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**HOUSE BILL 2481**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Graves, Jinkins, Wylie, Holy, and Santos

AN ACT Relating to driving a motor vehicle with a suspended or revoked driver's license; amending RCW 46.20.342, 10.37.015, 10.37.015, 46.20.005, 46.20.341, 46.20.341, 46.55.113, 46.55.120, and 46.63.020; reenacting and amending RCW 10.31.100; prescribing penalties; providing an effective date; and providing an expiration date.

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

**Sec.**  RCW 46.20.342 and 2015 c 149 s 1 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be a habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

(ix) A conviction of RCW 46.61.500, relating to reckless driving;

(x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xii) A conviction of RCW 46.61.522, relating to vehicular assault;

(xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xviii) An administrative action taken by the department under chapter 46.20 RCW;

(xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection; or

(xx) A finding that a person has committed a traffic infraction under RCW 46.61.526 and suspension of driving privileges pursuant to RCW 46.61.526 (4)(b) or (7)(a)(ii).

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or (viii) the person has been certified by the department of social and health services as a person who is not in compliance with a child support order as provided in RCW 74.20A.320, or any combination of (c)(i) through (viii) of this subsection, ((~~is guilty of~~)) has committed driving while license suspended or revoked in the third degree, a ((~~misdemeanor~~)) traffic infraction subject to a penalty of two hundred fifty dollars. If the person appears in person before the court or submits by mail written proof that he or she has reinstated his or her license after being cited, the court shall reduce the penalty to fifty dollars. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction or infraction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction or infraction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation ((~~if the conviction was~~)) for an infraction under subsection (1)(c) of this section. ((~~If the~~)) For a conviction ((~~was~~)) under subsection (1)(a) or (b) of this section ((~~and~~)), if the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**Sec.**  RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342 (1)(a) or (b), relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160((~~(4)~~)) (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

**Sec.**  RCW 10.37.015 and 2011 c 46 s 1 are each amended to read as follows:

(1) No person shall be held to answer in any court for an alleged crime or offense, unless upon an information filed by the prosecuting attorney, or upon an indictment by a grand jury, except in cases of misdemeanor or gross misdemeanor before a district or municipal judge, or before a court martial, except as provided in subsection (2) of this section.

(2) Violations of RCW 46.20.342(1)(c)(iv) that occur prior to the effective date of this section may be required by the prosecuting attorney to be referred to his or her office for consideration of filing an information or for entry into a precharge diversion program.

**Sec.**  RCW 10.37.015 and 2011 c 46 s 1 are each amended to read as follows:

((~~(1)~~)) No person shall be held to answer in any court for an alleged crime or offense, unless upon an information filed by the prosecuting attorney, or upon an indictment by a grand jury, except in cases of misdemeanor or gross misdemeanor before a district or municipal judge, or before a court martial((~~, except as provided in subsection (2) of this section.~~

~~(2) Violations of RCW 46.20.342(1)(c)(iv) may be required by the prosecuting attorney to be referred to his or her office for consideration of filing an information or for entry into a precharge diversion program~~)).

**Sec.**  RCW 46.20.005 and 1997 c 66 s 1 are each amended to read as follows:

Except as expressly exempted by this chapter, it is a misdemeanor for a person to drive any motor vehicle upon a highway in this state without a valid driver's license issued to Washington residents under this chapter. This section does not apply if at the time of the stop the person is not in violation of RCW 46.20.342(1) or ((~~46.20.420~~)) 46.20.345 and has in his or her possession an expired driver's license or other valid identifying documentation under RCW 46.20.035. A violation of this section is a lesser included offense within the offenses described in RCW 46.20.342(1) ((~~or 46.20.420~~)) (a) and (b) and 46.20.345.

**Sec.**  RCW 46.20.341 and 2009 c 490 s 1 are each amended to read as follows:

(1)(a) A person who violates RCW 46.20.342(1)(c)(iv) in a jurisdiction that does not have a relicensing ((~~diversion~~)) program shall be provided with an abstract of his or her driving record by the court or the prosecuting attorney, in addition to a list of his or her unpaid traffic offense related fines and the contact information for each jurisdiction or collection agency to which money is owed.

(b) A fee of up to twenty dollars may be imposed by the court in addition to any fee required by the department for provision of the driving abstract.

(2)(a) Superior courts or courts of limited jurisdiction in counties or cities are authorized to participate or provide relicensing ((~~diversion~~)) programs to persons who violate RCW 46.20.342(1)(c)(iv).

(b) Eligibility for the relicensing ((~~diversion~~)) program shall be limited to violators with no more than four convictions or infractions under RCW 46.20.342(1)(c)(iv) in the ten years preceding the date of entering the relicensing ((~~diversion~~)) program, subject to a less restrictive rule imposed by the presiding judge of the county district court or municipal court. People subject to arrest under a warrant are not eligible for the ((~~diversion~~)) relicensing program.

(c) ((~~The diversion option~~)) (i) For violations that occurred prior to the effective date of this section, participation in a relicensing program may be offered at the discretion of the prosecuting attorney before charges are filed, or by the court after charges are filed.

(ii) For violations that occurred on or after the effective date of this section, participation in a relicensing program may be offered at the discretion of the court.

(d) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation of RCW 46.20.342(1)(c)(iv) may not participate in the ((~~diversion~~)) relicensing program under this section.

(e) A relicensing ((~~diversion~~)) program that is structured to occur after charges are filed may charge participants a one-time fee of up to one hundred dollars, which is not subject to chapters 3.50, 3.62, and 35.20 RCW, and shall be used to support administration of the program. The fee of up to one hundred dollars shall be included in the total to be paid by the participant in the relicensing ((~~diversion~~)) program.

(3) A relicensing ((~~diversion~~)) program shall be designed to assist suspended drivers to regain their license and insurance and pay outstanding fines.

(4)(a) Counties and cities that operate relicensing ((~~diversion~~)) programs shall, subject to available funds, provide information to the administrative office of the courts on an annual basis regarding the eligibility criteria used for the program, the number of referrals from law enforcement, the number of participants accepted into the program, the number of participants who regain their driver's license and insurance, the total amount of fines collected, the costs associated with the program, and other information as determined by the office.

(b) The administrative office of the courts is directed, subject to available funds, to compile and analyze the data required to be submitted in this section and develop recommendations for a best practices model for relicensing ((~~diversion~~)) programs.

**Sec.**  RCW 46.20.341 and 2009 c 490 s 1 are each amended to read as follows:

(1)(a) A person who violates RCW 46.20.342(1)(c)(iv) in a jurisdiction that does not have a relicensing ((~~diversion~~)) program shall be provided with an abstract of his or her driving record by the court ((~~or the prosecuting attorney~~)), in addition to a list of his or her unpaid traffic offense related fines and the contact information for each jurisdiction or collection agency to which money is owed.

(b) A fee of up to twenty dollars may be imposed by the court in addition to any fee required by the department for provision of the driving abstract.

(2)(a) Superior courts or courts of limited jurisdiction in counties or cities are authorized to participate or provide relicensing ((~~diversion~~)) programs to persons who violate RCW 46.20.342(1)(c)(iv).

(b) Eligibility for the relicensing ((~~diversion~~)) program shall be limited to violators with no more than four convictions or infractions under RCW 46.20.342(1)(c)(iv) in the ten years preceding the date of entering the relicensing ((~~diversion~~)) program, subject to a less restrictive rule imposed by the presiding judge of the county district court or municipal court. People subject to arrest under a warrant are not eligible for the ((~~diversion~~)) relicensing program.

(c) ((~~The diversion option may be offered at the discretion of the prosecuting attorney before charges are filed, or by the court after charges are filed.~~)) Participation in a relicensing program may be offered at the discretion of the court.

(d) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation of RCW 46.20.342(1)(c)(iv) may not participate in the ((~~diversion~~)) relicensing program under this section.

(e) A relicensing ((~~diversion~~)) program ((~~that is structured to occur after charges are filed~~)) may charge participants a one-time fee of up to one hundred dollars, which is not subject to chapters 3.50, 3.62, and 35.20 RCW, and shall be used to support administration of the program. The fee of up to one hundred dollars shall be included in the total to be paid by the participant in the relicensing ((~~diversion~~)) program.

(3) A relicensing ((~~diversion~~)) program shall be designed to assist suspended drivers to regain their license and insurance and pay outstanding fines.

(4)(a) Counties and cities that operate relicensing ((~~diversion~~)) programs shall, subject to available funds, provide information to the administrative office of the courts on an annual basis regarding the eligibility criteria used for the program, the number of referrals from law enforcement, the number of participants accepted into the program, the number of participants who regain their driver's license and insurance, the total amount of fines collected, the costs associated with the program, and other information as determined by the office.

(b) The administrative office of the courts is directed, subject to available funds, to compile and analyze the data required to be submitted in this section and develop recommendations for a best practices model for relicensing ((~~diversion~~)) programs.

**Sec.**  RCW 46.55.113 and 2011 c 167 s 6 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

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

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

(i) The legal owner;

(ii) The registered owner;

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

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

(v) A third-party insurer that has a duty to repair or replace the vehicle, has obtained consent from the registered owner or the owner's agent to move the vehicle, and has documented that consent in the insurer's claim file, or a vendor working on behalf of a third-party insurer that has received such consent; provided, however, that at all times the registered owner must be granted access to and may reclaim possession of the vehicle. For the purposes of this subsection, "owner's agent" means the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner's permission, or an adult member of the registered owner's family;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TO: . . . . . .

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

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

Signature . . . . . . . . . .

Typed name and address

of party mailing notice

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

**Sec.**  RCW 46.63.020 and 2016 c 213 s 4 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.457(1)(b)(i) relating to a false statement regarding the inspection of and installation of equipment on wheeled all-terrain vehicles;

(2) RCW 46.09.470(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(3) RCW 46.09.480 relating to operation of nonhighway vehicles;

(4) RCW 46.10.490(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(5) RCW 46.10.495 relating to the operation of snowmobiles;

(6) Chapter 46.12 RCW relating to certificates of title, registration certificates, and markings indicating that a vehicle has been destroyed or declared a total loss;

(7) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(8) RCW 46.16A.520 relating to permitting unauthorized persons to drive;

(9) RCW 46.16A.320 relating to vehicle trip permits;

(10) RCW 46.19.050(1) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(11) RCW 46.19.050(8) relating to illegally obtaining a parking placard, special license plate, special year tab, or identification card;

(12) RCW 46.19.050(9) relating to sale of a parking placard, special license plate, special year tab, or identification card;

(13) RCW 46.20.005 relating to driving without a valid driver's license;

(14) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(15) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(16) RCW 46.20.342(1) (a) and (b) relating to driving with a suspended or revoked license or status;

(17) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(18) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(19) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(20) RCW 46.20.750 relating to circumventing an ignition interlock device;

(21) RCW 46.25.170 relating to commercial driver's licenses;

(22) Chapter 46.29 RCW relating to financial responsibility;

(23) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(24) RCW 46.35.030 relating to recording device information;

(25) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(26) RCW 46.37.650 relating to the manufacture, importation, sale, distribution, or installation of a counterfeit air bag, nonfunctional air bag, or previously deployed or damaged air bag;

(27) RCW 46.37.660 relating to the sale or installation of a device that causes a vehicle's diagnostic system to inaccurately indicate that the vehicle has a functional air bag when a counterfeit air bag, nonfunctional air bag, or no air bag is installed;

(28) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(29) RCW 46.37.685 relating to switching or flipping license plates, utilizing technology to flip or change the appearance of a license plate, selling a license plate flipping device or technology used to change the appearance of a license plate, or falsifying a vehicle registration;

(30) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(31) RCW 46.48.175 relating to the transportation of dangerous articles;

(32) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(33) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(34) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;

(35) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(36) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(37) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(38) RCW 46.55.300 relating to vehicle immobilization;

(39) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

(40) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(41) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(42) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(43) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;

(44) RCW 46.61.500 relating to reckless driving;

(45) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(46) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

(47) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

(48) RCW 46.61.522 relating to vehicular assault;

(49) RCW 46.61.5249 relating to first degree negligent driving;

(50) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

(51) RCW 46.61.530 relating to racing of vehicles on highways;

(52) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

(53) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(54) RCW 46.61.740 relating to theft of motor vehicle fuel;

(55) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(56) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(57) Chapter 46.65 RCW relating to habitual traffic offenders;

(58) RCW 46.68.010 relating to false statements made to obtain a refund;

(59) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(60) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(61) RCW 46.72A.060 relating to limousine carrier insurance;

(62) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

(63) RCW 46.72A.080 relating to false advertising by a limousine carrier;

(64) Chapter 46.80 RCW relating to motor vehicle wreckers;

(65) Chapter 46.82 RCW relating to driver's training schools;

(66) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(67) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. **Sec.**  Sections 4 and 7 of this act take effect July 1, 2019.

NEW SECTION. **Sec.**  Sections 3 and 6 of this act expire July 1, 2019.

**--- END ---**