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**SUBSTITUTE HOUSE BILL 1017**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Goodman, Buys, Lias, Armstrong, Rolfes, Springer, Clibborn, Rodne, Finn, Seaquist, Moscoso, Probst, Kelley, Orwall, Fitzgibbon, Stanford, Kagi, Dammeier, Blake, Ladenburg, Pearson, Miloscia, Jacks, Van De Wege, Sells, Hurst, Smith, and Moeller)

READ FIRST TIME 01/21/11.

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; amending RCW 46.55.113; reenacting  
5 and amending RCW 46.55.113; adding new sections to chapter 46.55 RCW;  
6 creating a new section; providing an effective date; and providing an  
7 expiration date.

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

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

11       NEW SECTION.   **Sec. 2.**   (1) The legislature finds that:

12       (a) Despite every effort, the problem of driving or controlling a  
13 vehicle while under the influence of alcohol or drugs remains a great  
14 threat to the lives and safety of citizens. Over five hundred people  
15 are killed by traffic accidents in Washington each year and impaired  
16 vehicle operators account for almost forty-five percent, or over two  
17 hundred deaths per year. That is, impairment is the leading cause of  
18 traffic deaths in this state;

1 (b) Over thirty-nine thousand people are arrested each year in  
2 Washington for driving or controlling a vehicle while under the  
3 influence of alcohol or drugs. Persons arrested for driving or  
4 controlling a vehicle while under the influence of alcohol or drugs may  
5 still be impaired after they are cited and released and could return to  
6 drive or control a vehicle. If the vehicle was impounded, there is  
7 nothing to stop the impaired person from going to the tow truck  
8 operator's storage facility and redeeming the vehicle while still  
9 impaired;

10 (c) More can be done to deter those arrested for driving or  
11 controlling a vehicle while under the influence of alcohol or drugs.  
12 Approximately one-third of those arrested for operating a vehicle under  
13 the influence are repeat offenders. Vehicle impoundment effectively  
14 increases deterrence and prevents an impaired operator from accessing  
15 the vehicle for a specified time. In addition, vehicle impoundment  
16 provides an appropriate measure of accountability for registered owners  
17 who allow impaired operators to drive or control their vehicles, but it  
18 also allows the registered owners to redeem their vehicles once  
19 impounded. Any inconvenience on a registered owner is outweighed by  
20 the need to protect the public;

21 (d) In order to protect public safety and to enforce the state's  
22 laws, it is reasonable and necessary to mandatorily impound the vehicle  
23 operated by a person who has been arrested for driving or controlling  
24 a vehicle while under the influence of alcohol or drugs.

25 (2) The legislature intends by this act:

26 (a) To change the primary reason for impounding the vehicle  
27 operated by a person arrested for driving or controlling a vehicle  
28 under the influence of alcohol or drugs. The purpose of impoundment  
29 under this act is to protect the public from a person operating a  
30 vehicle while still impaired, rather than to prevent a potential  
31 traffic obstruction; and

32 (b) To require that officers have no discretion as to whether or  
33 not to order an impound after they have arrested a vehicle operator  
34 with reasonable grounds to believe the operator of the vehicle was  
35 driving while under the influence of alcohol or drugs, or was in  
36 physical control of a vehicle while under the influence of alcohol or  
37 drugs.

1        NEW SECTION.

2        **Sec. 3.**

3        (1) When an operator of a vehicle is  
4 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is  
5 subject to summary impoundment and the vehicle must be impounded. With  
6 the exception of the twelve-hour hold mandated under this section, the  
7 procedures for notice, redemption, storage, auction, and sale shall  
8 remain the same as for other impounded vehicles under this chapter.

9        (2)(a) When an operator of a vehicle is arrested for a violation of  
10 RCW 46.61.502 or 46.61.504 and the operator is a registered owner of  
11 the vehicle, the impounded vehicle may not be redeemed within a  
12 twelve-hour period following the time the impounded vehicle arrives at  
13 the registered tow truck operator's storage facility as noted in the  
14 registered tow truck operator's master log, unless there are two or  
15 more registered owners of the vehicle or there is a legal owner of the  
16 vehicle that is not the operator of the vehicle. A registered owner  
17 who is not the operator of the vehicle or a legal owner who is not the  
18 operator of the vehicle may redeem the impounded vehicle after it  
19 arrives at the registered tow truck operator's storage facility as  
20 noted in the registered tow truck operator's master log.

21        (b) When an operator of a vehicle is arrested for a violation of  
22 RCW 46.61.502 or 46.61.504 and the operator is a registered owner of  
23 the vehicle, the police officer directing the impound shall notify the  
24 operator that the impounded vehicle may not be redeemed within a  
25 twelve-hour period following the time the impounded vehicle arrives at  
26 the registered tow truck operator's storage facility as noted in the  
27 registered tow truck operator's master log, unless there are two or  
28 more registered owners or there is a legal owner who is not the  
29 operator of the vehicle. The police officer directing the impound  
30 shall notify the operator that the impounded vehicle may be redeemed by  
31 either a registered owner or legal owner, who is not the operator of  
32 the vehicle, after the impounded vehicle arrives at the registered tow  
33 truck operator's storage facility as noted in the registered tow truck  
34 operator's master log.

35        (3)(a) When an operator of a vehicle is arrested for a violation of  
36 RCW 46.61.502 or 46.61.504 and the operator is not a registered owner  
37 of the vehicle, the impounded vehicle may be redeemed by a registered  
owner or legal owner, who is not the operator of the vehicle, after the  
impounded vehicle arrives at the registered tow truck operator's

1 storage facility as noted in the registered tow truck operator's master  
2 log.

3 (b) When an operator of a vehicle is arrested for a violation of  
4 RCW 46.61.502 or 46.61.504 and the operator is not a registered owner  
5 of the vehicle, the police officer directing the impound shall notify  
6 the operator that the impounded vehicle may be redeemed by a registered  
7 owner or legal owner, who is not the operator of the vehicle, after the  
8 impounded vehicle arrives at the registered tow truck operator's  
9 storage facility as noted in the registered tow truck operator's master  
10 log.

11 (4) A registered tow truck operator that releases an impounded  
12 vehicle under this section is not liable for injuries or damages  
13 sustained by the operator of the vehicle or sustained by third parties  
14 that may result from the vehicle operator's intoxicated state.

15 NEW SECTION. **Sec. 4.** If an impoundment arising from an alleged  
16 violation of RCW 46.61.502 or 46.61.504 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 for loss of use of the vehicle if the officer had  
20 reasonable grounds to believe that the operator of the vehicle was  
21 driving while under the influence of intoxicating liquor or any drug,  
22 or was in physical control of a vehicle while under the influence of  
23 intoxicating liquor or any drug.

24 **Sec. 5.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are  
25 each amended to read as follows:

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

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

34 (a) Whenever a police officer finds a vehicle standing upon the  
35 roadway in violation of any of the provisions of RCW 46.61.560, the

1 officer may provide for the removal of the vehicle or require the  
2 driver or other person in charge of the vehicle to move the vehicle to  
3 a position off the roadway;

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

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

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

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

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

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

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

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

35 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
36 vehicle is a commercial vehicle and the driver of the vehicle is not  
37 the owner of the vehicle, before the summary impoundment directed under  
38 subsection (1) of this section, the police officer shall attempt in a

1 reasonable and timely manner to contact the owner of the vehicle and  
2 may release the vehicle to the owner if the owner is reasonably  
3 available, as long as the owner was not in the vehicle at the time of  
4 the stop and arrest and the owner has not received a prior release  
5 under this subsection or RCW 46.55.120(1)(a)(ii).

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

10 **Sec. 6.** RCW 46.55.113 and 2010 c 161 s 1120 are each amended to  
11 read as follows:

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

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

20 (a) Whenever a police officer finds a vehicle standing upon the  
21 roadway in violation of any of the provisions of RCW 46.61.560, the  
22 officer may provide for the removal of the vehicle or require the  
23 driver or other person in charge of the vehicle to move the vehicle to  
24 a position off the roadway;

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

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

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

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

36 (f) Whenever a vehicle without a special license plate, placard, or  
37 decal indicating that the vehicle is being used to transport a person

1 with disabilities under RCW 46.19.010 is parked in a stall or space  
2 clearly and conspicuously marked under RCW 46.61.581 which space is  
3 provided on private property without charge or on public property;

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

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

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

19 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
20 vehicle is a commercial vehicle and the driver of the vehicle is not  
21 the owner of the vehicle, before the summary impoundment directed under  
22 subsection (1) of this section, the police officer shall attempt in a  
23 reasonable and timely manner to contact the owner of the vehicle and  
24 may release the vehicle to the owner if the owner is reasonably  
25 available, as long as 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 or RCW 46.55.120(1)(a)(ii).

28 (4) 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 NEW SECTION. **Sec. 7.** Sections 2 through 4 of this act are each  
33 added to chapter 46.55 RCW.

34 NEW SECTION. **Sec. 8.** Section 6 of this act takes effect July 1,

1 2011.

2 NEW SECTION. **Sec. 9.** Section 5 of this act expires July 1, 2011.

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