
SUBSTITUTE SENATE BILL 5000

State of Washington

62nd Legislature

2011 Regular Session

By Senate Judiciary (originally sponsored by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon, and Kilmer)

READ FIRST TIME 02/10/11.

1 AN ACT Relating to mandating a twelve-hour impound hold on motor
2 vehicles used by persons arrested for driving under the influence of
3 alcohol or drugs or being in physical control of a vehicle while under
4 the influence of alcohol or drugs; amending RCW 46.55.113; reenacting
5 and amending RCW 46.55.113; adding new sections to chapter 46.55 RCW;
6 creating a new section; providing an effective date; and providing an
7 expiration date.

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

9 NEW SECTION. **Sec. 1.** This act shall be known and cited as
10 Hailey's Law.

11 NEW SECTION. **Sec. 2.** (1) The legislature finds that:

12 (a) Despite every effort, the problem of driving or controlling a
13 vehicle while under the influence of alcohol or drugs remains a great
14 threat to the lives and safety of citizens. Over five hundred people
15 are killed by traffic accidents in Washington each year and impaired
16 vehicle drivers account for almost forty-five percent, or over two
17 hundred deaths per year. That is, impairment is the leading cause of
18 traffic deaths in this state;

1 (b) Over thirty-nine thousand people are arrested each year in
2 Washington for driving or controlling a vehicle while under the
3 influence of alcohol or drugs. Persons arrested for driving or
4 controlling a vehicle while under the influence of alcohol or drugs may
5 still be impaired after they are cited and released and could return to
6 drive or control a vehicle. If the vehicle was impounded, there is
7 nothing to stop the impaired person from going to the tow truck
8 operator's storage facility and redeeming the vehicle while still
9 impaired;

10 (c) More can be done to deter those arrested for driving or
11 controlling a vehicle while under the influence of alcohol or drugs.
12 Approximately one-third of those arrested for operating a vehicle under
13 the influence are repeat offenders. Vehicle impoundment effectively
14 increases deterrence and prevents an impaired driver from accessing the
15 vehicle for a specified time. In addition, vehicle impoundment
16 provides an appropriate measure of accountability for registered owners
17 who allow impaired drivers to drive or control their vehicles, but it
18 also allows the registered owners to redeem their vehicles once
19 impounded. Any inconvenience on a registered owner is outweighed by
20 the need to protect the public;

21 (d) In order to protect public safety and to enforce the state's
22 laws, it is reasonable and necessary to mandatorily impound the vehicle
23 operated by a person who has been arrested for driving or controlling
24 a vehicle while under the influence of alcohol or drugs.

25 (2) The legislature intends by this act:

26 (a) To change the primary reason for impounding the vehicle
27 operated by a person arrested for driving or controlling a vehicle
28 under the influence of alcohol or drugs. The purpose of impoundment
29 under this act is to protect the public from a person operating a
30 vehicle while still impaired, rather than to prevent a potential
31 traffic obstruction; and

32 (b) To require that officers have no discretion as to whether or
33 not to order an impound after they have arrested a vehicle driver with
34 reasonable grounds to believe the driver of the vehicle was driving
35 while under the influence of alcohol or drugs, or was in physical
36 control of a vehicle while under the influence of alcohol or drugs.

1 NEW SECTION. **Sec. 3.** (1)(a) When a driver of a vehicle is
2 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is
3 subject to summary impoundment and except for a commercial vehicle
4 under subsection (3)(c) of this section, the vehicle must be impounded.
5 With the exception of the twelve-hour hold mandated under this section,
6 the procedures for notice, redemption, storage, auction, and sale shall
7 remain the same as for other impounded vehicles under this chapter.

8 (b) If the police officer directing that a vehicle be impounded
9 under this section has:

10 (i) Waited thirty minutes after a registered tow truck operator has
11 been dispatched and the tow truck responding has not arrived, or

12 (ii) If the police officer is presented with exigent circumstances
13 such as being called to another incident or due to limited available
14 resources being required to return to patrol,
15 the police officer may place the completed impound order and inventory
16 inside the vehicle and secure the vehicle by closing the windows and
17 locking the doors before leaving.

18 (c) If a police officer directing that a vehicle be impounded under
19 this section has secured the vehicle and left it pursuant to (b) of
20 this subsection, the police officer and the government or agency
21 employing the police officer shall not be liable for any damages to or
22 theft of the vehicle or its contents that occur between the time the
23 officer leaves and the time that the registered tow truck operator
24 takes custody of the vehicle, or for the actions of any person who
25 takes or removes the vehicle before the registered tow truck operator
26 arrives.

27 (2)(a) When a driver of a vehicle is arrested for a violation of
28 RCW 46.61.502 or 46.61.504 and the driver is a registered owner of the
29 vehicle, the impounded vehicle may not be redeemed within a twelve-hour
30 period following the time the impounded vehicle arrives at the
31 registered tow truck operator's storage facility as noted in the
32 registered tow truck operator's master log, unless there are two or
33 more registered owners of the vehicle or there is a legal owner of the
34 vehicle that is not the driver of the vehicle. A registered owner who
35 is not the driver of the vehicle or a legal owner who is not the driver
36 of the vehicle may redeem the impounded vehicle after it arrives at the
37 registered tow truck operator's storage facility as noted in the
38 registered tow truck operator's master log.

1 (b) When a driver of a vehicle is arrested for a violation of RCW
2 46.61.502 or 46.61.504 and the driver is a registered owner of the
3 vehicle, the police officer directing the impound shall notify the
4 driver that the impounded vehicle may not be redeemed within a
5 twelve-hour period following the time the impounded vehicle arrives at
6 the registered tow truck operator's storage facility as noted in the
7 registered tow truck operator's master log, unless there are two or
8 more registered owners or there is a legal owner who is not the driver
9 of the vehicle. The police officer directing the impound shall notify
10 the driver that the impounded vehicle may be redeemed by either a
11 registered owner or legal owner, who is not the driver of the vehicle,
12 after the impounded vehicle arrives at the registered tow truck
13 operator's storage facility as noted in the registered tow truck
14 operator's master log.

15 (3)(a) When a driver of a vehicle is arrested for a violation of
16 RCW 46.61.502 or 46.61.504 and the driver is not a registered owner of
17 the vehicle, the impounded vehicle may be redeemed by a registered
18 owner or legal owner, who is not the driver of the vehicle, after the
19 impounded vehicle arrives at the registered tow truck operator's
20 storage facility as noted in the registered tow truck operator's master
21 log.

22 (b) When a driver of a vehicle is arrested for a violation of RCW
23 46.61.502 or 46.61.504 and the driver is not a registered owner of the
24 vehicle, the police officer directing the impound shall notify the
25 driver that the impounded vehicle may be redeemed by a registered owner
26 or legal owner, who is not the driver of the vehicle, after the
27 impounded vehicle arrives at the registered tow truck operator's
28 storage facility as noted in the registered tow truck operator's master
29 log.

30 (c) If the vehicle is a commercial vehicle and the driver of the
31 vehicle is not the owner of the vehicle, before the summary impoundment
32 directed under subsection (1) of this section, the police officer shall
33 attempt in a reasonable and timely manner to contact the owner of the
34 vehicle and may release the vehicle to the owner if the owner is
35 reasonably available, as long as the owner was not in the vehicle at
36 the time of the stop and arrest.

37 (d) The registered tow truck operator shall notify the agency that

1 ordered that the vehicle be impounded when the vehicle arrives at the
2 registered tow truck operator's storage facility and has been entered
3 into the master log starting the twelve-hour period.

4 (4) A registered tow truck operator that releases an impounded
5 vehicle pursuant to the requirements stated in this section is not
6 liable for injuries or damages sustained by the operator of the vehicle
7 or sustained by third parties that may result from the vehicle driver's
8 intoxicated state.

9 NEW SECTION. **Sec. 4.** If an impoundment arising from an alleged
10 violation of RCW 46.61.502 or 46.61.504 is determined to be in
11 violation of this chapter, then the police officer directing the
12 impoundment and the government employing the officer are not liable for
13 damages for loss of use of the vehicle if the officer had reasonable
14 suspicion to believe that the driver of the vehicle was driving while
15 under the influence of intoxicating liquor or any drug, or was in
16 physical control of a vehicle while under the influence of intoxicating
17 liquor or any drug.

18 **Sec. 5.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are
19 each amended to read as follows:

20 (1) Whenever the driver of a vehicle is arrested for a violation of
21 RCW ((~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~) or 46.20.345, the vehicle
22 is subject to summary impoundment, pursuant to the terms and conditions
23 of an applicable local ordinance or state agency rule at the direction
24 of a law enforcement officer.

25 (2) In addition, a police officer may take custody of a vehicle, at
26 his or her discretion, and provide for its prompt removal to a place of
27 safety under any of the following circumstances:

28 (a) Whenever a police officer finds a vehicle standing upon the
29 roadway in violation of any of the provisions of RCW 46.61.560, the
30 officer may provide for the removal of the vehicle or require the
31 driver or other person in charge of the vehicle to move the vehicle to
32 a position off the roadway;

33 (b) Whenever a police officer finds a vehicle unattended upon a
34 highway where the vehicle constitutes an obstruction to traffic or
35 jeopardizes public safety;

1 (c) Whenever a police officer finds an unattended vehicle at the
2 scene of an accident or when the driver of a vehicle involved in an
3 accident is physically or mentally incapable of deciding upon steps to
4 be taken to protect his or her property;

5 (d) Whenever the driver of a vehicle is arrested and taken into
6 custody by a police officer;

7 (e) Whenever a police officer discovers a vehicle that the officer
8 determines to be a stolen vehicle;

9 (f) Whenever a vehicle without a special license plate, placard, or
10 decal indicating that the vehicle is being used to transport a person
11 with disabilities under RCW 46.16.381 is parked in a stall or space
12 clearly and conspicuously marked under RCW 46.61.581 which space is
13 provided on private property without charge or on public property;

14 (g) Upon determining that a person is operating a motor vehicle
15 without a valid and, if required, a specially endorsed driver's license
16 or with a license that has been expired for ninety days or more;

17 (h) When a vehicle is illegally occupying a truck, commercial
18 loading zone, restricted parking zone, bus, loading, hooded-meter,
19 taxi, street construction or maintenance, or other similar zone where,
20 by order of the director of transportation or chiefs of police or fire
21 or their designees, parking is limited to designated classes of
22 vehicles or is prohibited during certain hours, on designated days or
23 at all times, if the zone has been established with signage for at
24 least twenty-four hours and where the vehicle is interfering with the
25 proper and intended use of the zone. Signage must give notice to the
26 public that a vehicle will be removed if illegally parked in the zone;

27 (i) When a vehicle with an expired registration of more than
28 forty-five days is parked on a public street.

29 (3) When an arrest is made for a violation of RCW 46.20.342, if the
30 vehicle is a commercial vehicle and the driver of the vehicle is not
31 the owner of the vehicle, before the summary impoundment directed under
32 subsection (1) of this section, the police officer shall attempt in a
33 reasonable and timely manner to contact the owner of the vehicle and
34 may release the vehicle to the owner if the owner is reasonably
35 available, as long as the owner was not in the vehicle at the time of
36 the stop and arrest and the owner has not received a prior release
37 under this subsection or RCW 46.55.120(1)(a)(ii).

1 (4) Nothing in this section may derogate from the powers of police
2 officers under the common law. For the purposes of this section, a
3 place of safety may include the business location of a registered tow
4 truck operator.

5 **Sec. 6.** RCW 46.55.113 and 2010 c 161 s 1120 are each amended to
6 read as follows:

7 (1) Whenever the driver of a vehicle is arrested for a violation of
8 RCW ((~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~) or 46.20.345, the vehicle
9 is subject to summary impoundment, pursuant to the terms and conditions
10 of an applicable local ordinance or state agency rule at the direction
11 of a law enforcement officer.

12 (2) In addition, a police officer may take custody of a vehicle, at
13 his or her discretion, and provide for its prompt removal to a place of
14 safety under any of the following circumstances:

15 (a) Whenever a police officer finds a vehicle standing upon the
16 roadway in violation of any of the provisions of RCW 46.61.560, the
17 officer may provide for the removal of the vehicle or require the
18 driver or other person in charge of the vehicle to move the vehicle to
19 a position off the roadway;

20 (b) Whenever a police officer finds a vehicle unattended upon a
21 highway where the vehicle constitutes an obstruction to traffic or
22 jeopardizes public safety;

23 (c) Whenever a police officer finds an unattended vehicle at the
24 scene of an accident or when the driver of a vehicle involved in an
25 accident is physically or mentally incapable of deciding upon steps to
26 be taken to protect his or her property;

27 (d) Whenever the driver of a vehicle is arrested and taken into
28 custody by a police officer;

29 (e) Whenever a police officer discovers a vehicle that the officer
30 determines to be a stolen vehicle;

31 (f) Whenever a vehicle without a special license plate, placard, or
32 decal indicating that the vehicle is being used to transport a person
33 with disabilities under RCW 46.19.010 is parked in a stall or space
34 clearly and conspicuously marked under RCW 46.61.581 which space is
35 provided on private property without charge or on public property;

36 (g) Upon determining that a person is operating a motor vehicle

1 without a valid and, if required, a specially endorsed driver's license
2 or with a license that has been expired for ninety days or more;

3 (h) When a vehicle is illegally occupying a truck, commercial
4 loading zone, restricted parking zone, bus, loading, hooded-meter,
5 taxi, street construction or maintenance, or other similar zone where,
6 by order of the director of transportation or chiefs of police or fire
7 or their designees, parking is limited to designated classes of
8 vehicles or is prohibited during certain hours, on designated days or
9 at all times, if the zone has been established with signage for at
10 least twenty-four hours and where the vehicle is interfering with the
11 proper and intended use of the zone. Signage must give notice to the
12 public that a vehicle will be removed if illegally parked in the zone;

13 (i) When a vehicle with an expired registration of more than
14 forty-five days is parked on a public street.

15 (3) When an arrest is made for a violation of RCW 46.20.342, if the
16 vehicle is a commercial vehicle and the driver of the vehicle is not
17 the owner of the vehicle, before the summary impoundment directed under
18 subsection (1) of this section, the police officer shall attempt in a
19 reasonable and timely manner to contact the owner of the vehicle and
20 may release the vehicle to the owner if the owner is reasonably
21 available, as long as the owner was not in the vehicle at the time of
22 the stop and arrest and the owner has not received a prior release
23 under this subsection or RCW 46.55.120(1)(a)(ii).

24 (4) Nothing in this section may derogate from the powers of police
25 officers under the common law. For the purposes of this section, a
26 place of safety may include the business location of a registered tow
27 truck operator.

28 NEW SECTION. **Sec. 7.** Sections 2 through 4 of this act are each
29 added to chapter 46.55 RCW.

30 NEW SECTION. **Sec. 8.** Section 6 of this act takes effect July 1,
31 2011.

32 NEW SECTION. **Sec. 9.** Section 5 of this act expires July 1, 2011.

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