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HOUSE BILL 2058

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State of Washington

65th Legislature

2017 Regular Session

By Representative Harmsworth

Read first time 02/09/17. Referred to Committee on Transportation.

1 AN ACT Relating to procedures for the redemption of certain  
2 vehicles that are towed from accident scenes by registered tow truck  
3 companies when the vehicle owner is admitted as a patient in a  
4 hospital due to the accident; amending RCW 46.55.120, 46.55.130, and  
5 46.55.150; adding a new section to chapter 46.55 RCW; and creating a  
6 new section.

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

8 **Sec. 1.** RCW 46.55.120 and 2013 c 150 s 1 are each amended to  
9 read as follows:

10 (1)(a) Vehicles or other items of personal property registered or  
11 titled with the department that are impounded by registered tow truck  
12 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or  
13 9A.88.140 may be redeemed only by the following persons or entities:

14 (i) The legal owner;

15 (ii) The registered owner;

16 (iii) A person authorized in writing by the registered owner;

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

19 (v) A third-party insurer that has a duty to repair or replace  
20 the vehicle, has obtained consent from the registered owner or the  
21 owner's agent to move the vehicle, and has documented that consent in

1 the insurer's claim file, or a vendor working on behalf of a third-  
2 party insurer that has received such consent; provided, however, that  
3 at all times the registered owner must be granted access to and may  
4 reclaim possession of the vehicle. For the purposes of this  
5 subsection, "owner's agent" means the legal owner of the vehicle, a  
6 driver in possession of the vehicle with the registered owner's  
7 permission, or an adult member of the registered owner's family;

8 (vi) A person who is determined and verified by the operator to  
9 have the permission of the registered owner of the vehicle or other  
10 item of personal property registered or titled with the department;  
11 (~~(v)~~)

12 (vii) A person who has purchased a vehicle or item of personal  
13 property registered or titled with the department from the registered  
14 owner who produces proof of ownership or written authorization and  
15 signs a receipt therefor; or

16 (viii) If (a)(i) through (vii) of this subsection do not apply, a  
17 person, who is known to the registered or legal owner of a motorcycle  
18 or moped, as each are defined in chapter 46.04 RCW, that was towed  
19 from the scene of an accident, may redeem the motorcycle or moped as  
20 a bailment in accordance with section 4 of this act while the  
21 registered or legal owner is admitted as a patient in a hospital due  
22 to the accident.

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

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

4 (ii) The owner of the vehicle was not the driver, the owner did  
5 not know that the driver's license was suspended or revoked, and the  
6 owner has not received a prior release under this subsection or RCW  
7 46.55.113(3).

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

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

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

1 limits set out in RCW 46.55.130(1). The security deposit required by  
2 this section may be paid and must be accepted at any time up to  
3 twenty-four hours before the beginning of the auction to sell the  
4 vehicle as abandoned. The registered owner is not eligible to  
5 purchase the vehicle at the auction, and the tow truck operator shall  
6 sell the vehicle to the highest bidder who is not the registered  
7 owner.

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

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

37 (f) The vehicle or other item of personal property registered or  
38 titled with the department shall be released upon the presentation to  
39 any person having custody of the vehicle of commercially reasonable  
40 tender sufficient to cover the costs of towing, storage, or other

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

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

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

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

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

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

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

37 (d) If the impoundment is found proper, the impoundment, towing,  
38 and storage fees as permitted under this chapter together with court  
39 costs shall be assessed against the person or persons requesting the  
40 hearing, unless the operator did not have a signed and valid

1 impoundment authorization from a private property owner or an  
2 authorized agent.

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

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

1 judgment is not paid within 15 days of the date of this  
2 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  
11 with all the provisions and subject to all the conditions of RCW  
12 46.55.130. A vehicle or item of personal property registered or  
13 titled with the department may be redeemed at any time before the  
14 start of the auction upon payment of the applicable towing and  
15 storage fees.

16 **Sec. 2.** RCW 46.55.130 and 2011 c 65 s 1 are each amended to read  
17 as follows:

18 (1) If, after the expiration of fifteen days from the date of  
19 mailing of notice of custody and sale required in RCW 46.55.110(3) to  
20 the registered and legal owners, the vehicle remains unclaimed and  
21 has not been listed as a stolen vehicle, ~~((or))~~ a suspended license  
22 impound has been directed~~((r))~~ but no ~~((security))~~ commercially  
23 reasonable tender has been paid under RCW 46.55.120, or a person  
24 eligible to redeem under RCW 46.55.120(1)(a)(viii) has not come forth  
25 providing information that the registered or legal owner of a  
26 motorcycle or moped is an admitted patient in a hospital, ~~((then))~~  
27 the registered tow truck operator having custody of the vehicle shall  
28 conduct a sale of the vehicle at public auction after having first  
29 published a notice of the date, place, and time of the auction, and a  
30 method to contact the tow truck operator conducting the auction such  
31 as a telephone number, ~~((electronic-mail))~~ email address, or web  
32 site, in a newspaper of general circulation in the county in which  
33 the vehicle is located not less than three days and no more than ten  
34 days before the date of the auction. For the purposes of this  
35 section, a newspaper of general circulation may be a commercial,  
36 widely circulated, free, classified advertisement circular not  
37 affiliated with the registered tow truck operator and the notice may  
38 be listed in a classification delineating "auctions" or similar



1 language designed to attract potential bidders to the auction. The  
2 notice shall contain a notification that a public viewing period will  
3 be available before the auction and the length of the viewing period.  
4 The auction shall be held during daylight hours of a normal business  
5 day. The viewing period must be one hour if twenty-five or fewer  
6 vehicles are to be auctioned, two hours if more than twenty-five and  
7 fewer than fifty vehicles are to be auctioned, and three hours if  
8 fifty or more vehicles are to be auctioned. If the registered tow  
9 truck operator is notified that the registered or legal owner of the  
10 moped or motorcycle is an admitted patient in the hospital as  
11 evidenced by a declaration on a form authorized by the department,  
12 the registered tow truck operator may delay the auction of the moped  
13 or motorcycle for a reasonable time in a good faith effort to provide  
14 additional time for the redemption of the vehicle.

15 (2) The following procedures are required in any public auction  
16 of such abandoned vehicles:

17 (a) The auction shall be held in such a manner that all persons  
18 present are given an equal time and opportunity to bid;

19 (b) All bidders must be present at the time of auction unless  
20 they have submitted to the registered tow truck operator, who may or  
21 may not choose to use the preauction bid method, a written bid on a  
22 specific vehicle. Written bids may be submitted up to five days  
23 before the auction and shall clearly state which vehicle is being bid  
24 upon, the amount of the bid, and who is submitting the bid;

25 (c) The open bid process, including all written bids, shall be  
26 used so that everyone knows the dollar value that must be exceeded;

27 (d) The highest two bids received shall be recorded in written  
28 form and shall include the name, address, and telephone number of  
29 each such bidder;

30 (e) In case the high bidder defaults, the next bidder has the  
31 right to purchase the vehicle for the amount of his or her bid;

32 (f) The successful bidder shall apply for title within fifteen  
33 days;

34 (g) The registered tow truck operator shall post a copy of the  
35 auction procedure at the bidding site. If the bidding site is  
36 different from the licensed office location, the operator shall post  
37 a clearly visible sign at the office location that describes in  
38 detail where the auction will be held. At the bidding site a copy of  
39 the newspaper advertisement that lists the vehicles for sale shall be  
40 posted;

1 (h) All surplus moneys derived from the auction after  
2 satisfaction of the registered tow truck operator's lien shall be  
3 remitted within thirty days to the department for deposit in the  
4 state motor vehicle fund. A report identifying the vehicles resulting  
5 in any surplus shall accompany the remitted funds. If the director  
6 subsequently receives a valid claim from the registered vehicle owner  
7 of record as determined by the department within one year from the  
8 date of the auction, the surplus moneys shall be remitted to such  
9 owner;

10 (i) If an operator receives no bid, or if the operator is the  
11 successful bidder at auction, the operator shall, within forty-five  
12 days, sell the vehicle to a licensed vehicle wrecker, hulk hauler, or  
13 scrap processor by use of the abandoned vehicle report-affidavit of  
14 sale, or the operator shall apply for title to the vehicle.

15 (3) A tow truck operator may refuse to accept a bid at an  
16 abandoned vehicle auction under this section for any reason in the  
17 operator's posted operating procedures and for any of the following  
18 reasons: (a) The bidder is currently indebted to the operator; (b)  
19 the operator has knowledge that the bidder has previously abandoned  
20 vehicles purchased at auction; or (c) the bidder has purchased, at  
21 auction, more than four vehicles in the last calendar year without  
22 obtaining title to any or all of the vehicles. In no case may an  
23 operator hold a vehicle for longer than ninety days without holding  
24 an auction on the vehicle, except for vehicles that are under a  
25 police or judicial hold.

26 (4)(a) The accumulation of storage charges applied to the lien at  
27 auction under RCW 46.55.140 may not exceed fifteen additional days  
28 from the date of receipt of the information by the operator from the  
29 department as provided by RCW 46.55.110(3) plus the storage charges  
30 accumulated prior to the receipt of the information. However,  
31 vehicles redeemed pursuant to RCW 46.55.120 prior to their sale at  
32 auction are subject to payment of all accumulated storage charges  
33 from the time of impoundment up to the time of redemption.

34 (b) The failure of the registered tow truck operator to comply  
35 with the time limits provided in this chapter limits the accumulation  
36 of storage charges to five days except where delay is unavoidable.  
37 Providing incorrect or incomplete identifying information to the  
38 department in the abandoned vehicle report shall be considered a  
39 failure to comply with these time limits if correct information is  
40 available. However, storage charges begin to accrue again on the date

1 the correct and complete information is provided to the department by  
2 the registered tow truck operator.

3 **Sec. 3.** RCW 46.55.150 and 1989 c 111 s 14 are each amended to  
4 read as follows:

5 The registered tow truck operator shall keep a transaction file  
6 on each vehicle. The transaction file shall contain as a minimum  
7 those of the following items that are required at the time the  
8 vehicle is redeemed or becomes abandoned and is sold at a public  
9 auction:

10 (1) A signed impoundment authorization as required by RCW  
11 46.55.080;

12 (2) A record of the twenty-four hour written impound notice to a  
13 law enforcement agency;

14 (3) A copy of the impoundment notification to registered and  
15 legal owners, sent within twenty-four hours of impoundment, that  
16 advises the owners of the address of the impounding firm, a twenty-  
17 four hour telephone number, and the name of the person or agency  
18 under whose authority the vehicle was impounded;

19 (4) A copy of the abandoned vehicle report that was sent to and  
20 returned by the department;

21 (5) A copy and proof of mailing of the notice of custody and sale  
22 sent by the registered tow truck operator to the owners advising them  
23 they have fifteen days to redeem the vehicle before it is sold at  
24 public auction;

25 (6) A copy of the published notice of public auction;

26 (7) A copy of the affidavit of sale showing the sales date,  
27 purchaser, amount of the lien, and sale price;

28 (8) A record of the two highest bid offers on the vehicle, with  
29 the names, addresses, and telephone numbers of the two bidders;

30 (9) A copy of the notice of opportunity for hearing given to  
31 those who redeem vehicles;

32 (10) An itemized invoice of charges against the vehicle; and

33 (11) Documentation of a bailment in accordance with section 4 of  
34 this act, if applicable.

35 The transaction file shall be kept for a minimum of three years.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.55  
37 RCW to read as follows:

1 (1) Any person, who is known to the registered or legal owner of  
2 a motorcycle or moped that was towed from the scene of an accident,  
3 may redeem the motorcycle or moped as a bailment on behalf of the  
4 registered or legal owner who is admitted as a patient in a hospital  
5 due to the accident subject to the following requirements:

6 (a) The eligible person must pay the costs of towing, storage, or  
7 other services rendered during the course of towing, removal, or  
8 storing of the motorcycle or moped.

9 (b) The eligible person must provide a valid government-issued  
10 photo identification, such as a current driver's license or state-  
11 issued identification card, military identification, or passport.

12 (c) The eligible person must sign a declaration on a form  
13 furnished by the department that provides:

14 (i) The person's name, telephone number, and physical address;

15 (ii) The relationship between the person and the registered or  
16 legal owner;

17 (iii) The name and location of the hospital where the registered  
18 or legal owner is admitted;

19 (iv) The address of the physical location where the motorcycle or  
20 moped will be stored for the registered or legal owner at no  
21 additional cost to the owner;

22 (v) A statement that the person agrees to protect the motorcycle  
23 or moped and return it to the registered or legal owner in the same  
24 form it was received when removed from the registered tow truck  
25 operator's premises; and

26 (vi) A statement that the person knowingly agrees to become the  
27 bailee for the motorcycle or moped.

28 (d) The declaration form under (c) of this subsection must be  
29 signed under penalty of perjury.

30 (2) The registered tow truck operator may refuse an offer to  
31 redeem under this section for good cause, which includes, but is not  
32 limited to, competing applications for redemption from persons  
33 identified under RCW 46.55.120(1)(a) or the person applying to be the  
34 bailee has been convicted of a crime of dishonesty or theft. This  
35 section does not require a registered tow truck operator to  
36 investigate or otherwise determine the criminal history or the  
37 honesty of the bailee.

38 (3) Any registered tow truck operator acting in good faith in  
39 compliance with this section that releases a motorcycle or moped to  
40 bailment in accordance with the requirements of this section is

1 immune from civil liability arising out of the bailment unless the  
2 tow truck operator's act or omission constitutes gross negligence or  
3 willful or wanton misconduct.

4 (4) In addition to any remedies provided by common law for  
5 bailments, a person who becomes the bailee of a motorcycle or moped  
6 under this section and fails to return the motorcycle or moped to the  
7 registered or legal owner may be charged with theft of a motor  
8 vehicle without permission.

9 (5) The department must create a declaration form to be completed  
10 by individuals that identifies the required information in subsection  
11 (1)(b) and (c) of this section. The department must post the form on  
12 its web site, and the form must be able to be downloaded from the  
13 department's web site.

14 NEW SECTION. **Sec. 5.** This act may be known and cited as the  
15 Denise Chew scooter recovery act.

--- END ---