14 the property has been occupied or otherwise used for its intended
15 purposes for one hundred eighty days, consecutively or otherwise, after
16 the date the release for reuse document was issued; or (ii) one year
17 from the date of the release for reuse document was issued, whichever
18 occurs sooner.

19 (3) The seller or lessor of any decontaminated property that is
20 real property may record the release for reuse document ((shall be
21 recorded)) in the real property records ((indicating the property has
22 been decontaminated in accordance with rules of the state department of
23 health)) of the county in which the property is located.

24 NEW SECTION. Sec. 4. A new section is added to chapter 64.44 RCW
25 to read as follows:

26 (1) If a person receives an original or copy of a release for reuse
27 document identifying tangible personal property and sells or leases any
28 tangible personal property described in the document but fails to make
29 the disclosure required by RCW 64.44.050(2): (a) The purchaser or
30 lessee has the right to rescind the transaction; (b) the person is
31 liable for the amount paid for the property by any subsequent
32 purchasers or lessees who purchased or leased the property within two
33 years of the date of the release for reuse document, unless the person
34 shows, by a preponderance of the evidence, that the failure to make the
35 disclosure was due to mistake or inadvertence and was not willful; and
36 (c) any purchaser or lessee who prevails in any action initiated under

1 this section shall also be awarded reasonable attorneys' fees and
2 costs.

3 (2) Except as provided under subsection (3) of this section, if a
4 person receives an original or copy of a release for reuse document
5 identifying real property under RCW 64.44.050 and sells or leases any
6 tangible personal property described in the document but fails to make
7 the disclosure required by RCW 64.44.050(2), the purchaser or lessee
8 has the right to:

9 (a) Immediately terminate the purchase or lease agreement without
10 penalty;

11 (b) A refund of any deposit or fee associated with the transaction
12 paid by the purchaser or lessee to the seller or lessor, including
13 interest at a rate of one percent per month from the date of deposit to
14 the date of refund;

15 (c) Reimbursement of the purchaser's or lessee's actual costs of
16 relocating, including but not limited to costs for terminating and
17 initiating utilities, and packing and transporting belongings,
18 including interest at a rate of one percent per month from the date the
19 purchaser or lessor makes written demand for the reimbursement;

20 (d) A cash payment equal to two times the greater of (i) the
21 monthly rental rate under the applicable lease agreement; or (ii) the
22 fair market monthly rental rate of an equivalent property that has
23 never been contaminated;

24 (e) Reasonable attorneys' fees and costs in any action initiated by
25 a purchaser or lessee to enforce this section; and

26 (f) If the property is a residence leased to a person who occupies
27 or intended to occupy the property, any additional remedies the court
28 may find appropriate under chapter 59.18 or 59.20 RCW.

29 (3) An owner of real property that sells or leases real property
30 that has been decontaminated under RCW 64.44.050 and fails to make the
31 disclosure required by RCW 64.44.050(2) is not liable to the purchaser
32 or lessee for amounts allowed under subsection (2)(d) and (e) of this
33 section if the owner shows, by a preponderance of the evidence, that
34 the failure to make the disclosure was due to mistake or inadvertence
35 and was not willful.

36 **Sec. 5.** RCW 46.55.120 and 2003 c 177 s 2 are each amended to read
37 as follows:

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

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

30 (i) Economic or personal hardship to the spouse of the operator,
31 taking into consideration public safety factors, including the
32 operator's criminal history and driving record; or

33 (ii) The owner of the vehicle was not the driver, the owner did not
34 know that the driver's license was suspended or revoked, and the owner
35 has not received a prior release under this subsection or RCW
36 46.55.113(3).

37 In order to avoid discriminatory application, other than for the
38 reasons for release set forth in (a)(i) and (ii) of this subsection, an

1 agency shall, under a provision of an applicable state agency rule or
2 local ordinance, deny release in all other circumstances without
3 discretion.

4 If a vehicle is impounded because the operator is in violation of
5 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
6 days at the written direction of the agency ordering the vehicle
7 impounded. However, if the department's records show that the operator
8 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
9 similar local ordinance within the past five years, the vehicle may be
10 held at the written direction of the agency ordering the vehicle
11 impounded for up to sixty days, and for up to ninety days if the
12 operator has two or more such prior offenses. If a vehicle is
13 impounded because the operator is arrested for a violation of RCW
14 46.20.342, the vehicle may not be released until a person eligible to
15 redeem it under this subsection (1)(a) satisfies the requirements of
16 (e) of this subsection, including paying all towing, removal, and
17 storage fees, notwithstanding the fact that the hold was ordered by a
18 government agency.

19 (b) If the vehicle is directed to be held for a suspended license
20 impound, a person who desires to redeem the vehicle at the end of the
21 period of impound shall within five days of the impound at the request
22 of the tow truck operator pay a security deposit to the tow truck
23 operator of not more than one-half of the applicable impound storage
24 rate for each day of the proposed suspended license impound. The tow
25 truck operator shall credit this amount against the final bill for
26 removal, towing, and storage upon redemption. The tow truck operator
27 may accept other sufficient security in lieu of the security deposit.
28 If the person desiring to redeem the vehicle does not pay the security
29 deposit or provide other security acceptable to the tow truck operator,
30 the tow truck operator may process and sell at auction the vehicle as
31 an abandoned vehicle within the normal time limits set out in RCW
32 46.55.130(1). The security deposit required by this section may be
33 paid and must be accepted at any time up to twenty-four hours before
34 the beginning of the auction to sell the vehicle as abandoned. The
35 registered owner is not eligible to purchase the vehicle at the
36 auction, and the tow truck operator shall sell the vehicle to the
37 highest bidder who is not the registered owner.

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

5 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer
6 or lender with a perfected security interest in the vehicle may redeem
7 or lawfully repossess a vehicle immediately by payment of the costs of
8 removal, towing, and storage, whereupon the vehicle will not be held
9 for a suspended license impound. A motor vehicle dealer or lender with
10 a perfected security interest in the vehicle may not knowingly and
11 intentionally engage in collusion with a registered owner to repossess
12 and then return or resell a vehicle to the registered owner in an
13 attempt to avoid a suspended license impound. However, this provision
14 does not preclude a vehicle dealer or a lender with a perfected
15 security interest in the vehicle from repossessing the vehicle and then
16 selling, leasing, or otherwise disposing of it in accordance with
17 chapter 62A.9A RCW, including providing redemption rights to the debtor
18 under RCW 62A.9A-623. If the debtor is the registered owner of the
19 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A
20 RCW is conditioned upon the debtor obtaining and providing proof from
21 the impounding authority or court having jurisdiction that any fines,
22 penalties, and forfeitures owed by the registered owner, as a result of
23 the suspended license impound, have been paid, and proof of the payment
24 must be tendered to the vehicle dealer or lender at the time the debtor
25 tenders all other obligations required to redeem the vehicle. Vehicle
26 dealers or lenders are not liable for damages if they rely in good
27 faith on an order from the impounding agency or a court in releasing a
28 vehicle held under a suspended license impound.

29 (e) The vehicle or other item of personal property registered or
30 titled with the department shall be released upon the presentation to
31 any person having custody of the vehicle of commercially reasonable
32 tender sufficient to cover the costs of towing, storage, or other
33 services rendered during the course of towing, removing, impounding, or
34 storing any such vehicle, with credit being given for the amount of any
35 security deposit paid under (b) of this subsection. In addition, if a
36 vehicle is impounded because the operator was arrested for a violation
37 of RCW 46.20.342 or 46.20.345 and was being operated by the registered
38 owner when it was impounded under local ordinance or agency rule, it

1 must not be released to any person until the registered owner
2 establishes with the agency that ordered the vehicle impounded or the
3 court having jurisdiction that any penalties, fines, or forfeitures
4 owed by him or her have been satisfied. Registered tow truck operators
5 are not liable for damages if they rely in good faith on an order from
6 the impounding agency or a court in releasing a vehicle held under a
7 suspended license impound. Commercially reasonable tender shall
8 include, without limitation, cash, major bank credit cards issued by
9 financial institutions, or personal checks drawn on Washington state
10 branches of financial institutions if accompanied by two pieces of
11 valid identification, one of which may be required by the operator to
12 have a photograph. If the towing firm cannot determine through the
13 customer's bank or a check verification service that the presented
14 check would be paid by the bank or guaranteed by the service, the
15 towing firm may refuse to accept the check. Any person who stops
16 payment on a personal check or credit card, or does not make
17 restitution within ten days from the date a check becomes insufficient
18 due to lack of funds, to a towing firm that has provided a service
19 pursuant to this section or in any other manner defrauds the towing
20 firm in connection with services rendered pursuant to this section
21 shall be liable for damages in the amount of twice the towing and
22 storage fees, plus costs and reasonable attorney's fees.

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

32 (b) Any person seeking to redeem an impounded vehicle under this
33 section has a right to a hearing in the district or municipal court for
34 the jurisdiction in which the vehicle was impounded to contest the
35 validity of the impoundment or the amount of towing and storage
36 charges. The district court has jurisdiction to determine the issues
37 involving all impoundments including those authorized by the state or
38 its agents. The municipal court has jurisdiction to determine the

1 issues involving impoundments authorized by agents of the municipality.
2 Any request for a hearing shall be made in writing on the form provided
3 for that purpose and must be received by the appropriate court within
4 ten days of the date the opportunity was provided for in subsection
5 (2)(a) of this section and more than five days before the date of the
6 auction. At the time of the filing of the hearing request, the
7 petitioner shall pay to the court clerk a filing fee in the same amount
8 required for the filing of a suit in district court. If the hearing
9 request is not received by the court within the ten-day period, the
10 right to a hearing is waived and the registered owner is liable for any
11 towing, storage, or other impoundment charges permitted under this
12 chapter. Upon receipt of a timely hearing request, the court shall
13 proceed to hear and determine the validity of the impoundment.

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

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

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

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

37 (e) If the impoundment is determined to be in violation of this
38 chapter, then the registered and legal owners of the vehicle or other

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

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

1 of party mailing notice

2 (4) Except as provided by subsection (5) of this section, any
3 impounded abandoned vehicle or item of personal property registered or
4 titled with the department that is not redeemed within fifteen days of
5 mailing of the notice of custody and sale as required by RCW
6 46.55.110(3) shall be sold at public auction in accordance with all the
7 provisions and subject to all the conditions of RCW 46.55.130. Except
8 as provided by subsection (6) of this section, a vehicle or item of
9 personal property registered or titled with the department may be
10 redeemed at any time before the start of the auction upon payment of
11 the applicable towing and storage fees.

12 (5)(a) Regardless of any other provision of law, any impounded
13 abandoned vehicle that has been found unfit for use by a local health
14 official under RCW 64.44.030, and that has not been released for reuse
15 under RCW 64.44.050, shall not be sold at public auction, as authorized
16 or otherwise required under this title.

17 (b) A registered tow truck operator possessing a vehicle identified
18 in (a) of this subsection shall either (i) decontaminate the property
19 as provided by RCW 64.44.050 and acquire and title the property, or
20 (ii) demolish, destroy, or otherwise dispose of the vehicle through a
21 licensed vehicle wrecker, hulk hauler, or scrap processor by use of the
22 abandoned vehicle report-affidavit of sale.

23 (c) If a registered tow truck operator disposes of a vehicle under
24 (b)(ii) of this subsection, and the amount received by the tow truck
25 operator from a licensed vehicle wrecker, hulk hauler, or scrap
26 processor for the vehicle or its salvageable parts is less than the
27 amount paid to a licensed vehicle wrecker, hulk hauler, or scrap
28 processor to dispose of the vehicle, including the cost of transporting
29 the vehicle to the disposition site, the law enforcement agency that
30 authorized the impound of the vehicle shall reimburse the tow truck
31 operator for the difference between the costs paid by and amounts
32 received by the tow truck operator.

33 (6) In addition to subsection (4) of this section, an impounded
34 abandoned property that has been found unfit for use by a local health
35 official under RCW 64.44.030 shall not be redeemed unless (a) the
36 finding of unfit for use has been reversed or nullified under RCW
37 64.44.030(4), or (b) the property has been released for reuse in
38 accordance with RCW 64.44.050(1).

1 **Sec. 6.** RCW 46.55.130 and 2002 c 279 s 12 are each amended to read
2 as follows:

3 (1) If, after the expiration of fifteen days from the date of
4 mailing of notice of custody and sale required in RCW 46.55.110(3) to
5 the registered and legal owners, the vehicle remains unclaimed and (a)
6 has not been listed as a stolen vehicle or as a vehicle that has been
7 found unfit for use under RCW 64.44.030, or (b) a suspended license
8 impound has been directed, but no security paid under RCW 46.55.120,
9 then the registered tow truck operator having custody of the vehicle
10 shall conduct a sale of the vehicle at public auction after having
11 first published a notice of the date, place, and time of the auction in
12 a newspaper of general circulation in the county in which the vehicle
13 is located not less than three days and no more than ten days before
14 the date of the auction. The notice shall contain a description of the
15 vehicle including the make, model, year, and license number and a
16 notification that a three-hour public viewing period will be available
17 before the auction. The auction shall be held during daylight hours of
18 a normal business day.

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

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

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

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

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

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

36 (f) The successful bidder shall apply for title within fifteen
37 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 or otherwise dispose of the vehicle to a licensed vehicle
19 wrecker, hulk hauler, or scrap processor by use of the abandoned
20 vehicle report-affidavit of sale, or the operator shall apply for title
21 to the vehicle.

22 (3) A tow truck operator may refuse to accept a bid at an abandoned
23 vehicle auction under this section for any reason in the operator's
24 posted operating procedures and for any of the following reasons: (a)
25 The bidder is currently indebted to the operator; (b) the operator has
26 knowledge that the bidder has previously abandoned vehicles purchased
27 at auction; or (c) the bidder has purchased, at auction, more than four
28 vehicles in the last calendar year without obtaining title to any or
29 all of the vehicles. In no case may an operator hold a vehicle for
30 longer than ninety days without holding an auction on the vehicle,
31 except for vehicles that are under a police or judicial hold.

32 (4)(a) In no case may the accumulation of storage charges exceed
33 fifteen days from the date of receipt of the information by the
34 operator from the department as provided by RCW 46.55.110(3).

35 (b) The failure of the registered tow truck operator to comply with
36 the time limits provided in this chapter limits the accumulation of
37 storage charges to five days except where delay is unavoidable.
38 Providing incorrect or incomplete identifying information to the

1 department in the abandoned vehicle report shall be considered a
2 failure to comply with these time limits if correct information is
3 available. However, storage charges begin to accrue again on the date
4 the correct and complete information is provided to the department by
5 the registered tow truck operator.

6 **Sec. 7.** RCW 70.105D.070 and 2003 1st sp.s. c 25 s 933 are each
7 amended to read as follows:

8 (1) The state toxics control account and the local toxics control
9 account are hereby created in the state treasury.

10 (2) The following moneys shall be deposited into the state toxics
11 control account: (a) Those revenues which are raised by the tax
12 imposed under RCW 82.21.030 and which are attributable to that portion
13 of the rate equal to thirty-three one-hundredths of one percent; (b)
14 the costs of remedial actions recovered under this chapter or chapter
15 70.105A RCW; (c) penalties collected or recovered under this chapter;
16 and (d) any other money appropriated or transferred to the account by
17 the legislature. Moneys in the account may be used only to carry out
18 the purposes of this chapter, including but not limited to the
19 following activities:

20 (i) The state's responsibility for hazardous waste planning,
21 management, regulation, enforcement, technical assistance, and public
22 education required under chapter 70.105 RCW;

23 (ii) The state's responsibility for solid waste planning,
24 management, regulation, enforcement, technical assistance, and public
25 education required under chapter 70.95 RCW;

26 (iii) The hazardous waste cleanup program required under this
27 chapter;

28 (iv) State matching funds required under the federal cleanup law;

29 (v) Financial assistance for local programs in accordance with
30 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

31 (vi) State government programs for the safe reduction, recycling,
32 or disposal of hazardous wastes from households, small businesses, and
33 agriculture;

34 (vii) Hazardous materials emergency response training;

35 (viii) Water and environmental health protection and monitoring
36 programs;

37 (ix) Programs authorized under chapter 70.146 RCW;

1 (x) A public participation program, including regional citizen
2 advisory committees;

3 (xi) Public funding to assist potentially liable persons to pay for
4 the costs of remedial action in compliance with cleanup standards under
5 RCW 70.105D.030(2)(e) but only when the amount and terms of such
6 funding are established under a settlement agreement under RCW
7 70.105D.040(4) and when the director has found that the funding will
8 achieve both (A) a substantially more expeditious or enhanced cleanup
9 than would otherwise occur, and (B) the prevention or mitigation of
10 unfair economic hardship; and

11 (xii) Development and demonstration of alternative management
12 technologies designed to carry out the top two hazardous waste
13 management priorities of RCW 70.105.150.

14 (3) The following moneys shall be deposited into the local toxics
15 control account: Those revenues which are raised by the tax imposed
16 under RCW 82.21.030 and which are attributable to that portion of the
17 rate equal to thirty-seven one-hundredths of one percent.

18 (a) Moneys deposited in the local toxics control account shall be
19 used by the department for grants or loans to local governments for the
20 following purposes in descending order of priority: (i) Remedial
21 actions; (ii) hazardous waste plans and programs under chapter 70.105
22 RCW; (iii) solid waste plans and programs under chapters 70.95, 70.95C,
23 70.95I, and 70.105 RCW; (iv) funds for a program to assist in the
24 assessment and cleanup of sites of methamphetamine production, but not
25 to be used for the initial containment of such sites, consistent with
26 the responsibilities and intent of RCW 69.50.511; ~~((and))~~ (v) cleanup
27 and disposal of hazardous substances from abandoned or derelict vessels
28 that pose a threat to human health or the environment; and (vi) to
29 reimburse law enforcement agencies for costs incurred by any agency or
30 on behalf of any agency to destroy, demolish, and dispose of vehicles
31 found unfit for use under RCW 64.44.030 due to contamination of
32 chemicals used in the manufacture of illegal drugs. For purposes of
33 this subsection (3)(a)(v), "abandoned or derelict vessels" means
34 vessels that have little or no value and either have no identified
35 owner or have an identified owner lacking financial resources to clean
36 up and dispose of the vessel. Funds for plans and programs shall be
37 allocated consistent with the priorities and matching requirements
38 established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW. During

1 the 1999-2001 fiscal biennium, moneys in the account may also be used
2 for the following activities: Conducting a study of whether dioxins
3 occur in fertilizers, soil amendments, and soils; reviewing
4 applications for registration of fertilizers; and conducting a study of
5 plant uptake of metals. During the 2003-05 fiscal biennium, the
6 legislature may transfer from the local toxics control account to the
7 state toxics control account such amounts as specified in the omnibus
8 operating budget bill for methamphetamine lab cleanup.

9 (b) Funds may also be appropriated to the department of health to
10 implement programs to reduce testing requirements under the federal
11 safe drinking water act for public water systems. The department of
12 health shall reimburse the account from fees assessed under RCW
13 70.119A.115 by June 30, 1995.

14 (4) Except for unanticipated receipts under RCW 43.79.260 through
15 43.79.282, moneys in the state and local toxics control accounts may be
16 spent only after appropriation by statute.

17 (5) One percent of the moneys deposited into the state and local
18 toxics control accounts shall be allocated only for public
19 participation grants to persons who may be adversely affected by a
20 release or threatened release of a hazardous substance and to not-for-
21 profit public interest organizations. The primary purpose of these
22 grants is to facilitate the participation by persons and organizations
23 in the investigation and remedying of releases or threatened releases
24 of hazardous substances and to implement the state's solid and
25 hazardous waste management priorities. However, during the 1999-2001
26 fiscal biennium, funding may not be granted to entities engaged in
27 lobbying activities, and applicants may not be awarded grants if their
28 cumulative grant awards under this section exceed two hundred thousand
29 dollars. No grant may exceed sixty thousand dollars. Grants may be
30 renewed annually. Moneys appropriated for public participation from
31 either account which are not expended at the close of any biennium
32 shall revert to the state toxics control account.

33 (6) No moneys deposited into either the state or local toxics
34 control account may be used for solid waste incinerator feasibility
35 studies, construction, maintenance, or operation.

36 (7) The department shall adopt rules for grant or loan issuance and

1 performance.

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