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SENATE BILL 5831

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State of Washington                      54th Legislature                      1995 Regular Session

By Senators Kohl, Owen, Winsley, Fairley and Schow

Read first time 02/08/95. Referred to Committee on Transportation.

1            AN ACT Relating to authorizing impoundment and sale of motor  
2 vehicles for failure to pay amounts owed on accumulated parking ticket  
3 violations; amending RCW 46.55.080, 46.55.110, 46.55.120, and  
4 46.55.130; and adding a new section to chapter 46.55 RCW.

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

6            **Sec. 1.** RCW 46.55.080 and 1989 c 111 s 8 are each amended to read  
7 as follows:

8            (1) If a vehicle is in violation of the time restrictions of RCW  
9 46.55.010(12), it may be impounded by a registered tow truck operator  
10 at the direction of a law enforcement officer or other public official  
11 with jurisdiction if the vehicle is on public property, or at the  
12 direction of the property owner or an agent if it is on private  
13 property. A law enforcement officer may also direct the impoundment of  
14 a vehicle pursuant to a writ or court order. Within any city or town,  
15 a law enforcement officer or other public official with jurisdiction  
16 may also direct the impoundment of a vehicle upon which five hundred  
17 dollars or more is owed on parking violations issued by the city or  
18 town.

1 (2) The person requesting a private impound or a law enforcement  
2 officer or public official requesting a public impound shall provide a  
3 signed authorization for the impound at the time and place of the  
4 impound to the registered tow truck operator before the operator may  
5 proceed with the impound. A registered tow truck operator, employee,  
6 or his or her agent may not serve as an agent of a property owner for  
7 the purposes of signing an impound authorization or, independent of the  
8 property owner, identify a vehicle for impound.

9 (3) In the case of a private impound, the impound authorization  
10 shall include the following statement: "A person authorizing this  
11 impound, if the impound is found in violation of chapter 46.55 RCW, may  
12 be held liable for the costs incurred by the vehicle owner."

13 (4) A registered tow truck operator shall record and keep in the  
14 operator's files the date and time that a vehicle is put in the  
15 operator's custody and released. The operator shall make an entry into  
16 a master log regarding transactions relating to impounded vehicles.  
17 The operator shall make this master log available, upon request, to  
18 representatives of the department or the state patrol.

19 (5) A person who engages in or offers to engage in the activities  
20 of a registered tow truck operator may not be associated in any way  
21 with a person or business whose main activity is authorizing the  
22 impounding of vehicles.

23 **Sec. 2.** RCW 46.55.110 and 1989 c 111 s 10 are each amended to read  
24 as follows:

25 (1) When an unauthorized vehicle is impounded or a vehicle is  
26 impounded as a result of unpaid parking violations, the impounding  
27 towing operator shall notify the legal and registered owners of the  
28 impoundment of the ((unauthorized)) vehicle. The notification shall be  
29 sent by first-class mail within twenty-four hours after the impoundment  
30 to the last known registered and legal owners of the vehicle, as  
31 provided by the law enforcement agency, and shall inform the owners of  
32 the identity of the person or agency authorizing the impound. The  
33 notification shall include the name of the impounding tow firm, its  
34 address, and telephone number. The notice shall also include the  
35 location, time of the impound, and by whose authority the vehicle was  
36 impounded. The notice shall also include the written notice of the  
37 right of redemption and opportunity for a hearing to contest the  
38 validity of the impoundment pursuant to RCW 46.55.120. If the vehicle

1 is impounded as a result of unpaid parking violations, the notice shall  
2 include the total amount due and owing for unpaid violations that must  
3 be paid before the vehicle will be released.

4 (2) In the case of an abandoned vehicle, within twenty-four hours  
5 after receiving information on the vehicle owners from the department  
6 through the abandoned vehicle report, the tow truck operator shall send  
7 by certified mail, with return receipt requested, a notice of custody  
8 and sale to the legal and registered owners.

9 (3) No notices need be sent to the legal or registered owners of an  
10 impounded vehicle if the vehicle has been redeemed.

11 **Sec. 3.** RCW 46.55.120 and 1993 c 121 s 3 are each amended to read  
12 as follows:

13 (1) Vehicles impounded by registered tow truck operators pursuant  
14 to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under  
15 the following circumstances:

16 (a) Only the legal owner, the registered owner, a person authorized  
17 in writing by the registered owner or the vehicle's insurer, a person  
18 who is determined and verified by the operator to have the permission  
19 of the registered owner of the vehicle, or one who has purchased a  
20 vehicle from the registered owner who produces proof of ownership or  
21 written authorization and signs a receipt therefor, may redeem an  
22 impounded vehicle.

23 (b) The vehicle shall be released upon the presentation to any  
24 person having custody of the vehicle of commercially reasonable tender  
25 sufficient to cover the costs of towing, storage, or other services  
26 rendered during the course of towing, removing, impounding, or storing  
27 any such vehicle. Commercially reasonable tender shall include,  
28 without limitation, cash, major bank credit cards, or personal checks  
29 drawn on in-state banks if accompanied by two pieces of valid  
30 identification, one of which may be required by the operator to have a  
31 photograph. If the towing firm can determine through the customer's  
32 bank or a check verification service that the presented check would not  
33 be paid by the bank or guaranteed by the service, the towing firm may  
34 refuse to accept the check. Any person who stops payment on a personal  
35 check or credit card, or does not make restitution within ten days from  
36 the date a check becomes insufficient due to lack of funds, to a towing  
37 firm that has provided a service pursuant to this section or in any  
38 other manner defrauds the towing firm in connection with services

1 rendered pursuant to this section shall be liable for damages in the  
2 amount of twice the towing and storage fees, plus costs and reasonable  
3 attorney's fees.

4 (c) If the vehicle has been impounded as a result of unpaid parking  
5 violations, the vehicle shall be released upon presentation to any  
6 person having custody of the vehicle of proof that all such unpaid  
7 parking violations are paid or that satisfactory arrangements have been  
8 made with the impounding authority for their payment or discharge,  
9 together with payment of any parking violation, towing, storage, and  
10 any other costs resulting from impoundment.

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

19 (b) Any person seeking to redeem an impounded vehicle under this  
20 section has a right to a hearing in the district court for the  
21 jurisdiction in which the vehicle was impounded to contest the validity  
22 of the impoundment or the amount of towing and storage charges. The  
23 district court has jurisdiction to determine the issues involving all  
24 impoundments including those authorized by the state or its agents.  
25 Any request for a hearing shall be made in writing on the form provided  
26 for that purpose and must be received by the district court within ten  
27 days of the date the opportunity was provided for in subsection (2)(a)  
28 of this section. If the hearing request is not received by the  
29 district court within the ten-day period, the right to a hearing is  
30 waived and the registered owner is liable for any towing, storage, or  
31 other impoundment charges permitted under this chapter. Upon receipt  
32 of a timely hearing request, the district court shall proceed to hear  
33 and determine the validity of the impoundment.

34 (3)(a) The district court, within five days after the request for  
35 a hearing, shall notify the registered tow truck operator, the person  
36 requesting the hearing if not the owner, the registered and legal  
37 owners of the vehicle, and the person or agency authorizing the impound  
38 in writing of the hearing date and time.

1 (b) At the hearing, the person or persons requesting the hearing  
2 may produce any relevant evidence to show that the impoundment, towing,  
3 or storage fees charged were not proper.

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

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

15 (e) If the impoundment is determined to be in violation of this  
16 chapter, then the registered and legal owners of the vehicle shall bear  
17 no impoundment, towing, or storage fees, and any security shall be  
18 returned or discharged as appropriate, and the person or agency who  
19 authorized the impoundment shall be liable for any towing, storage, or  
20 other impoundment fees permitted under this chapter. The court shall  
21 enter judgment in favor of the registered tow truck operator against  
22 the person or agency authorizing the impound for the impoundment,  
23 towing, and storage fees paid. In addition, the court shall enter  
24 judgment in favor of the registered and legal owners of the vehicle for  
25 reasonable damages for loss of the use of the vehicle during the time  
26 the same was impounded, for not less than fifty dollars per day,  
27 against the person or agency authorizing the impound. If any judgment  
28 entered is not paid within fifteen days of notice in writing of its  
29 entry, the court shall award reasonable attorneys' fees and costs  
30 against the defendant in any action to enforce the judgment. Notice of  
31 entry of judgment may be made by registered or certified mail, and  
32 proof of mailing may be made by affidavit of the party mailing the  
33 notice. Notice of the entry of the judgment shall read essentially as  
34 follows:

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

1 will be awarded against you under RCW . . . if the judgment is  
2 not paid within 15 days of the date of this notice.

3 DATED this . . . . day of . . . . ., 19. . .

4 Signature . . . . .

5 Typed name and address

6 of party mailing notice

7 (4) Any impounded abandoned vehicle not redeemed within fifteen  
8 days of mailing of the notice of custody and sale as required by RCW  
9 46.55.110(2) shall be sold at public auction in accordance with all the  
10 provisions and subject to all the conditions of RCW 46.55.130. A  
11 vehicle may be redeemed at any time before the start of the auction  
12 upon payment of towing and storage fees, and presentation of proof that  
13 all unpaid parking violations are paid or another satisfactory  
14 arrangement is made with the impounding authority for their payment or  
15 discharge.

16 **Sec. 4.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read  
17 as follows:

18 (1) If, after the expiration of fifteen days from the date of  
19 mailing of notice of custody and sale required in RCW 46.55.110(2) to  
20 the registered and legal owners, the vehicle remains unclaimed and has  
21 not been listed as a stolen vehicle, then the registered tow truck  
22 operator having custody of the vehicle shall conduct a sale of the  
23 vehicle at public auction after having first published a notice of the  
24 date, place, and time of the auction in a newspaper of general  
25 circulation in the county in which the vehicle is located not less than  
26 three days and no more than ten days before the date of the auction.  
27 The notice shall contain a description of the vehicle including the  
28 make, model, year, and license number and a notification that a three-  
29 hour public viewing period will be available before the auction. The  
30 auction shall be held during daylight hours of a normal business day.

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

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

35 (b) All bidders must be present at the time of auction unless they  
36 have submitted to the registered tow truck operator, who may or may not  
37 choose to use the preauction bid method, a written bid on a specific  
38 vehicle. Written bids may be submitted up to five days before the

1 auction and shall clearly state which vehicle is being bid upon, the  
2 amount of the bid, and who is submitting the bid;

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

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

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

10 (f) The successful bidder shall apply for title within fifteen  
11 days;

12 (g) The registered tow truck operator shall post a copy of the  
13 auction procedure at the bidding site. If the bidding site is  
14 different from the licensed office location, the operator shall post a  
15 clearly visible sign at the office location that describes in detail  
16 where the auction will be held. At the bidding site a copy of the  
17 newspaper advertisement that lists the vehicles for sale shall be  
18 posted;

19 (h) All surplus moneys derived from the auction (~~(after)~~) shall be  
20 used first for satisfaction of the registered tow truck operator's  
21 lien; and second, to satisfy all unpaid parking violations of the  
22 impounding authority. The balance shall be remitted within thirty days  
23 to the department for deposit in the state motor vehicle fund. A  
24 report identifying the vehicles resulting in any surplus shall  
25 accompany the remitted funds. If the director subsequently receives a  
26 valid claim from the registered vehicle owner of record as determined  
27 by the department within one year from the date of the auction, the  
28 surplus moneys shall be remitted to such owner;

29 (i) If an operator receives no bid, or if the operator is the  
30 successful bidder at auction, the operator shall, within thirty days  
31 sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap  
32 processor by use of the abandoned vehicle report-affidavit of sale, or  
33 the operator shall apply for title to the vehicle.

34 (3) In no case may an operator hold a vehicle for longer than  
35 ninety days without holding an auction on the vehicle, except for  
36 vehicles that are under a police or judicial hold.

37 (4) (a) In no case may the accumulation of storage charges exceed  
38 fifteen days from the date of receipt of the information by the  
39 operator from the department as provided by RCW 46.55.110(2).

1 (b) The failure of the registered tow truck operator to comply with  
2 the time limits provided in this chapter limits the accumulation of  
3 storage charges to five days except where delay is unavoidable.  
4 Providing incorrect or incomplete identifying information to the  
5 department in the abandoned vehicle report shall be considered a  
6 failure to comply with these time limits if correct information is  
7 available.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.55 RCW  
9 to read as follows:

10 Records maintained by a municipal or district court as of the close  
11 of business of the previous court day, Saturdays, Sundays, and holidays  
12 excluded, may be relied upon in ordering an impound on account of an  
13 aggregate amount of unpaid parking violations upon a motor vehicle.

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