
HOUSE BILL 1605

State of Washington

65th Legislature

2017 Regular Session

By Representatives Pettigrew, Hayes, and Klippert; by request of
Parks and Recreation Commission

Read first time 01/25/17. Referred to Committee on Public Safety.

1 AN ACT Relating to vessel impoundment; and adding a new section
2 to chapter 79A.60 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 79A.60
5 RCW to read as follows:

6 (1) Whenever the operator of a vessel is arrested for a violation
7 of RCW 79A.60.040, the arresting officer, or another officer acting
8 at the arresting officer's direction, has authority to impound and
9 secure the vessel as provided in this section.

10 (2) This section is not intended to limit or constrain the
11 ability of local government from enacting and enforcing ordinances or
12 other regulations relating to the impoundment of vessels for the
13 purposes of enforcing RCW 79A.60.040.

14 (3) Unless vessel impound is required for evidentiary purposes, a
15 law enforcement officer must seek a series of reasonable alternatives
16 to impound before impounding the vessel. Reasonable alternatives to
17 impound may include, but are not limited to:

18 (a) Working with the vessel's owner to locate a qualified
19 operator who can take possession of the vessel within thirty minutes
20 following the arrest of the vessel's operator and giving possession
21 of the vessel to such a person;

1 (b) Anchoring the vessel or securing it to a mooring buoy or
2 otherwise securing the vessel in a place of relative safety
3 including, but not limited to, a marina, dock, or moorage facility,
4 provided that:

5 (i) The owner is present and willing to sign a liability waiver
6 by which the owner agrees to waive any claims related to such an
7 action against the law enforcement officer and the officer's agency
8 and indemnify the officer and the agency against any claims related
9 to such an action by any third party; and

10 (ii) The owner agrees to pay any applicable moorage charges or
11 fees; and

12 (c) Towing the vessel to the closest boat ramp, marina, or
13 similar type facility where the owner can meet the impounding officer
14 within thirty minutes in order to:

15 (i) Secure the vessel by accepting any applicable moorage charges
16 or fees; or

17 (ii) Take possession of the vessel if the owner was not present
18 at the time of the arrest.

19 (4) For the purposes of this section, securing an impounded
20 vessel may include, but is not limited to:

21 (a) Removing the vessel to and storing it at a moorage facility.
22 As used in this section, "moorage facility" includes a private
23 moorage facility as defined in RCW 88.26.010, a moorage facility as
24 defined in RCW 53.08.310, or a moorage facility owned or operated by
25 the agency of the arresting officer;

26 (b) Placing the vessel in the custody of an operator licensed by
27 the United States coast guard per 46 C.F.R. Sec. 11.482 to provide
28 commercial assistance towing services in Washington state who must:

29 (i) Tow it to a storage facility operated by such an entity for
30 storage or to a moorage facility for storage; or

31 (ii) Tow it to a location designated by the operator or owner of
32 the vessel.

33 (5) An impounding officer may temporarily attach an impounded
34 vessel to a mooring buoy or anchor the vessel to the bottom until
35 such time as the impounding officer is able to secure the vessel.

36 (6) All vessels must be handled appropriately and returned in
37 substantially the same condition as they existed before being
38 impounded, unless forfeited pursuant to subsection (12) of this
39 section. Except as provided in subsection (12)(b) of this section,
40 all personal property in the vessel must be kept intact and must be

1 returned to the vessel's owner or agent during the normal business
2 hours of the entity storing the vessel upon request, provided the
3 vessel owner, or the owner's agent, is able to provide sufficient
4 proof of his or her identity.

5 (7) No moorage facility or vessel towing service provider is
6 required to accept an impounded vessel for towing or storage. An
7 impounding officer intending to secure a vessel by means of storing
8 it at a moorage facility must have the permission of the owner or
9 operator of the moorage facility prior to leaving the vessel at the
10 facility. The impounding officer shall identify an authorized person
11 on the impound authorization form to represent the vessel impound
12 facility. The officer must provide a copy of the impound
13 authorization form to the designated person representing the vessel
14 impound facility along with the address of the registered owner of
15 the vessel.

16 (8)(a) An impounding officer impounding a vessel pursuant to this
17 section shall notify the legal and registered owner or owners of the
18 impoundment of the vessel. The notification must be in writing and
19 sent within one business day after the impound by first-class mail,
20 digital transmission, or facsimile to the last known address of the
21 registered and legal owner or owners of the vessel, as identified by
22 the department of licensing, and must inform the owner or owners of
23 the identity of the person or agency authorizing the impound. The
24 impounding officer may also serve the operator with the impound
25 authorization form at the time of impound. The notification must be
26 provided on a vessel impound authorization and inventory form
27 provided by the department of licensing and include the name,
28 address, and telephone number of the facility where the vessel is
29 being held. The notice must also include the notice of the right of
30 redemption and opportunity for a hearing to contest the validity of
31 the impoundment. The notice must also include the rate that is being
32 charged for the storage of the vessel while impounded. When the
33 operator of a vessel is arrested for a violation of RCW 79A.60.040
34 and the operator is not the owner of the vessel, the impounded vessel
35 may be redeemed by the owner as provided in this section.

36 (b) A notice does not need to be sent to the legal or registered
37 owner or owners of an impounded vessel if the vessel has been
38 redeemed.

39 (c) The impounded vessel may not be redeemed by the operator
40 within a twelve-hour period starting at the time of the operator's

1 arrest. The vessel may be redeemed by or released to a legal owner,
2 or an agent of the legal owner other than the operator, within the
3 twelve-hour period following arrest.

4 (9) If the impounding officer secures a vessel by placing it on
5 its trailer, the officer, moorage facility representative, or
6 commercial assistance towing service is authorized to detach the
7 vessel's trailer from the vehicle to which it is attached, attach the
8 trailer to an impounding vehicle, operate the vessel to load it on
9 the trailer, and then tow the vessel on its trailer to the storage
10 facility.

11 (10) The owner of a vessel impounded pursuant to this section is
12 responsible for paying all fees associated with the towing and
13 storage of the vessel resulting from its impoundment. A moorage
14 facility that accepts a vessel impounded pursuant to this section for
15 storage may charge the owner of the vessel up to one hundred twenty-
16 five percent of the normal moorage rates of tenants or guests. A
17 moorage facility must store the vessel in the least costly boat slip
18 or storage area available that is appropriate for the vessel size. An
19 entity that provides emergency vessel towing services that accepts a
20 vessel impounded pursuant to this section for towing or storage, or
21 both, may charge its normal towing and storage fees. The costs of
22 removal and storage of vessels under this section must be paid by the
23 owner or operator of the vessel and is a lien upon the vessel until
24 paid, unless the impoundment is determined to be invalid.

25 (11) Within fifteen days of impoundment of the vessel, or until
26 the vessel is forfeited pursuant to subsection (12) of this section,
27 the owner of a vessel impounded and stored pursuant to this section
28 may redeem the vessel by paying all towing and storage fees charged
29 as allowed in subsection (10) of this section. Within fifteen days of
30 impoundment of the vessel, or until the vessel is forfeited pursuant
31 to subsection (12) of this section, any person who shows proof of
32 ownership or written authorization from the impounded vessel's
33 registered or legal owner or the vessel's insurer may view the vessel
34 without charge during the normal business hours of the entity storing
35 the vessel.

36 (12) If an impounded vessel stored pursuant to this section is
37 not redeemed by its owner pursuant to subsection (11) of this section
38 within fifteen days of its impoundment, the entity storing the vessel
39 may initiate forfeiture of the vessel. Forfeiture is complete twenty
40 days after mailing of the notice required by this subsection, unless

1 within that time the owner, or any lienholder or holder of a security
2 interest, pays all fees associated with the towing and storage of the
3 vessel resulting from its impoundment.

4 (a) In order to forfeit the vessel, the entity storing the vessel
5 must mail notice of its intent to forfeit the vessel. Such a notice
6 must, at a minimum, state: The intent of the entity to forfeit the
7 vessel; that, upon forfeiture, the owner forfeits all ownership
8 interest in the vessel; the right of the entity to take possession of
9 or dispose of the vessel upon forfeiture; and that the owner, or
10 other interested person or entity, may avoid forfeiture of the vessel
11 by paying all fees associated with the towing and storage of the
12 vessel resulting from its impoundment within twenty days of mailing
13 of the notice. Such a notice must be mailed to the owner of the
14 vessel at the address on file with the state with which the vessel is
15 registered, or on file with the federal government, if the vessel is
16 registered with the federal government, and any lienholder or secured
17 interests on record. A notice need not be sent to the purported owner
18 or any other person whose interest in the vessel is not recorded with
19 a state or with the federal government.

20 (b) Upon forfeiture, the owner of the vessel forfeits any and all
21 ownership interest in it and the entity storing the vessel may take
22 possession of or dispose of it. All personal property in the vessel
23 not claimed prior to forfeiture must be turned over to the law
24 enforcement agency that authorized the impoundment. The personal
25 property must be disposed of pursuant to chapter 63.32 or 63.40 RCW,
26 or as otherwise provided by law. Within fourteen days of the
27 forfeiture of a vessel pursuant to this subsection, the forfeiting
28 entity shall send a forfeited vessel disposition report, together
29 with a copy of the impound authority and inventory form and the
30 notice of intent to forfeit, to the department of licensing so that
31 the department may include documentation in the ownership records of
32 the vessel. The vessel disposition information sent to the department
33 of licensing on the forfeited vessel disposition report relieves the
34 previous owner of the vessel from any civil or criminal liability for
35 the operation of the vessel from the date of sale thereafter, and
36 transfers full liability for the vessel to the forfeiting entity or
37 the party to whom the vessel is transferred by the forfeiting entity.

38 (13) An entity that accepts an impounded vessel from an
39 impounding officer pursuant to this section who, in good faith, acts
40 to provide towing or storage of the vessel is not liable for civil

1 damages resulting from any act or omission in the performance of
2 trailering, towing, or storage other than acts or omissions
3 constituting gross negligence or willful or wanton misconduct. Any
4 individual or entity whose assistance has been requested by an
5 impounding officer who in good faith renders assistance in
6 trailering, towing, or storing of a vessel impounded pursuant to this
7 section is not liable for civil damages resulting from any act or
8 omission in providing assistance other than for acts or omissions
9 constituting gross negligence or willful or wanton misconduct.

10 (14) If a law enforcement officer impounds and secures a vessel
11 pursuant to this section, the impounding officer and the government
12 agency employing the officer are not liable for any damages to or
13 theft of the vessel or its contents. If an impoundment arising from
14 an alleged violation of RCW 79A.60.040 is determined to be in
15 violation of this section, the impounding officer and the government
16 agency employing the officer are not liable for damages to the vessel
17 or damages for loss of use of the vessel if the impounding officer
18 had reasonable suspicion to believe that the operator of the vessel
19 was operating the vessel while under the influence of intoxicating
20 liquor, marijuana, or any drug, or was in physical control of the
21 vessel while under the influence of intoxicating liquor, marijuana,
22 or any drug, or if the impounding officer otherwise acted reasonably
23 under the circumstances in acting to impound and secure the vessel.

24 (15) Any person seeking to redeem an impounded vessel under this
25 section has a right to a hearing in the district or municipal court
26 for the jurisdiction in which the vessel 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
32 municipality. Any request for a hearing must be made in writing per
33 the instructions provided on the uniform vessel impound authorization
34 and inventory form and must be received by the appropriate court
35 within ten business days of the date that the impound authorization
36 form was mailed to the owner or owners of the impounded vessel. At
37 the time of the filing of the hearing request, the petitioner must
38 pay to the court clerk a filing fee in the same amount required for
39 the filing of a suit in district court. If the hearing request is not
40 received by the court within ten business days of the sending of the

1 notice of impoundment pursuant to subsection (8) of this section, the
2 right to a hearing is waived and the registered owner is liable for
3 any towing, storage, or other impoundment charges permitted under
4 this chapter. Upon receipt of a timely hearing request, the court
5 shall proceed to hear and determine the validity of the impoundment.

6 (a) Within five days after the request for a hearing, the court
7 shall notify the operator of the impound facility, the person
8 requesting the hearing if not the owner, the registered and legal
9 owners of the vessel, and the officer or agency authorizing the
10 impound in writing of the hearing date and time.

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

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

22 (d) If the impoundment is found proper, the impoundment, towing,
23 and storage fees as permitted under this chapter together with court
24 costs must be assessed against the person or persons requesting the
25 hearing.

26 (e) If the impoundment is determined to be in violation of this
27 section, then the registered and legal owners of the vessel or other
28 items of personal property bear no impoundment, towing, or storage
29 fees, and any security must be returned or discharged as appropriate,
30 and the agency that authorized the impoundment is liable for any
31 towing, storage, or other impoundment fees permitted under this
32 chapter. The court shall enter judgment in favor of the moorage
33 facility or vessel towing contractor against the agency authorizing
34 the impound for the impoundment, towing, and storage fees paid. In
35 addition, the court shall enter judgment in favor of the registered
36 and legal owners of the vessel for the amount of the filing fee
37 required by law for the impound hearing petition. If an impoundment
38 arising from an alleged violation of RCW 79A.60.040 is determined to
39 be in violation of this chapter, then the police officer directing
40 the impoundment and the government employing the officer are not

1 liable for damages for loss of use of the vessel if the officer had
2 reasonable suspicion to believe that the operator of the vessel was
3 operating while under the influence of intoxicating liquor,
4 marijuana, or any drug, or was in physical control of a vessel while
5 under the influence of intoxicating liquor, marijuana, or any drug.
6 If any judgment entered is not paid within fifteen days of notice in
7 writing of its entry, the court shall award reasonable attorneys'
8 fees and costs against the defendant in any action to enforce the
9 judgment. Notice of entry of judgment may be made by registered or
10 certified mail, and proof of mailing may be made by affidavit of the
11 party mailing the notice. Notice of the entry of the judgment must
12 read essentially as follows:

13 TO:

14 YOU ARE HEREBY NOTIFIED JUDGMENT was
15 entered against you in the Court located at
16 in the sum of \$....., in an action entitled, Case
17 No. YOU ARE FURTHER NOTIFIED that
18 attorneys' fees and costs will be awarded against you
19 under RCW if the judgment is not paid within 15
20 days of the date of this notice.

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

22 Signature

23 Typed name and address of party mailing notice

24 (16) By September 30, 2017, the department of licensing in
25 collaboration with the commission shall create the following forms
26 for use in the enforcement of this section:

27 (a) A vessel impound authorization and inventory form. This form
28 must include sections for the impounding officer to record the
29 address of the registered owner of the vessel and the designated
30 individual that will act on behalf of the impound facility; and

31 (b) A forfeited vessel disposition report form.

32 (17) The definitions in this subsection apply throughout this
33 section unless the context clearly requires otherwise.

34 (a) "Impound" means to take and hold a vessel in legal custody.

35 (b) "Vessel" includes any associated trailer or towing device
36 used to transport the vessel if it is included in the impoundment.

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