

SHB 1130 - S AMD 276

By Senators Nelson, Benton

ADOPTED 04/15/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.55.120 and 2009 c 387 s 3 are each amended to read
4 as follows:

5 (1)~~(a)~~ Vehicles or other items of personal property registered or
6 titled with the department that are impounded by registered tow truck
7 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140
8 may be redeemed only ~~((under the following circumstances))~~ by the
9 following persons or entities:

10 ~~((a) Only))~~ (i) The legal owner((~~τ~~));

11 (ii) The registered owner((~~τ~~));

12 (iii) A person authorized in writing by the registered owner ((~~or~~
13 the vehicle's insurer~~τ~~));

14 (iv) The vehicle's insurer or a vendor working on behalf of the
15 vehicle's insurer;

16 (v) A third-party insurer that has a duty to repair or replace the
17 vehicle, has obtained consent from the registered owner or the owner's
18 agent to move the vehicle, and has documented that consent in the
19 insurer's claim file, or a vendor working on behalf of a third-party
20 insurer that has received such consent; provided, however, that at all
21 times the registered owner must be granted access to the vehicle. For
22 the purposes of this subsection, "owner's agent" means the legal owner
23 of the vehicle, a driver in possession of the vehicle with the
24 registered owner's permission, or an adult member of the registered
25 owner's family;

26 (vi) A person who is determined and verified by the operator to
27 have the permission of the registered owner of the vehicle or other
28 item of personal property registered or titled with the department((~~τ~~
29 or one)); or

1 (vii) A person who has purchased a vehicle or item of personal
2 property registered or titled with the department from the registered
3 owner who produces proof of ownership or written authorization and
4 signs a receipt therefor(~~(, may redeem an impounded vehicle or items of~~
5 ~~personal property registered or titled with the department)~~).

6 (b) In addition, a vehicle impounded because the operator is in
7 violation of RCW 46.20.342(1)(c) shall not be released until a person
8 eligible to redeem it under (a) of this subsection (~~((+1)(a))~~) satisfies
9 the requirements of (~~((+e))~~) (f) of this subsection, including paying
10 all towing, removal, and storage fees, notwithstanding the fact that
11 the hold was ordered by a government agency. If the department's
12 records show that the operator has been convicted of a violation of RCW
13 46.20.342 or a similar local ordinance within the past five years, the
14 vehicle may be held for up to thirty days at the written direction of
15 the agency ordering the vehicle impounded. A vehicle impounded because
16 the operator is arrested for a violation of RCW 46.20.342 may be
17 released only pursuant to a written order from the agency that ordered
18 the vehicle impounded or from the court having jurisdiction. An agency
19 shall issue a written order to release pursuant to a provision of an
20 applicable state agency rule or local ordinance authorizing release on
21 the basis of the following:

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

25 (ii) The owner of the vehicle was not the driver, the owner did not
26 know that the driver's license was suspended or revoked, and the owner
27 has not received a prior release under this subsection or RCW
28 46.55.113(3).

29 In order to avoid discriminatory application, other than for the
30 reasons for release set forth in (~~((+a))~~) (b)(i) and (ii) of this
31 subsection, an agency shall, under a provision of an applicable state
32 agency rule or local ordinance, deny release in all other circumstances
33 without discretion.

34 If a vehicle is impounded because the operator is in violation of
35 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
36 days at the written direction of the agency ordering the vehicle
37 impounded. However, if the department's records show that the operator
38 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a

1 similar local ordinance within the past five years, the vehicle may be
2 held at the written direction of the agency ordering the vehicle
3 impounded for up to sixty days, and for up to ninety days if the
4 operator has two or more such prior offenses. If a vehicle is
5 impounded because the operator is arrested for a violation of RCW
6 46.20.342, the vehicle may not be released until a person eligible to
7 redeem it under (a) of this subsection (~~((1))~~) satisfies the
8 requirements of (~~((e))~~) (f) of this subsection, including paying all
9 towing, removal, and storage fees, notwithstanding the fact that the
10 hold was ordered by a government agency.

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

30 ~~((e))~~ (d) Notwithstanding (~~((b))~~) (c) of this subsection, a
31 rental car business may immediately redeem a rental vehicle it owns by
32 payment of the costs of removal, towing, and storage, whereupon the
33 vehicle will not be held for a suspended license impound.

34 ~~((d))~~ (e) Notwithstanding (~~((b))~~) (c) of this subsection, a motor
35 vehicle dealer or lender with a perfected security interest in the
36 vehicle may redeem or lawfully repossess a vehicle immediately by
37 payment of the costs of removal, towing, and storage, whereupon the
38 vehicle will not be held for a suspended license impound. A motor

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

21 ~~((e))~~ (f) The vehicle or other item of personal property
22 registered or titled with the department shall be released upon the
23 presentation to any person having custody of the vehicle of
24 commercially reasonable tender sufficient to cover the costs of towing,
25 storage, or other services rendered during the course of towing,
26 removing, impounding, or storing any such vehicle, with credit being
27 given for the amount of any security deposit paid under ~~((b))~~ (c) of
28 this subsection. In addition, if a vehicle is impounded because the
29 operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and
30 was being operated by the registered owner when it was impounded under
31 local ordinance or agency rule, it must not be released to any person
32 until the registered owner establishes with the agency that ordered the
33 vehicle impounded or the court having jurisdiction that any penalties,
34 fines, or forfeitures owed by him or her have been satisfied.
35 Registered tow truck operators are not liable for damages if they rely
36 in good faith on an order from the impounding agency or a court in
37 releasing a vehicle held under a suspended license impound.
38 Commercially reasonable tender shall include, without limitation, cash,

1 major bank credit cards issued by financial institutions, or personal
2 checks drawn on Washington state branches of financial institutions if
3 accompanied by two pieces of valid identification, one of which may be
4 required by the operator to have a photograph. If the towing firm
5 cannot determine through the customer's bank or a check verification
6 service that the presented check would be paid by the bank or
7 guaranteed by the service, the towing firm may refuse to accept the
8 check. Any person who stops payment on a personal check or credit
9 card, or does not make restitution within ten days from the date a
10 check becomes insufficient due to lack of funds, to a towing firm that
11 has provided a service pursuant to this section or in any other manner
12 defrauds the towing firm in connection with services rendered pursuant
13 to this section shall be liable for damages in the amount of twice the
14 towing and storage fees, plus costs and reasonable attorney's fees.

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

24 (b) Any person seeking to redeem an impounded vehicle under this
25 section has a right to a hearing in the district or municipal court for
26 the jurisdiction in which the vehicle was impounded to contest the
27 validity of the impoundment or the amount of towing and storage
28 charges. The district court has jurisdiction to determine the issues
29 involving all impoundments including those authorized by the state or
30 its agents. The municipal court has jurisdiction to determine the
31 issues involving impoundments authorized by agents of the municipality.
32 Any request for a hearing shall be made in writing on the form provided
33 for that purpose and must be received by the appropriate court within
34 ten days of the date the opportunity was provided for in (~~subsection~~
35 ~~(2)~~)(a) of this subsection and more than five days before the date of
36 the auction. At the time of the filing of the hearing request, the
37 petitioner shall pay to the court clerk a filing fee in the same amount
38 required for the filing of a suit in district court. If the hearing

1 request is not received by the court within the ten-day period, the
2 right to a hearing is waived and the registered owner is liable for any
3 towing, storage, or other impoundment charges permitted under this
4 chapter. Upon receipt of a timely hearing request, the court shall
5 proceed to hear and determine the validity of the impoundment.

6 (3)(a) The court, within five days after the request for a hearing,
7 shall notify the registered tow truck operator, the person requesting
8 the hearing if not the owner, the registered and legal owners of the
9 vehicle or other item of personal property registered or titled with
10 the department, and the person or agency authorizing the impound in
11 writing of the hearing date and time.

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

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

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

29 (e) If the impoundment is determined to be in violation of this
30 chapter, then the registered and legal owners of the vehicle or other
31 item of personal property registered or titled with the department
32 shall bear no impoundment, towing, or storage fees, and any security
33 shall be returned or discharged as appropriate, and the person or
34 agency who authorized the impoundment shall be liable for any towing,
35 storage, or other impoundment fees permitted under this chapter. The
36 court shall enter judgment in favor of the registered tow truck
37 operator against the person or agency authorizing the impound for the
38 impoundment, towing, and storage fees paid. In addition, the court

1 shall enter judgment in favor of the registered and legal owners of the
2 vehicle, or other item of personal property registered or titled with
3 the department, for the amount of the filing fee required by law for
4 the impound hearing petition as well as reasonable damages for loss of
5 the use of the vehicle during the time the same was impounded against
6 the person or agency authorizing the impound. However, if an
7 impoundment arising from an alleged violation of RCW 46.20.342 or
8 46.20.345 is determined to be in violation of this chapter, then the
9 law enforcement officer directing the impoundment and the government
10 employing the officer are not liable for damages if the officer relied
11 in good faith and without gross negligence on the records of the
12 department in ascertaining that the operator of the vehicle had a
13 suspended or revoked driver's license. If any judgment entered is not
14 paid within fifteen days of notice in writing of its entry, the court
15 shall award reasonable attorneys' fees and costs against the defendant
16 in any action to enforce the judgment. Notice of entry of judgment may
17 be made by registered or certified mail, and proof of mailing may be
18 made by affidavit of the party mailing the notice. Notice of the entry
19 of the judgment shall read essentially as follows:

20 TO:
21 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
22 Court located at in the sum of
23 \$., in an action entitled, Case No.
24 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
25 will be awarded against you under RCW . . . if the judgment is
26 not paid within 15 days of the date of this notice.
27 DATED this day of, (year) . . .
28 Signature
29 Typed name and address
30 of party mailing notice

31 (4) Any impounded abandoned vehicle or item of personal property
32 registered or titled with the department that is not redeemed within
33 fifteen days of mailing of the notice of custody and sale as required
34 by RCW 46.55.110(3) shall be sold at public auction in accordance with
35 all the provisions and subject to all the conditions of RCW 46.55.130.
36 A vehicle or item of personal property registered or titled with the
37 department may be redeemed at any time before the start of the auction
38 upon payment of the applicable towing and storage fees."

ADOPTED 04/15/2013

1 On page 1, line 1 of the title, after "vehicles;" strike the
2 remainder of the title and insert "and amending RCW 46.55.120."

EFFECT: Authorizes a third-party insurer, or a vendor working on behalf of the third-party insurer, to redeem a vehicle from impound if it has a duty to repair or replace the vehicle, has obtained consent from the registered owner or the owner's agent to move the vehicle, and has documented that consent in the insurer's claim file; provided, however, that at all times the registered owner must be granted access to the vehicle.

Defines "owner's agent" as the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner's permission, or an adult member of the registered owner's family.

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