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**SENATE BILL 5737**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Kuderer, Lovelett, Valdez, and C. Wilson

Read first time 02/09/23. Referred to Committee on Housing.

1 AN ACT Relating to impounds of vehicles used as residences;  
2 amending RCW 46.55.120 and 46.68.175; and adding a new section to  
3 chapter 46.53 RCW.

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

5 **Sec. 1.** RCW 46.55.120 and 2017 c 152 s 1 are each amended to  
6 read as follows:

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

11 (i) The legal owner;

12 (ii) The registered owner;

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

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  
17 the vehicle, has obtained consent from the registered owner or the  
18 owner's agent to move the vehicle, and has documented that consent in  
19 the insurer's claim file, or a vendor working on behalf of a third-  
20 party insurer that has received such consent; provided, however, that  
21 at all times the registered owner must be granted access to and may

1 reclaim possession of the vehicle. For the purposes of this  
2 subsection, "owner's agent" means the legal owner of the vehicle, a  
3 driver in possession of the vehicle with the registered owner's  
4 permission, or an adult member of the registered owner's family;

5 (vi) A person who is determined and verified by the operator to  
6 have the permission of the registered owner of the vehicle or other  
7 item of personal property registered or titled with the department;

8 (vii) A person who has purchased a vehicle or item of personal  
9 property registered or titled with the department from the registered  
10 owner who produces proof of ownership or written authorization and  
11 signs a receipt therefor; (~~(e)~~)

12 (viii) If (a)(i) through (vii) of this subsection do not apply, a  
13 person, who is known to the registered or legal owner of a motorcycle  
14 or moped, as each are defined in chapter 46.04 RCW, that was towed  
15 from the scene of an accident, may redeem the motorcycle or moped as  
16 a bailment in accordance with RCW 46.55.125 while the registered or  
17 legal owner is admitted as a patient in a hospital due to the  
18 accident; or

19 (ix) A person who is authorized by a court to redeem the vehicle  
20 after an impound hearing or other procedure.

21 (A) A court or administrative hearing officer, for the  
22 jurisdiction in which the vehicle was impounded, may order the  
23 release of the vehicle to any person meeting the criteria in (a)(i)  
24 through (viii) of this subsection after a hearing or legal  
25 proceeding.

26 (B) If ownership of the vehicle or authorization from the legal  
27 or registered owner to use, reside in, or retrieve the vehicle is  
28 disputed, a court or hearing officer may review any additionally  
29 presented information and evidence at a court or administrative  
30 hearing. If a person is unable to present sufficient evidence that  
31 the person meets the criteria in (a)(i) through (viii) of this  
32 subsection, a court, with good cause, may set aside the hearing for  
33 up to 15 business days, unless extenuating circumstances require  
34 additional time, to allow the person an opportunity to file  
35 appropriate ownership paperwork with the department or to obtain  
36 written authorization from the legal or registered owner to redeem  
37 the vehicle. If a claimant files a claim under RCW 46.12.680 during  
38 this additional time, a court may grant an additional continuance  
39 until that legal proceeding has ended.

1 (b) In addition, a vehicle impounded because the operator is in  
2 violation of RCW 46.20.342(1)(c) shall not be released until a person  
3 eligible to redeem it under (a) of this subsection satisfies the  
4 requirements of (f) of this subsection, including paying all towing,  
5 removal, and storage fees, notwithstanding the fact that the hold was  
6 ordered by a government agency. If the department's records show that  
7 the operator has been convicted of a violation of RCW 46.20.342 or a  
8 similar local ordinance within the past five years, the vehicle may  
9 be held for up to (~~thirty~~) 30 days at the written direction of the  
10 agency ordering the vehicle impounded. A vehicle impounded because  
11 the operator is arrested for a violation of RCW 46.20.342 may be  
12 released only pursuant to a written order from the agency that  
13 ordered the vehicle impounded or from the court having jurisdiction.  
14 An agency shall issue a written order to release pursuant to a  
15 provision of an applicable state agency rule or local ordinance  
16 authorizing release on the basis of the following:

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

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

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

29 If a vehicle is impounded because the operator is in violation of  
30 RCW 46.20.342(1)(a) or (b), the vehicle may be held for up to thirty  
31 days at the written direction of the agency ordering the vehicle  
32 impounded. However, if the department's records show that the  
33 operator has been convicted of a violation of RCW 46.20.342(1)(a) or  
34 (b) or a similar local ordinance within the past five years, the  
35 vehicle may be held at the written direction of the agency ordering  
36 the vehicle impounded for up to (~~sixty~~) 60 days, and for up to  
37 (~~ninety~~) 90 days if the operator has two or more such prior  
38 offenses. If a vehicle is impounded because the operator is arrested  
39 for a violation of RCW 46.20.342, the vehicle may not be released  
40 until a person eligible to redeem it under (a) of this subsection

1 satisfies the requirements of (f) of this subsection, including  
2 paying all towing, removal, and storage fees, notwithstanding the  
3 fact that the hold was ordered by a government agency.

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

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

28 (e) Notwithstanding (c) of this subsection, a motor vehicle  
29 dealer or lender with a perfected security interest in the vehicle  
30 may redeem or lawfully repossess a vehicle immediately by payment of  
31 the costs of removal, towing, and storage, whereupon the vehicle will  
32 not be held for a suspended license impound. A motor vehicle dealer  
33 or lender with a perfected security interest in the vehicle may not  
34 knowingly and intentionally engage in collusion with a registered  
35 owner to repossess and then return or resell a vehicle to the  
36 registered owner in an attempt to avoid a suspended license impound.  
37 However, this provision does not preclude a vehicle dealer or a  
38 lender with a perfected security interest in the vehicle from  
39 repossessing the vehicle and then selling, leasing, or otherwise  
40 disposing of it in accordance with chapter 62A.9A RCW, including

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

13 (f) The vehicle or other item of personal property registered or  
14 titled with the department shall be released upon the presentation to  
15 any person having custody of the vehicle of commercially reasonable  
16 tender sufficient to cover the costs of towing, storage, or other  
17 services rendered during the course of towing, removing, impounding,  
18 or storing any such vehicle, with credit being given for the amount  
19 of any security deposit paid under (c) of this subsection. In  
20 addition, if a vehicle is impounded because the operator was arrested  
21 for a violation of RCW 46.20.342 or 46.20.345 and was being operated  
22 by the registered owner when it was impounded under local ordinance  
23 or agency rule, it must not be released to any person until the  
24 registered owner establishes with the agency that ordered the vehicle  
25 impounded or the court having jurisdiction that any penalties, fines,  
26 or forfeitures owed by him or her have been satisfied. Registered tow  
27 truck operators are not liable for damages if they rely in good faith  
28 on an order from the impounding agency or a court in releasing a  
29 vehicle held under a suspended license impound. Commercially  
30 reasonable tender shall include, without limitation, cash, major bank  
31 credit cards issued by financial institutions, or personal checks  
32 drawn on Washington state branches of financial institutions if  
33 accompanied by two pieces of valid identification, one of which may  
34 be required by the operator to have a photograph. If the towing firm  
35 cannot determine through the customer's bank or a check verification  
36 service that the presented check would be paid by the bank or  
37 guaranteed by the service, the towing firm may refuse to accept the  
38 check. Any person who stops payment on a personal check or credit  
39 card, or does not make restitution within (~~ten~~) 10 days from the  
40 date a check becomes insufficient due to lack of funds, to a towing

1 firm that has provided a service pursuant to this section or in any  
2 other manner defrauds the towing firm in connection with services  
3 rendered pursuant to this section shall be liable for damages in the  
4 amount of twice the towing and storage fees, plus costs and  
5 reasonable (~~attorney's~~) attorneys' fees.

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

15 (b) Any person seeking to redeem an impounded vehicle under this  
16 section has a right to a hearing in the district or municipal court  
17 for the jurisdiction in which the vehicle was impounded to contest  
18 the validity of the impoundment or the amount of towing and storage  
19 charges. The district court has jurisdiction to determine the issues  
20 involving all impoundments including those authorized by the state or  
21 its agents. The municipal court has jurisdiction to determine the  
22 issues involving impoundments authorized by agents of the  
23 municipality. Any request for a hearing shall be made in writing on  
24 the form provided for that purpose and must be received by the  
25 appropriate court within (~~ten~~) 10 days of the date the opportunity  
26 was provided for in (a) of this subsection and more than five days  
27 before the date of the auction. The court may consider a late request  
28 for a hearing for good cause when the vehicle is used as a residence  
29 if the request is made in writing on a form provided for that purpose  
30 more than five days before the date of the auction. At the time of  
31 the filing of the hearing request, the petitioner shall pay to the  
32 court clerk a filing fee in the same amount required for the filing  
33 of a suit in district court. If the hearing request is not received  
34 by the court within the (~~ten-day~~) 10-day period or by the extended  
35 deadline authorized for a vehicle used as a residence, the right to a  
36 hearing is waived and the registered owner is liable for any towing,  
37 storage, or other impoundment charges permitted under this chapter.  
38 Upon receipt of a timely hearing request, the court shall proceed to  
39 hear and determine the validity of the impoundment.

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

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

13 (c) At the conclusion of the hearing, the court shall determine  
14 whether the impoundment was proper, whether the towing or storage  
15 fees charged were in compliance with the posted rates, and who is  
16 responsible for payment of the fees.

17 (i) The court may not adjust fees or charges that are in  
18 compliance with the posted or contracted rates.

19 (ii) If the court finds that a vehicle is used as a residence,  
20 the court may consider the person's ability to pay the towing and  
21 storage fees charged and may reduce such fees if the court finds the  
22 person to be indigent. The impounding authority must pay the  
23 difference between the reduced fees and the tow operator's actual  
24 costs for the towing and storage.

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

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

1 shall enter judgment in favor of the registered and legal owners of  
2 the vehicle, or other item of personal property registered or titled  
3 with the department, for the amount of the filing fee required by law  
4 for the impound hearing petition as well as reasonable damages for  
5 loss of the use of the vehicle during the time the same was impounded  
6 against 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  
11 relied in good faith and without gross negligence on the records of  
12 the 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~~) 15 days of notice in writing of its entry,  
15 the court shall award reasonable attorneys' fees and costs against  
16 the defendant in any action to enforce the judgment. Notice of entry  
17 of judgment may be made by registered or certified mail, and proof of  
18 mailing may be made by affidavit of the party mailing the notice.  
19 Notice of the entry of the judgment shall read essentially as  
20 follows:

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

33 (4) Any impounded abandoned vehicle or item of personal property  
34 registered or titled with the department that is not redeemed within  
35 (~~fifteen~~) 15 days of mailing of the notice of custody and sale as  
36 required by RCW 46.55.110(3) shall be sold at public auction in  
37 accordance with all the provisions and subject to all the conditions  
38 of RCW 46.55.130. A vehicle or item of personal property registered  
39 or titled with the department may be redeemed at any time before the



1 start of the auction upon payment of the applicable towing and  
2 storage fees.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.53  
4 RCW to read as follows:

5 (1) If a court reduces towing and storage fees for a public  
6 impound of a vehicle used as a residence by a person found to be  
7 indigent by the court, the impounding authority may apply to the  
8 department on a form prescribed by the department for costs  
9 reimbursement to pay the difference between any reduced towing and  
10 storage fees and the tow operator's actual costs for the towing and  
11 storage.

12 (2) The department may only use funds as authorized under  
13 RCW 46.68.175 for costs reimbursement of a public impound of a  
14 vehicle used as a residence.

15 (3) For the purposes of this section:

16 (a) "Impounding authority" means the state or its agents or  
17 municipality or its agents who authorize a public impound under  
18 chapter 46.55 RCW.

19 (b) "Public impound" means that the vehicle has been impounded at  
20 the direction of a law enforcement officer or by a public official  
21 having jurisdiction over the public property upon which the vehicle  
22 was located.

23 **Sec. 3.** RCW 46.68.175 and 2018 c 287 s 6 are each amended to  
24 read as follows:

25 (1) The abandoned recreational vehicle disposal account is  
26 created in the state treasury. All receipts from the fee imposed in  
27 RCW 46.17.380 must be deposited into the account. The account may  
28 receive fund transfers and appropriations from the general fund, as  
29 well as gifts, grants, and endowments from public or private sources,  
30 in trust or otherwise, for the use and benefit of the purposes of  
31 chapter 287, Laws of 2018, or section 3, chapter . . ., Laws of 2023  
32 (section 3 of this act), and expend any income according to the terms  
33 of the gifts, grants, or endowments, provided that those terms do not  
34 conflict with any provisions of this section or any guidelines  
35 developed to prioritize reimbursement of removal projects associated  
36 with chapter 287, Laws of 2018, or section 3, chapter . . ., Laws of  
37 2023 (section 3 of this act).

1 (2) Moneys in the account may be spent only after appropriation.  
2 Expenditures from the account may be used only by the department to  
3 reimburse (~~(registered)~~);

4 (a) Registered tow truck operators and licensed dismantlers for  
5 up to (~~(one hundred)~~) 100 percent of the total reasonable and  
6 auditable administrative costs for transport, dismantling, and  
7 disposal of abandoned recreational vehicles under RCW 46.53.010 when  
8 the last registered owner is unknown after a reasonable search  
9 effort. Compliance with RCW 46.55.100 is considered a reasonable  
10 effort to locate the last registered owner of the abandoned  
11 recreational vehicle. Any funds received by the registered tow truck  
12 operators or licensed dismantlers through collection efforts from the  
13 last owner of record shall be turned over to the department for  
14 vehicles reimbursed under RCW 46.53.010; or

15 (b) An impounding authority for costs related to a public impound  
16 of a vehicle used as a residence to pay the difference between any  
17 reduced towing and storage fees and the tow operator's actual costs  
18 for the towing and storage.

19 (3) Funds in the account resulting from transfers from the  
20 general fund must be used to reimburse (~~(one hundred)~~) 100 percent of  
21 eligible costs up to a limit of ten thousand dollars per vehicle for  
22 which cost reimbursements are requested.

23 (4) In each fiscal biennium, beginning in the 2019-2021 fiscal  
24 biennium, up to (~~(fifteen)~~) 15 percent of the expenditures from the  
25 account may be used for administrative expenses of the department in  
26 implementing this chapter.

27 (5) For the purposes of this section, "impounding authority"  
28 means the state or its agents or municipality or its agents who  
29 authorize a public impound under chapter 46.55 RCW.

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