
Judiciary Committee

HB 2565

Title: An act relating to mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence of alcohol or drugs or being in physical control of a vehicle while under the influence of alcohol or drugs.

Brief Description: Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence.

Sponsors: Representatives Ericksen, Simpson, Smith, Van De Wege, Sells, Orwall, Goodman, Morrell and Moeller.

Brief Summary of Bill

- Requires that the vehicle operated by a person arrested for driving under the influence of drugs or alcohol be impounded for 12 hours, unless the operator is not the registered owner, in which case the vehicle may be released to the registered owner within 12 hours.
- Requires that the impounding police officer notify the vehicle operator of the time the vehicle may be released from impound.
- Releases a registered tow truck owner who complies with these impound requirements from liability for injuries or damages sustained from the operator's intoxicated state.

Hearing Date: 1/21/10

Staff: Rebecca Jones (786-5793) and Trudes Tango (786-7384).

Background:

Vehicle Impounds

Law enforcement officers may impound a vehicle for a number of reasons, including when the operator of a vehicle is arrested for driving under the influence of alcohol or drugs (DUI). There

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is, however, no requirement that officers impound a vehicle driven by a person arrested for DUI. A person may be arrested for DUI if the person drives or is in physical control of a vehicle with a blood alcohol concentration of .08 or higher, or while under the influence of alcohol or drugs.

When a vehicle is impounded, the impounding towing operator must notify the legal and registered owners of the impoundment, the right of redemption, and the opportunity for a hearing to contest the validity of the impoundment or the amount of towing and storage charges. An impounded vehicle may be redeemed only by the owner of the vehicle or a person who has permission of the owner, and upon payment of all costs associated with the impound.

The district or municipal court where the vehicle was impounded has jurisdiction over the hearings. If an impound is found proper, the impound costs and the court costs must be assessed against the person or persons requesting the hearing. If, however, the impound is found to be in violation of the impound chapter, the person or agency that authorized the impound is responsible for costs associated with the impound, the filing fee, and reasonable damages for loss of use of the vehicle. Where the impound arose from a violation of the law surrounding driving with a suspended, revoked, or invalidated license and the impound was found to be improper, the law enforcement officer and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the department's records.

All Around Underground v. The Washington State Patrol

In a 2002 Supreme Court of Washington case, *All Around*, the Court held that a State Patrol rule which mandated impoundment of the vehicle operated by a person arrested for having a suspended or revoked license exceeded its statutory authority because the impoundment statute requires officer discretion in whether or not to impound. While the case was decided on statutory grounds, the majority noted that courts have found a constitutional requirement to take into account reasonable alternatives to impoundment prior to impounding a vehicle. Under both the state and federal Constitutions, seizures of property must be reasonable.

Summary of Bill:

The Legislature finds that protecting the public from an intoxicated person operating a vehicle is the primary reason for impounding the vehicle driven by a person arrested for DUI.

A law enforcement officer must impound the vehicle driven by a person arrested for DUI.

When the operator of the vehicle is arrested for DUI and is the registered owner of the vehicle, the impounded vehicle may not be redeemed until 12 hours after the vehicle arrives at the tow truck operator's storage facility, and the law enforcement officer directing the impound must notify the operator of the 12-hour mandatory impound.

When the operator of the vehicle is arrested for DUI, but is not the registered owner, the registered owner may redeem the vehicle within 12 hours of its arrival at the tow truck operator's storage facility. The law enforcement officer directing the impound must notify the operator that the registered owner may redeem the vehicle at the storage facility.

Registered tow truck operators that release an impounded vehicle in compliance with these impound requirements are not liable for injuries or damages sustained by the operator or other parties that may result from the operator's intoxicated state.

The Act is to be known as "Hailey's Law."

Appropriation: None.

Fiscal Note: Received on 1/19/10.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.