
SUBSTITUTE HOUSE BILL 2528

State of Washington 63rd Legislature 2014 Regular Session

By House Transportation (originally sponsored by Representatives Overstreet, Taylor, Shea, and Buys)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to tow truck operators' handling of unmarked
2 government vehicles; and 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 2013 c 150 s 1 are each amended to read
5 as follows:

6 (1)(a) 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 by the following persons or entities:

- 10 (i) The legal owner;
- 11 (ii) The registered owner;
- 12 (iii) A person authorized in writing by the registered owner;
- 13 (iv) The vehicle's insurer or a vendor working on behalf of the
14 vehicle's insurer;
- 15 (v) A third-party insurer that has a duty to repair or replace the
16 vehicle, has obtained consent from the registered owner or the owner's
17 agent to move the vehicle, and has documented that consent in the
18 insurer's claim file, or a vendor working on behalf of a third-party
19 insurer that has received such consent; provided, however, that at all

1 times the registered owner must be granted access to and may reclaim
2 possession of the vehicle. For the purposes of this subsection,
3 "owner's agent" means the legal owner of the vehicle, a driver in
4 possession of the vehicle with the registered owner's permission, or an
5 adult member of the registered owner's family;

6 (vi) An agency to which the vehicle is registered, if the vehicle
7 is titled under RCW 46.08.066. In order to complete such a redemption,
8 the tow truck operator must receive information from the department to
9 confirm that the agency is the registered owner of the vehicle titled
10 under RCW 46.08.066, and the individual redeeming the vehicle must
11 provide valid identification to demonstrate his or her employment with
12 that agency;

13 (vii) A person who is determined and verified by the operator to
14 have the permission of the registered owner of the vehicle or other
15 item of personal property registered or titled with the department; or

16 ~~((vii))~~ (viii) A person who has purchased a vehicle or item of
17 personal property registered or titled with the department from the
18 registered owner who produces proof of ownership or written
19 authorization and signs a receipt therefor.

20 (b) In addition, a vehicle impounded because the operator is in
21 violation of RCW 46.20.342(1)(c) shall not be released until a person
22 eligible to redeem it under (a) of this subsection satisfies the
23 requirements of (f) of this subsection, including paying all towing,
24 removal, and storage fees, notwithstanding the fact that the hold was
25 ordered by a government agency. If the department's records show that
26 the operator has been convicted of a violation of RCW 46.20.342 or a
27 similar local ordinance within the past five years, the vehicle may be
28 held for up to thirty days at the written direction of the agency
29 ordering the vehicle impounded. A vehicle impounded because the
30 operator is arrested for a violation of RCW 46.20.342 may be released
31 only pursuant to a written order from the agency that ordered the
32 vehicle impounded or from the court having jurisdiction. An agency
33 shall issue a written order to release pursuant to a provision of an
34 applicable state agency rule or local ordinance authorizing release on
35 the basis of the following:

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

1 (ii) The owner of the vehicle was not the driver, the owner did not
2 know that the driver's license was suspended or revoked, and the owner
3 has not received a prior release under this subsection or RCW
4 46.55.113(3).

5 In order to avoid discriminatory application, other than for the
6 reasons for release set forth in (b)(i) and (ii) of this subsection, an
7 agency shall, under a provision of an applicable state agency rule or
8 local ordinance, deny release in all other circumstances without
9 discretion.

10 If a vehicle is impounded because the operator is in violation of
11 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
12 days at the written direction of the agency ordering the vehicle
13 impounded. However, if the department's records show that the operator
14 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
15 similar local ordinance within the past five years, the vehicle may be
16 held at the written direction of the agency ordering the vehicle
17 impounded for up to sixty days, and for up to ninety days if the
18 operator has two or more such prior offenses. If a vehicle is
19 impounded because the operator is arrested for a violation of RCW
20 46.20.342, the vehicle may not be released until a person eligible to
21 redeem it under (a) of this subsection satisfies the requirements of
22 (f) of this subsection, including paying all towing, removal, and
23 storage fees, notwithstanding the fact that the hold was ordered by a
24 government agency.

25 (c) If the vehicle is directed to be held for a suspended license
26 impound, a person who desires to redeem the vehicle at the end of the
27 period of impound shall within five days of the impound at the request
28 of the tow truck operator pay a security deposit to the tow truck
29 operator of not more than one-half of the applicable impound storage
30 rate for each day of the proposed suspended license impound. The tow
31 truck operator shall credit this amount against the final bill for
32 removal, towing, and storage upon redemption. The tow truck operator
33 may accept other sufficient security in lieu of the security deposit.
34 If the person desiring to redeem the vehicle does not pay the security
35 deposit or provide other security acceptable to the tow truck operator,
36 the tow truck operator may process and sell at auction the vehicle as
37 an abandoned vehicle within the normal time limits set out in RCW
38 46.55.130(1). The security deposit required by this section may be

1 paid and must be accepted at any time up to twenty-four hours before
2 the beginning of the auction to sell the vehicle as abandoned. The
3 registered owner is not eligible to purchase the vehicle at the
4 auction, and the tow truck operator shall sell the vehicle to the
5 highest bidder who is not the registered owner.

6 (d) Notwithstanding (c) of this subsection, a rental car business
7 may immediately redeem a rental vehicle it owns by payment of the costs
8 of removal, towing, and storage, whereupon the vehicle will not be held
9 for a suspended license impound.

10 (e) Notwithstanding (c) of this subsection, a motor vehicle dealer
11 or lender with a perfected security interest in the vehicle may redeem
12 or lawfully repossess a vehicle immediately by payment of the costs of
13 removal, towing, and storage, whereupon the vehicle will not be held
14 for a suspended license impound. A motor vehicle dealer or lender with
15 a perfected security interest in the vehicle may not knowingly and
16 intentionally engage in collusion with a registered owner to repossess
17 and then return or resell a vehicle to the registered owner in an
18 attempt to avoid a suspended license impound. However, this provision
19 does not preclude a vehicle dealer or a lender with a perfected
20 security interest in the vehicle from repossessing the vehicle and then
21 selling, leasing, or otherwise disposing of it in accordance with
22 chapter 62A.9A RCW, including providing redemption rights to the debtor
23 under RCW 62A.9A-623. If the debtor is the registered owner of the
24 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A
25 RCW is conditioned upon the debtor obtaining and providing proof from
26 the impounding authority or court having jurisdiction that any fines,
27 penalties, and forfeitures owed by the registered owner, as a result of
28 the suspended license impound, have been paid, and proof of the payment
29 must be tendered to the vehicle dealer or lender at the time the debtor
30 tenders all other obligations required to redeem the vehicle. Vehicle
31 dealers or lenders are not liable for damages if they rely in good
32 faith on an order from the impounding agency or a court in releasing a
33 vehicle held under a suspended license impound.

34 (f) The vehicle or other item of personal property registered or
35 titled with the department shall be released upon the presentation to
36 any person having custody of the vehicle of commercially reasonable
37 tender sufficient to cover the costs of towing, storage, or other
38 services rendered during the course of towing, removing, impounding, or

1 storing any such vehicle, with credit being given for the amount of any
2 security deposit paid under (c) of this subsection. In addition, if a
3 vehicle is impounded because the operator was arrested for a violation
4 of RCW 46.20.342 or 46.20.345 and was being operated by the registered
5 owner when it was impounded under local ordinance or agency rule, it
6 must not be released to any person until the registered owner
7 establishes with the agency that ordered the vehicle impounded or the
8 court having jurisdiction that any penalties, fines, or forfeitures
9 owed by him or her have been satisfied. Registered tow truck operators
10 are not liable for damages if they rely in good faith on an order from
11 the impounding agency or a court in releasing a vehicle held under a
12 suspended license impound. Commercially reasonable tender shall
13 include, without limitation, cash, major bank credit cards issued by
14 financial institutions, or personal checks drawn on Washington state
15 branches of financial institutions if accompanied by two pieces of
16 valid identification, one of which may be required by the operator to
17 have a photograph. If the towing firm cannot determine through the
18 customer's bank or a check verification service that the presented
19 check would be paid by the bank or guaranteed by the service, the
20 towing firm may refuse to accept the check. Any person who stops
21 payment on a personal check or credit card, or does not make
22 restitution within ten days from the date a check becomes insufficient
23 due to lack of funds, to a towing firm that has provided a service
24 pursuant to this section or in any other manner defrauds the towing
25 firm in connection with services rendered pursuant to this section
26 shall be liable for damages in the amount of twice the towing and
27 storage fees, plus costs and reasonable attorney's fees.

28 (2)(a) The registered tow truck operator shall give to each person
29 who seeks to redeem an impounded vehicle, or item of personal property
30 registered or titled with the department, written notice of the right
31 of redemption and opportunity for a hearing, which notice shall be
32 accompanied by a form to be used for requesting a hearing, the name of
33 the person or agency authorizing the impound, and a copy of the towing
34 and storage invoice. The registered tow truck operator shall maintain
35 a record evidenced by the redeeming person's signature that such
36 notification was provided.

37 (b) Any person seeking to redeem an impounded vehicle under this
38 section has a right to a hearing in the district or municipal court for

1 the jurisdiction in which the vehicle was impounded to contest the
2 validity of the impoundment or the amount of towing and storage
3 charges. The district court has jurisdiction to determine the issues
4 involving all impoundments including those authorized by the state or
5 its agents. The municipal court has jurisdiction to determine the
6 issues involving impoundments authorized by agents of the municipality.
7 Any request for a hearing shall be made in writing on the form provided
8 for that purpose and must be received by the appropriate court within
9 ten days of the date the opportunity was provided for in (a) of this
10 subsection and more than five days before the date of the auction. At
11 the time of the filing of the hearing request, the petitioner shall pay
12 to the court clerk a filing fee in the same amount required for the
13 filing of a suit in district court. If the hearing request is not
14 received by the court within the ten-day period, the right to a hearing
15 is waived and the registered owner is liable for any towing, storage,
16 or other impoundment charges permitted under this chapter. Upon
17 receipt of a timely hearing request, the court shall proceed to hear
18 and determine the validity of the impoundment.

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

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

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

36 (d) If the impoundment is found proper, the impoundment, towing,
37 and storage fees as permitted under this chapter together with court
38 costs shall be assessed against the person or persons requesting the

1 hearing, unless the operator did not have a signed and valid
2 impoundment authorization from a private property owner or an
3 authorized agent.

4 (e) If the impoundment is determined to be in violation of this
5 chapter, then the registered and legal owners of the vehicle or other
6 item of personal property registered or titled with the department
7 shall bear no impoundment, towing, or storage fees, and any security
8 shall be returned or discharged as appropriate, and the person or
9 agency who authorized the impoundment shall be liable for any towing,
10 storage, or other impoundment fees permitted under this chapter. The
11 court shall enter judgment in favor of the registered tow truck
12 operator against the person or agency authorizing the impound for the
13 impoundment, towing, and storage fees paid. In addition, the court
14 shall enter judgment in favor of the registered and legal owners of the
15 vehicle, or other item of personal property registered or titled with
16 the department, for the amount of the filing fee required by law for
17 the impound hearing petition as well as reasonable damages for loss of
18 the use of the vehicle during the time the same was impounded against
19 the person or agency authorizing the impound. However, if an
20 impoundment arising from an alleged violation of RCW 46.20.342 or
21 46.20.345 is determined to be in violation of this chapter, then the
22 law enforcement officer directing the impoundment and the government
23 employing the officer are not liable for damages if the officer relied
24 in good faith and without gross negligence on the records of the
25 department in ascertaining that the operator of the vehicle had a
26 suspended or revoked driver's license. If any judgment entered is not
27 paid within fifteen days of notice in writing of its entry, the court
28 shall award reasonable attorneys' fees and costs against the defendant
29 in any action to enforce the judgment. Notice of entry of judgment may
30 be made by registered or certified mail, and proof of mailing may be
31 made by affidavit of the party mailing the notice. Notice of the entry
32 of the judgment shall read essentially as follows:

33 TO:
34 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
35 Court located at in the sum of
36 \$., in an action entitled, Case No.
37 YOU ARE FURTHER NOTIFIED that attorneys fees and costs

1 will be awarded against you under RCW . . . if the judgment is
2 not paid within 15 days of the date of this notice.

3 DATED this day of, (year) . . .

4 Signature

5 Typed name and address
6 of party mailing notice

7 (4) Any impounded abandoned vehicle or item of personal property
8 registered or titled with the department that is not redeemed within
9 fifteen days of mailing of the notice of custody and sale as required
10 by RCW 46.55.110(3) shall be sold at public auction in accordance with
11 all the provisions and subject to all the conditions of RCW 46.55.130.
12 A vehicle or item of personal property registered or titled with the
13 department may be redeemed at any time before the start of the auction
14 upon payment of the applicable towing and storage fees.

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