

# FINAL BILL REPORT

## E2SSB 5000

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Synopsis as Enacted

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

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon and Kilmer).

**Senate Committee on Judiciary**  
**Senate Committee on Transportation**  
**House Committee on Judiciary**  
**House Committee on Transportation**

**Background:** 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 is no requirement that officers impound a vehicle driven by a person arrested for DUI.

When a vehicle is impounded, the tow truck 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 a registered owner of the vehicle, a legal owner (such as a lien holder), or a person who has permission of a registered owner, and only upon payment of all costs associated with the impound.

If, in a hearing contesting the impoundment, the impound is found to be in violation of the impound laws, 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. However, if the impound is based on driving with a suspended license and the impound is found to be improper, the law enforcement officer and the agency employing the officer are not liable for damages for loss of use of the vehicle if the officer relied in good faith and without gross negligence on the Department of Licensing's driving records.

In a 2002 Washington supreme court case, *All Around Underground v. The Washington State Patrol*, the Court held that a Washington State Patrol rule requiring impoundment of the vehicle operated by a person arrested for having a suspended license exceeded 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 opinion noted that

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

courts have generally found that in order to satisfy constitutional requirements, impoundment must be reasonable, which includes taking into account whether reasonable alternatives to impoundment exist. Under both the state and federal Constitutions, seizures of property must be reasonable.

**Summary:** 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.

When a law enforcement officer arrests a person for DUI, the officer must impound the vehicle. When the driver of the vehicle is a 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, unless there are two or more registered owners or there is a legal owner of the vehicle. If there are two or more registered owners or a legal owner, the registered owner or the legal owner who is not the driver of the vehicle may redeem the vehicle upon impound. When the driver of the vehicle is not a registered owner, the registered owner may redeem the vehicle once impounded. The law enforcement officer directing the impound must notify the driver of the vehicle that a registered owner or a legal owner who is not the driver may redeem the vehicle.

If the police officer who directed that a vehicle be impounded is presented with exigent circumstances and has waited 30 minutes after contacting the police dispatcher requesting the registered tow truck operator, the officer may leave the vehicle after placing inside it the completed impound order and inventory and securing the vehicle. The officer and the government or agency employing the officer are not liable for damages or theft of the vehicle or its contents, or for the actions of any person who removes the vehicle prior to the arrival of the tow truck operator, as long as the officer has secured the vehicle and followed the specified procedures.

If the vehicle subject to impoundment is a commercial or farm transport vehicle, the police officer must attempt, in a reasonable and timely manner, to contact the owner of the vehicle and may release it to the owner as long as he or she was not in the vehicle at the time of the stop and arrest.

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 vehicle operator or by other parties that may result from the vehicle operator's intoxicated state. If an impoundment is found improper, the arresting officer and the officer's government employer are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe the operator was driving or controlling a vehicle while under the influence of alcohol or drugs.

A farm transport vehicle is defined.

The act is to be known as Hailey's Law.

**Votes on Final Passage:**

Senate	47	0	
House	92	1	(House amended)
House	95	0	(House reconsidered)
Senate	46	0	(Senate concurred)

**Effective:** July 22, 2011.  
July 1, 2011 (Section 6).