
SUBSTITUTE HOUSE BILL 1130

State of Washington 63rd Legislature 2013 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Hurst and Dahlquist)

READ FIRST TIME 02/18/13.

1 AN ACT Relating to the redemption of impounded vehicles; and
2 amending RCW 46.55.120.

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

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

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

10 (a) Only the legal owner, the registered owner, the insurer of the
11 vehicle when that insurer has received a claim in connection with the
12 insured vehicle, a vendor working on behalf of the insurer of the
13 vehicle when that insurer has received a claim in connection with the
14 insured vehicle, a person authorized in writing by the registered owner
15 or the vehicle's insurer, a person who is determined and verified by
16 the operator to have the permission of the registered owner of the
17 vehicle or other item of personal property registered or titled with
18 the department, or one who has purchased a vehicle or item of personal
19 property registered or titled with the department from the registered

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

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

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

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

31 If a vehicle is impounded because the operator is in violation of
32 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
33 days at the written direction of the agency ordering the vehicle
34 impounded. However, if the department's records show that the operator
35 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
36 similar local ordinance within the past five years, the vehicle may be
37 held at the written direction of the agency ordering the vehicle
38 impounded for up to sixty days, and for up to ninety days if the

1 operator has two or more such prior offenses. If a vehicle is
2 impounded because the operator is arrested for a violation of RCW
3 46.20.342, the vehicle may not be released until a person eligible to
4 redeem it under this subsection (1)(a) satisfies the requirements of
5 (e) of this subsection, including paying all towing, removal, and
6 storage fees, notwithstanding the fact that the hold was ordered by a
7 government agency.

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

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

31 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer
32 or lender with a perfected security interest in the vehicle may redeem
33 or lawfully repossess a vehicle immediately by payment of the costs of
34 removal, towing, and storage, whereupon the vehicle will not be held
35 for a suspended license impound. A motor vehicle dealer or lender with
36 a perfected security interest in the vehicle may not knowingly and
37 intentionally engage in collusion with a registered owner to repossess
38 and then return or resell a vehicle to the registered owner in an

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

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

1 customer's bank or a check verification service that the presented
2 check would be paid by the bank or guaranteed by the service, the
3 towing firm may refuse to accept the check. Any person who stops
4 payment on a personal check or credit card, or does not make
5 restitution within ten days from the date a check becomes insufficient
6 due to lack of funds, to a towing firm that has provided a service
7 pursuant to this section or in any other manner defrauds the towing
8 firm in connection with services rendered pursuant to this section
9 shall be liable for damages in the amount of twice the towing and
10 storage fees, plus costs and reasonable attorney's fees.

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

20 (b) Any person seeking to redeem an impounded vehicle under this
21 section has a right to a hearing in the district or municipal court for
22 the jurisdiction in which the vehicle was impounded to contest the
23 validity of the impoundment or the amount of towing and storage
24 charges. The district court has jurisdiction to determine the issues
25 involving all impoundments including those authorized by the state or
26 its agents. The municipal court has jurisdiction to determine the
27 issues involving impoundments authorized by agents of the municipality.
28 Any request for a hearing shall be made in writing on the form provided
29 for that purpose and must be received by the appropriate court within
30 ten days of the date the opportunity was provided for in subsection
31 (2)(a) of this section and more than five days before the date of the
32 auction. At the time of the filing of the hearing request, the
33 petitioner shall pay to the court clerk a filing fee in the same amount
34 required for the filing of a suit in district court. If the hearing
35 request is not received by the court within the ten-day period, the
36 right to a hearing is waived and the registered owner is liable for any
37 towing, storage, or other impoundment charges permitted under this

1 chapter. Upon receipt of a timely hearing request, the court shall
2 proceed to hear and determine the validity of the impoundment.

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

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

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

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

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

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

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

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

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