

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2595

54th Legislature
1996 Regular Session

Passed by the House January 5, 1996
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 1, 1996
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2595** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2595

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Representatives Robertson and Scott

Read first time 01/15/96. Referred to Committee on Transportation.

1 AN ACT Relating to court procedures following impoundment of
2 vehicles; amending RCW 46.55.113 and 46.55.120; and repealing RCW
3 46.20.435.

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

5 **Sec. 1.** RCW 46.55.113 and 1994 c 275 s 32 are each amended to read
6 as follows:

7 Whenever the driver of a vehicle is arrested for a violation of RCW
8 46.61.502 or 46.61.504, the arresting officer may take custody of the
9 vehicle and provide for its prompt removal to a place of safety. In
10 addition, a police officer may take custody of a vehicle and provide
11 for its prompt removal to a place of safety under any of the following
12 circumstances:

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

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

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

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

10 (5) Whenever a police officer discovers a vehicle that the officer
11 determines to be a stolen vehicle;

12 (6) Whenever a vehicle without a special license plate, card, or
13 decal indicating that the vehicle is being used to transport a disabled
14 person under RCW 46.16.381 is parked in a stall or space clearly and
15 conspicuously marked under RCW 46.61.581 which space is provided on
16 private property without charge or on public property;

17 (7) Upon determining that a person is operating a motor vehicle
18 without a valid driver's license in violation of RCW 46.20.021 or with
19 a license that has been expired for ninety days or more, or with a
20 suspended or revoked license in violation of RCW 46.20.342 or
21 46.20.420.

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

26 **Sec. 2.** RCW 46.55.120 and 1995 c 360 s 7 are each amended to read
27 as follows:

28 (1) Vehicles or other items of personal property registered or
29 titled with the department that are impounded by registered tow truck
30 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be
31 redeemed only under the following circumstances:

32 (a) Only the legal owner, the registered owner, a person authorized
33 in writing by the registered owner or the vehicle's insurer, a person
34 who is determined and verified by the operator to have the permission
35 of the registered owner of the vehicle or other item of personal
36 property registered or titled with the department, or one who has
37 purchased a vehicle or item of personal property registered or titled
38 with the department from the registered owner who produces proof of

1 ownership or written authorization and signs a receipt therefor, may
2 redeem an impounded vehicle or items of personal property registered or
3 titled with the department.

4 (b) The vehicle or other item of personal property registered or
5 titled with the department shall be released upon the presentation to
6 any person having custody of the vehicle of commercially reasonable
7 tender sufficient to cover the costs of towing, storage, or other
8 services rendered during the course of towing, removing, impounding, or
9 storing any such vehicle. Commercially reasonable tender shall
10 include, without limitation, cash, major bank credit cards, or personal
11 checks drawn on in-state banks if accompanied by two pieces of valid
12 identification, one of which may be required by the operator to have a
13 photograph. If the towing firm can determine through the customer's
14 bank or a check verification service that the presented check would not
15 be paid by the bank or guaranteed by the service, the towing firm may
16 refuse to accept the check. Any person who stops payment on a personal
17 check or credit card, or does not make restitution within ten days from
18 the date a check becomes insufficient due to lack of funds, to a towing
19 firm that has provided a service pursuant to this section or in any
20 other manner defrauds the towing firm in connection with services
21 rendered pursuant to this section shall be liable for damages in the
22 amount of twice the towing and storage fees, plus costs and reasonable
23 attorney's fees.

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

33 (b) Any person seeking to redeem an impounded vehicle under this
34 section has a right to a hearing in the district court for the
35 jurisdiction in which the vehicle was impounded to contest the validity
36 of the impoundment or the amount of towing and storage charges. The
37 district court has jurisdiction to determine the issues involving all
38 impoundments including those authorized by the state or its agents.
39 Any request for a hearing shall be made in writing on the form provided

1 for that purpose and must be received by the district court within ten
2 days of the date the opportunity was provided for in subsection (2)(a)
3 of this section. If the hearing request is not received by the
4 district court within the ten-day period, the right to a hearing is
5 waived and the registered owner is liable for any towing, storage, or
6 other impoundment charges permitted under this chapter. Upon receipt
7 of a timely hearing request, the district court shall proceed to hear
8 and determine the validity of the impoundment.

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

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

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

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

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

1 operator against the person or agency authorizing the impound for the
2 impoundment, towing, and storage fees paid. In addition, the court
3 shall enter judgment in favor of the registered and legal owners of the
4 vehicle, or other item of personal property registered or titled with
5 the department, for reasonable damages for loss of the use of the
6 vehicle during the time the same was impounded, for not less than fifty
7 dollars per day, against the person or agency authorizing the impound.
8 If any judgment entered is not paid within fifteen days of notice in
9 writing of its entry, the court shall award reasonable attorneys' fees
10 and costs against the defendant in any action to enforce the judgment.
11 Notice of entry of judgment may be made by registered or certified
12 mail, and proof of mailing may be made by affidavit of the party
13 mailing the notice. Notice of the entry of the judgment shall read
14 essentially as follows:

15 TO:
16 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
17 Court located at in the sum of
18 \$., in an action entitled, Case No.
19 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
20 will be awarded against you under RCW . . . if the judgment is
21 not paid within 15 days of the date of this notice.
22 DATED this day of, 19. . .
23 Signature
24 Typed name and address
25 of party mailing notice

26 (4) Any impounded abandoned vehicle or item of personal property
27 registered or titled with the department that is not redeemed within
28 fifteen days of mailing of the notice of custody and sale as required
29 by RCW 46.55.110(2) shall be sold at public auction in accordance with
30 all the provisions and subject to all the conditions of RCW 46.55.130.
31 A vehicle or item of personal property registered or titled with the
32 department may be redeemed at any time before the start of the auction
33 upon payment of the applicable towing and storage fees.

34 NEW SECTION. **Sec. 3.** RCW 46.20.435 and 1995 c 360 s 9, 1985 c 391
35 s 1, & 1982 c 8 s 1 are each repealed.

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