

**SHB 1130 - S AMD 319**

By Senators Nelson, Hobbs, Benton

ADOPTED 04/24/2013

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 and may reclaim  
22 possession of the vehicle. For the purposes of this subsection,  
23 "owner's agent" means the legal owner of the vehicle, a driver in  
24 possession of the vehicle with the registered owner's permission, or an  
25 adult member of the registered 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 04/24/2013

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 and may reclaim possession of 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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