
HOUSE BILL 2565

State of Washington 61st Legislature 2010 Regular Session

By Representatives Ericksen, Simpson, Smith, Van De Wege, Sells, Orwall, Goodman, Morrell, and Moeller

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1 AN ACT Relating to mandating a twelve-hour impound hold on motor
2 vehicles used by persons arrested for driving under the influence of
3 alcohol or drugs or being in physical control of a vehicle while under
4 the influence of alcohol or drugs; reenacting and amending RCW
5 46.55.113; adding new sections to chapter 46.55 RCW; and creating a new
6 section.

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

8 NEW SECTION. **Sec. 1.** This act shall be known and cited as
9 Hailey's Law.

10 NEW SECTION. **Sec. 2.** (1) The legislature finds that:
11 (a) Despite every effort, the problem of driving under the
12 influence of alcohol or drugs remains one of the greatest threats to
13 the lives and safety of the citizens of this state;
14 (b) Persons arrested for driving under the influence of alcohol or
15 drugs or being in physical control of a vehicle while under the
16 influence of alcohol or drugs are frequently still impaired after they
17 are cited and released;

1 (c) In the past, the decision to impound a motor vehicle after an
2 arrest for driving under the influence of alcohol or drugs or being in
3 physical control of a vehicle while under the influence of alcohol or
4 drugs was based merely on the possibility that the vehicle itself would
5 present a safety hazard to traffic if left at the place of arrest, and
6 because of this, vehicles driven by intoxicated drivers have been
7 generally released to the custody of other persons to remove them to a
8 place of safety or continue to their destination;

9 (d) If the vehicle was impounded because there was no one to take
10 custody of it the law does not allow the driver to be denied the use of
11 the vehicle if they go to the impound lot and redeem it even if they
12 are still under the influence of alcohol or drugs;

13 (e) Even if a sober person has taken custody of a vehicle, often
14 persons who are arrested for driving under the influence of alcohol or
15 drugs or being in physical control of a vehicle while under the
16 influence of alcohol or drugs remain in a condition where it is
17 difficult or impossible for the spouses, family or friends who took
18 possession of the vehicle, whether from fear or poor judgment, to stop
19 them from getting behind the wheel again and endangering innocent
20 people;

21 (f) When a person is driving under the influence of alcohol or
22 drugs or being in physical control of a vehicle while under the
23 influence of alcohol or drugs, other people in the vehicle have already
24 demonstrated their inability to deny the arrested driver the use of the
25 vehicle or their lack of concern for the safety of others by not
26 preventing them from driving in that condition;

27 (g) The only truly effective way to prevent a person who has been
28 arrested for driving under the influence of alcohol or drugs or being
29 in physical control of a vehicle while under the influence of alcohol
30 or drugs from getting back behind the wheel before they have sobered up
31 is to impound and detain the vehicle for a reasonable period of time
32 such as twelve hours;

33 (h) Although a detention of the vehicle may present an
34 inconvenience to the other passengers or the spouse of the driver, the
35 inconvenience is temporary and minor and is far outweighed by the
36 necessity to protect the public;

37 (i) In many other circumstances, the use of a vehicle is withheld
38 for a period of time from complete forfeiture such as for transporting

1 drugs for sale, retention of a vehicle as evidence in a crime it has
2 been involved in, or for mere impound for parking in front of a fire
3 hydrant; and in this context, and considering the seriousness of the
4 danger involved it is both reasonable and necessary to mandatorily
5 impound and detain for a period of twelve hours any and all vehicles
6 that have been driven by a person who has been arrested for driving
7 under the influence of alcohol or drugs or being in physical control of
8 a vehicle while under the influence of alcohol or drugs.

9 (2) The legislature intends by this act:

10 (a) To change the primary reason for impounding the car driven by
11 a person arrested for driving under the influence of alcohol or drugs
12 or being in physical control of a vehicle while under the influence of
13 alcohol or drugs from protecting the public from a potential traffic
14 obstruction if the car is left on the side of the road to protecting
15 the public from an intoxicated person driving again while they are
16 still impaired after being released for driving under the influence of
17 alcohol or drugs or being in physical control of a vehicle while under
18 the influence of alcohol or drugs;

19 (b) To make the impounding and holding of the vehicle being driven
20 mandatory for a period of twelve hours;

21 (c) That law enforcement officers have no discretion as to whether
22 or not to order an impound after they have arrested a driver on
23 probable cause for driving under the influence of alcohol or drugs or
24 being in physical control of a vehicle while under the influence of
25 alcohol or drugs.

26 NEW SECTION. **Sec. 3.** (1) When an operator of a vehicle is
27 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is
28 subject to summary impoundment and the vehicle must be impounded. With
29 the exception of the twelve-hour hold mandated under this section, the
30 procedures for notice, redemption, storage, auction, and sale shall
31 remain the same as for other impounded vehicles under this chapter.

32 (2)(a) When an operator of a vehicle is arrested for a violation of
33 RCW 46.61.502 or 46.61.504 and the operator is the registered owner of
34 the vehicle, the impounded vehicle may not be redeemed within a
35 twelve-hour period following the time the impounded vehicle arrives at
36 the registered tow truck operator's storage facility as noted in the
37 registered tow truck operator's master log.

1 (b) When an operator of a vehicle is arrested for a violation of
2 RCW 46.61.502 or 46.61.504 and the operator is the registered owner of
3 the vehicle, the police officer directing the impound shall notify the
4 operator that the impounded vehicle may not be redeemed within a
5 twelve-hour period following the time the impounded vehicle arrives at
6 the registered tow truck operator's storage facility as noted in the
7 registered tow truck operator's master log.

8 (c) A registered tow truck operator that releases an impounded
9 vehicle pursuant to the requirements stated in this subsection is not
10 liable for injuries or damages sustained by the operator or third
11 parties that may result from the operator's intoxicated state.

12 (3)(a) When an operator of a vehicle is arrested for a violation of
13 RCW 46.61.502 or 46.61.504 and the operator is not the registered owner
14 of the vehicle, the impounded vehicle may be redeemed by the registered
15 owner within a twelve-hour period following the time the impounded
16 vehicle arrives at the registered tow truck operator's storage facility
17 as noted in the registered tow truck operator's master log.

18 (b) When an operator of a vehicle is arrested for a violation of
19 RCW 46.61.502 or 46.61.504 and the operator is not the registered owner
20 of the vehicle, the police officer directing the impound shall notify
21 the operator that the impounded vehicle may be redeemed by the
22 registered owner within a twelve-hour period following the time the
23 impounded vehicle arrives at the registered tow truck operator's
24 storage facility as noted in the registered tow truck operator's master
25 log.

26 (c) A registered tow truck operator that releases an impounded
27 vehicle pursuant to the requirements stated in this subsection is not
28 liable for injuries or damages sustained by the operator or third
29 parties that may result from the operator's intoxicated state.

30 **Sec. 4.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are
31 each reenacted and amended to read as follows:

32 (1) Whenever the driver of a vehicle is arrested for a violation of
33 RCW ((~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~)) or 46.20.345, the vehicle
34 is subject to summary impoundment, pursuant to the terms and conditions
35 of an applicable local ordinance or state agency rule at the direction
36 of a law enforcement officer.

1 (2) In addition, a police officer may take custody of a vehicle, at
2 his or her discretion, and provide for its prompt removal to a place of
3 safety under any of the following circumstances:

4 (a) Whenever a police officer finds a vehicle standing upon the
5 roadway in violation of any of the provisions of RCW 46.61.560, the
6 officer may provide for the removal of the vehicle or require the
7 driver or other person in charge of the vehicle to move the vehicle to
8 a position off the roadway;

9 (b) Whenever a police officer finds a vehicle unattended upon a
10 highway where the vehicle constitutes an obstruction to traffic or
11 jeopardizes public safety;

12 (c) Whenever a police officer finds an unattended vehicle at the
13 scene of an accident or when the driver of a vehicle involved in an
14 accident is physically or mentally incapable of deciding upon steps to
15 be taken to protect his or her property;

16 (d) Whenever the driver of a vehicle is arrested and taken into
17 custody by a police officer;

18 (e) Whenever a police officer discovers a vehicle that the officer
19 determines to be a stolen vehicle;

20 (f) Whenever a vehicle without a special license plate, placard, or
21 decal indicating that the vehicle is being used to transport a person
22 with disabilities under RCW 46.16.381 is parked in a stall or space
23 clearly and conspicuously marked under RCW 46.61.581 which space is
24 provided on private property without charge or on public property;

25 (g) Upon determining that a person is operating a motor vehicle
26 without a valid and, if required, a specially endorsed driver's license
27 or with a license that has been expired for ninety days or more;

28 (h) When a vehicle is illegally occupying a truck, commercial
29 loading zone, restricted parking zone, bus, loading, hooded-meter,
30 taxi, street construction or maintenance, or other similar zone where,
31 by order of the director of transportation or chiefs of police or fire
32 or their designees, parking is limited to designated classes of
33 vehicles or is prohibited during certain hours, on designated days or
34 at all times, if the zone has been established with signage for at
35 least twenty-four hours and where the vehicle is interfering with the
36 proper and intended use of the zone. Signage must give notice to the
37 public that a vehicle will be removed if illegally parked in the zone;

1 (i) When a vehicle with an expired registration of more than
2 forty-five days is parked on a public street.

3 (3) When an arrest is made for a violation of RCW 46.20.342, if the
4 vehicle is a commercial vehicle and the driver of the vehicle is not
5 the owner of the vehicle, before the summary impoundment directed under
6 subsection (1) of this section, the police officer shall attempt in a
7 reasonable and timely manner to contact the owner of the vehicle and
8 may release the vehicle to the owner if the owner is reasonably
9 available, as long as the owner was not in the vehicle at the time of
10 the stop and arrest and the owner has not received a prior release
11 under this subsection or RCW 46.55.120(1)(a)(ii).

12 (4) Nothing in this section may derogate from the powers of police
13 officers under the common law. For the purposes of this section, a
14 place of safety may include the business location of a registered tow
15 truck operator.

16 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act are each added
17 to chapter 46.55 RCW.

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