

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1221**

Chapter 203, Laws of 1998  
(partial veto)

55th Legislature  
1998 Regular Session

IMPOUNDMENT AND FORFEITURES OF VEHICLES OPERATED BY PERSONS WITH  
SUSPENDED OR REVOKED DRIVER'S LICENSES

EFFECTIVE DATE: 6/11/98

Passed by the House March 9, 1998  
Yeas 96 Nays 0

CLYDE BALLARD  
Speaker of the  
House of Representatives

Passed by the Senate March 3, 1998  
Yeas 43 Nays 4

BRAD OWEN  
President of the Senate

Approved March 30, 1998, with the  
exception of sections 7 and 13, which  
are vetoed.

GARY LOCKE  
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 **ENGROSSED  
SUBSTITUTE HOUSE BILL 1221** as passed  
by the House of Representatives and  
the Senate on the dates hereon set  
forth.

TIMOTHY A. MARTIN  
Chief Clerk

FILED

March 30, 1998 - 2:40 p.m.

Secretary of State  
State of Washington

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**ENGROSSED SUBSTITUTE HOUSE BILL 1221**

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AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

**State of Washington                      55th Legislature                      1997 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Ballasiotes, Sheahan, Robertson, Chandler, Cody, Crouse, K. Schmidt, Costa, Scott, Buck, Kessler, Schoesler, Chopp, Johnson, Honeyford, O'Brien, Wensman, Sheldon, McDonald, Zellinsky, Thompson, H. Sommers and Mason)

Read first time 03/05/97.

1            AN ACT Relating to the impoundment and forfeiture of vehicles being  
2 operated by persons who have a suspended or revoked driver's license;  
3 amending RCW 46.55.105, 46.55.110, 46.55.113, 46.55.120, 46.55.130,  
4 46.55.010, 46.55.100, 46.12.095, and 46.12.101; adding a new section to  
5 chapter 46.55 RCW; adding a new section to chapter 46.12 RCW; creating  
6 new sections; and repealing RCW 46.20.344.

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

8            NEW SECTION.    **Sec. 1.** The legislature finds that the license to  
9 drive a motor vehicle on the public highways is suspended or revoked in  
10 order to protect public safety following a driver's failure to comply  
11 with the laws of this state. Over six hundred persons are killed in  
12 traffic accidents in Washington annually, and more than eighty-four  
13 thousand persons are injured. It is estimated that of the three  
14 million four hundred thousand drivers' licenses issued to citizens of  
15 Washington, more than two hundred sixty thousand are suspended or  
16 revoked at any given time. Suspended drivers are more likely to be  
17 involved in causing traffic accidents, including fatal accidents, than  
18 properly licensed drivers, and pose a serious threat to the lives and  
19 property of Washington residents. Statistics show that suspended  
20 drivers are three times more likely to kill or seriously injure others  
21 in the commission of traffic felony offenses than are validly licensed

1 drivers. In addition to not having a driver's license, most such  
2 drivers also lack required liability insurance, increasing the  
3 financial burden upon other citizens through uninsured losses and  
4 higher insurance costs for validly licensed drivers. Because of the  
5 threat posed by suspended drivers, all registered owners of motor  
6 vehicles in Washington have a duty to not allow their vehicles to be  
7 driven by a suspended driver.

8 Despite the existence of criminal penalties for driving with a  
9 suspended or revoked license, an estimated seventy-five percent of  
10 these drivers continue to drive anyway. Existing sanctions are not  
11 sufficient to deter or prevent persons with a suspended or revoked  
12 license from driving. It is common for suspended drivers to resume  
13 driving immediately after being stopped, cited, and released by a  
14 police officer and to continue to drive while a criminal prosecution  
15 for suspended driving is pending. More than half of all suspended  
16 drivers charged with the crime of driving while suspended or revoked  
17 fail to appear for court hearings. Vehicle impoundment will provide an  
18 immediate consequence which will increase deterrence and reduce  
19 unlawful driving by preventing a suspended driver access to that  
20 vehicle. Vehicle impoundment will also provide an appropriate measure  
21 of accountability for registered owners who permit suspended drivers to  
22 drive their vehicles. Impoundment of vehicles driven by suspended  
23 drivers has been shown to reduce future driving while suspended or  
24 revoked offenses for up to two years afterwards, and the recidivism  
25 rate for drivers whose cars were not impounded was one hundred percent  
26 higher than for drivers whose cars were impounded. In order to  
27 adequately protect public safety and to enforce the state's driver  
28 licensing laws, it is necessary to authorize the impoundment of any  
29 vehicle when it is found to be operated by a driver with a suspended or  
30 revoked license in violation of RCW 46.20.342 and 46.20.420. The  
31 impoundment of a vehicle operated in violation of RCW 46.20.342 or  
32 46.20.420 is intended to be a civil in rem action against the vehicle  
33 in order to remove it from the public highways and reduce the risk  
34 posed to traffic safety by a vehicle accessible to a driver who is  
35 reasonably believed to have violated these laws.

36 **Sec. 2.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read  
37 as follows:

1 (1) The abandonment of any vehicle creates a prima facie  
2 presumption that the last registered owner of record is responsible for  
3 the abandonment and is liable for costs incurred in removing, storing,  
4 and disposing of the abandoned vehicle, less amounts realized at  
5 auction.

6 (2) If an unauthorized vehicle is found abandoned under subsection  
7 (1) of this section and removed at the direction of law enforcement,  
8 the last registered owner of record is guilty of a traffic infraction,  
9 unless the vehicle is redeemed as provided in RCW 46.55.120. In  
10 addition to any other monetary penalty payable under chapter 46.63 RCW,  
11 the court shall not consider all monetary penalties as having been paid  
12 until the court is satisfied that the person found to have committed  
13 the infraction has made restitution in the amount of the deficiency  
14 remaining after disposal of the vehicle under RCW 46.55.140.

15 (3) A vehicle theft report filed with a law enforcement agency  
16 relieves the last registered owner of liability under subsection (2) of  
17 this section for failure to redeem the vehicle. However, the last  
18 registered owner remains liable for the costs incurred in removing,  
19 storing, and disposing of the abandoned vehicle under subsection (1) of  
20 this section. Nothing in this section limits in any way the registered  
21 owner's rights in a civil action or as restitution in a criminal action  
22 against a person responsible for the theft of the vehicle.

23 (4) Properly filing a report of sale or transfer regarding the  
24 vehicle involved in accordance with RCW 46.12.101(1) ((or a vehicle  
25 theft report filed with a law enforcement agency)) relieves the last  
26 registered owner of liability under subsections (1) and (2) of this  
27 section. If the date of sale as indicated on the report of sale is on  
28 or before the date of impoundment, the buyer identified on the latest  
29 properly filed report of sale with the department is assumed liable for  
30 the costs incurred in removing, storing, and disposing of the abandoned  
31 vehicle, less amounts realized at auction. If the date of sale is  
32 after the date of impoundment, the previous registered owner is assumed  
33 to be liable for such costs. A licensed vehicle dealer is not liable  
34 under subsections (1) and (2) of this section if the dealer, as  
35 transferee or assignee of the last registered owner of the vehicle  
36 involved, has complied with the requirements of RCW 46.70.122 upon  
37 selling or otherwise disposing of the vehicle, or if the dealer has  
38 timely filed a transitional ownership record or report of sale under  
39 section 12 of this act. In that case the person to whom the licensed

1 vehicle dealer has sold or transferred the vehicle is assumed liable  
2 for the costs incurred in removing, storing, and disposing of the  
3 abandoned vehicle, less amounts realized at auction.

4 ~~((4))~~ (5) For the purposes of reporting notices of traffic  
5 infraction to the department under RCW 46.20.270 and 46.52.100, and for  
6 purposes of reporting notices of failure to appear, respond, or comply  
7 regarding a notice of traffic infraction to the department under RCW  
8 46.63.070(5), a traffic infraction under subsection (2) of this section  
9 is not considered to be a standing, stopping, or parking violation.

10 ~~((5))~~ (6) A notice of infraction for a violation of this section  
11 may be filed with a court of limited jurisdiction organized under Title  
12 3, 35, or 35A RCW, or with a violations bureau subject to the court's  
13 jurisdiction.

14 **Sec. 3.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read  
15 as follows:

16 (1) When an unauthorized vehicle is impounded, the impounding  
17 towing operator shall notify the legal and registered owners of the  
18 impoundment of the unauthorized vehicle and the owners of any other  
19 items of personal property registered or titled with the department.  
20 The notification shall be sent by first-class mail within twenty-four  
21 hours after the impoundment to the last known registered and legal  
22 owners of the vehicle, and the owners of any other items of personal  
23 property registered or titled with the department, as provided by the  
24 law enforcement agency, and shall inform the owners of the identity of  
25 the person or agency authorizing the impound. The notification shall  
26 include the name of the impounding tow firm, its address, and telephone  
27 number. The notice shall also include the location, time of the  
28 impound, and by whose authority the vehicle was impounded. The notice  
29 shall also include the written notice of the right of redemption and  
30 opportunity for a hearing to contest the validity of the impoundment  
31 pursuant to RCW 46.55.120.

32 (2) In the case of an abandoned vehicle, or other item of personal  
33 property registered or titled with the department, within twenty-four  
34 hours after receiving information on the owners from the department  
35 through the abandoned vehicle report, the tow truck operator shall send  
36 by certified mail, with return receipt requested, a notice of custody  
37 and sale to the legal and registered owners.

1       (3) If the date on which a notice required by subsection (2) of  
2 this section is to be mailed falls upon a Saturday, Sunday, or a postal  
3 holiday, the notice may be mailed on the next day that is neither a  
4 Saturday, Sunday, nor a postal holiday.

5       (4) No notices need be sent to the legal or registered owners of an  
6 impounded vehicle or other item of personal property registered or  
7 titled with the department, if the vehicle or personal property has  
8 been redeemed.

9       **Sec. 4.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read  
10 as follows:

11       Whenever the driver of a vehicle is arrested for a violation of RCW  
12 46.61.502 or 46.61.504 or of RCW 46.20.342 or 46.20.420, the  
13 ~~((arresting officer may take custody of the vehicle and provide for its~~  
14 ~~prompt removal to a place of safety)) vehicle is subject to  
15 impoundment, pursuant to applicable local ordinance or state agency  
16 rule at the direction of a law enforcement officer. In addition, a  
17 police officer may take custody of a vehicle and provide for its prompt  
18 removal to a place of safety under any of the following circumstances:~~

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

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

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

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

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

35       (6) Whenever a vehicle without a special license plate, card, or  
36 decal indicating that the vehicle is being used to transport a disabled  
37 person under RCW 46.16.381 is parked in a stall or space clearly and

1 conspicuously marked under RCW 46.61.581 which space is provided on  
2 private property without charge or on public property;

3 (7) Upon determining that a person is operating a motor vehicle  
4 without a valid driver's license in violation of RCW 46.20.005 or with  
5 a license that has been expired for ninety days or more(~~(, or with a~~  
6 ~~suspended or revoked license in violation of RCW 46.20.342 or~~  
7 ~~46.20.420))~~).

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

12 **Sec. 5.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read  
13 as follows:

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

18 (a) Only the legal owner, the registered owner, a person authorized  
19 in writing by the registered owner or the vehicle's insurer, a person  
20 who is determined and verified by the operator to have the permission  
21 of the registered owner of the vehicle or other item of personal  
22 property registered or titled with the department, or one who has  
23 purchased a vehicle or item of personal property registered or titled  
24 with the department from the registered owner who produces proof of  
25 ownership or written authorization and signs a receipt therefor, may  
26 redeem an impounded vehicle or items of personal property registered or  
27 titled with the department. In addition, a vehicle impounded because  
28 the operator is in violation of RCW 46.20.342(1)(c) shall not be  
29 released until a person eligible to redeem it under this subsection  
30 (1)(a) satisfies the requirements of (b) of this subsection, including  
31 paying all towing, removal, and storage fees, notwithstanding the fact  
32 that the hold was ordered by a government agency. If the department's  
33 records show that the operator has been convicted of a violation of RCW  
34 46.20.342 or a similar local ordinance within the past five years, the  
35 vehicle may be held for up to thirty days at the written direction of  
36 the agency ordering the vehicle impounded. A vehicle impounded because  
37 the operator is arrested for a violation of RCW 46.20.342 may be  
38 released only pursuant to a written order from the agency that ordered

1 the vehicle impounded. An agency may issue a written order to release  
2 pursuant to a provision of an applicable state agency rule or local  
3 ordinance authorizing release on the basis of economic or personal  
4 hardship to the spouse of the operator, taking into consideration  
5 public safety factors, including the operator's criminal history and  
6 driving record.

7 If a vehicle is impounded because the operator is in violation of  
8 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty  
9 days at the written direction of the agency ordering the vehicle  
10 impounded. However, if the department's records show that the operator  
11 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a  
12 similar local ordinance within the past five years, the vehicle may be  
13 held at the written direction of the agency ordering the vehicle  
14 impounded for up to sixty days, and for up to ninety days if the  
15 operator has two or more such prior offenses. If a vehicle is  
16 impounded because the operator is arrested for a violation of RCW  
17 46.20.342, the vehicle may not be released until a person eligible to  
18 redeem it under this subsection (1)(a) satisfies the requirements of  
19 (b) of this subsection, including paying all towing, removal, and  
20 storage fees, notwithstanding the fact that the hold was ordered by a  
21 government agency.

22 (b) The vehicle or other item of personal property registered or  
23 titled with the department shall be released upon the presentation to  
24 any person having custody of the vehicle of commercially reasonable  
25 tender sufficient to cover the costs of towing, storage, or other  
26 services rendered during the course of towing, removing, impounding, or  
27 storing any such vehicle. In addition, if a vehicle is impounded  
28 because the operator was arrested for a violation of RCW 46.20.342 or  
29 46.20.420 and was being operated by the registered owner when it was  
30 impounded, it must not be released to any person until the registered  
31 owner establishes with the agency that ordered the vehicle impounded  
32 that any penalties, fines, or forfeitures owed by him or her have been  
33 satisfied. Commercially reasonable tender shall include, without  
34 limitation, cash, major bank credit cards, or personal checks drawn on  
35 in-state banks if accompanied by two pieces of valid identification,  
36 one of which may be required by the operator to have a photograph. If  
37 the towing firm can determine through the customer's bank or a check  
38 verification service that the presented check would not be paid by the  
39 bank or guaranteed by the service, the towing firm may refuse to accept



1 the check. Any person who stops payment on a personal check or credit  
2 card, or does not make restitution within ten days from the date a  
3 check becomes insufficient due to lack of funds, to a towing firm that  
4 has provided a service pursuant to this section or in any other manner  
5 defrauds the towing firm in connection with services rendered pursuant  
6 to this section shall be liable for damages in the amount of twice the  
7 towing and storage fees, plus costs and reasonable attorney's fees.

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

17 (b) Any person seeking to redeem an impounded vehicle under this  
18 section has a right to a hearing in the district or municipal court for  
19 the jurisdiction in which the vehicle was impounded to contest the  
20 validity of the impoundment or the amount of towing and storage  
21 charges. The district court has jurisdiction to determine the issues  
22 involving all impoundments including those authorized by the state or  
23 its agents. The municipal court has jurisdiction to determine the  
24 issues involving impoundments authorized by agents of the municipality.  
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~~)) appropriate  
27 court within ten days of the date the opportunity was provided for in  
28 subsection (2)(a) of this section. At the time of the filing of the  
29 hearing request, the petitioner shall pay to the court clerk a filing  
30 fee in the same amount required for the filing of a suit in district  
31 court. If the hearing request is not received by the ((~~district~~))  
32 court within the ten-day period, the right to a hearing is waived and  
33 the registered owner is liable for any towing, storage, or other  
34 impoundment charges permitted under this chapter. Upon receipt of a  
35 timely hearing request, the ((~~district~~)) court shall proceed to hear  
36 and determine the validity of the impoundment.

37 (3)(a) The ((~~district~~)) court, within five days after the request  
38 for a hearing, shall notify the registered tow truck operator, the  
39 person requesting the hearing if not the owner, the registered and

1 legal owners of the vehicle or other item of personal property  
2 registered or titled with the department, and the person or agency  
3 authorizing the impound in writing of the hearing date and time.

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

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

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

21 (e) If the impoundment is determined to be in violation of this  
22 chapter, then the registered and legal owners of the vehicle or other  
23 item of personal property registered or titled with the department  
24 shall bear no impoundment, towing, or storage fees, and any security  
25 shall be returned or discharged as appropriate, and the person or  
26 agency who authorized the impoundment shall be liable for any towing,  
27 storage, or other impoundment fees permitted under this chapter. The  
28 court shall enter judgment in favor of the registered tow truck  
29 operator against the person or agency authorizing the impound for the  
30 impoundment, towing, and storage fees paid. In addition, the court  
31 shall enter judgment in favor of the registered and legal owners of the  
32 vehicle, or other item of personal property registered or titled with  
33 the department, for the amount of the filing fee required by law for  
34 the impound hearing petition as well as reasonable damages for loss of  
35 the use of the vehicle during the time the same was impounded, for not  
36 less than fifty dollars per day, against the person or agency  
37 authorizing the impound. However, if an impoundment arising from an  
38 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in  
39 violation of this chapter, then the law enforcement officer directing

1 the impoundment and the government employing the officer are not liable  
2 for damages if the officer relied in good faith and without gross  
3 negligence on the records of the department in ascertaining that the  
4 operator of the vehicle had a suspended or revoked driver's license.  
5 If any judgment entered is not paid within fifteen days of notice in  
6 writing of its entry, the court shall award reasonable attorneys' fees  
7 and costs against the defendant in any action to enforce the judgment.  
8 Notice of entry of judgment may be made by registered or certified  
9 mail, and proof of mailing may be made by affidavit of the party  
10 mailing the notice. Notice of the entry of the judgment shall read  
11 essentially as follows:

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

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

31 **Sec. 6.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read  
32 as follows:

33 (1) If, after the expiration of fifteen days from the date of  
34 mailing of notice of custody and sale required in RCW 46.55.110(2) to  
35 the registered and legal owners, the vehicle remains unclaimed and has  
36 not been listed as a stolen vehicle, then the registered tow truck  
37 operator having custody of the vehicle shall conduct a sale of the

1 vehicle at public auction after having first published a notice of the  
2 date, place, and time of the auction in a newspaper of general  
3 circulation in the county in which the vehicle is located not less than  
4 three days and no more than ten days before the date of the auction.  
5 The notice shall contain a description of the vehicle including the  
6 make, model, year, and license number and a notification that a three-  
7 hour public viewing period will be available before the auction. The  
8 auction shall be held during daylight hours of a normal business day.

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

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

13 (b) All bidders must be present at the time of auction unless they  
14 have submitted to the registered tow truck operator, who may or may not  
15 choose to use the preauction bid method, a written bid on a specific  
16 vehicle. Written bids may be submitted up to five days before the  
17 auction and shall clearly state which vehicle is being bid upon, the  
18 amount of the bid, and who is submitting the bid;

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

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

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

26 (f) The successful bidder shall apply for title within fifteen  
27 days;

28 (g) The registered tow truck operator shall post a copy of the  
29 auction procedure at the bidding site. If the bidding site is  
30 different from the licensed office location, the operator shall post a  
31 clearly visible sign at the office location that describes in detail  
32 where the auction will be held. At the bidding site a copy of the  
33 newspaper advertisement that lists the vehicles for sale shall be  
34 posted;

35 (h) All surplus moneys derived from the auction after satisfaction  
36 of the registered tow truck operator's lien shall be remitted within  
37 thirty days to the department for deposit in the state motor vehicle  
38 fund. A report identifying the vehicles resulting in any surplus shall  
39 accompany the remitted funds. If the director subsequently receives a

1 valid claim from the registered vehicle owner of record as determined  
2 by the department within one year from the date of the auction, the  
3 surplus moneys shall be remitted to such owner;

4 (i) If an operator receives no bid, or if the operator is the  
5 successful bidder at auction, the operator shall, within (~~(thirty)~~)  
6 forty-five days sell the vehicle to a licensed vehicle wrecker, hulk  
7 hauler, or scrap processor by use of the abandoned vehicle report-  
8 affidavit of sale, or the operator shall apply for title to the  
9 vehicle.

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

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

16 (b) The failure of the registered tow truck operator to comply with  
17 the time limits provided in this chapter limits the accumulation of  
18 storage charges to five days except where delay is unavoidable.  
19 Providing incorrect or incomplete identifying information to the  
20 department in the abandoned vehicle report shall be considered a  
21 failure to comply with these time limits if correct information is  
22 available.

23 ***\*NEW SECTION. Sec. 7. A new section is added to chapter 46.55 RCW***  
24 ***to read as follows:***

25 (1) *This section applies to any impoundment of a vehicle when a*  
26 *driver is arrested for a violation of RCW 46.61.502 or 46.61.504, or of*  
27 *RCW 46.61.520 or 46.61.522 if committed while under the influence, as*  
28 *provided for in RCW 46.55.113 and 46.55.120.*

29 (2) *Any local government ordinance or state agency rule that*  
30 *provides for impoundment and redemption of vehicles may allow for*  
31 *alternative home impoundment of vehicles for all or part of the*  
32 *impoundment periods authorized in RCW 46.55.120. Home impoundment is*  
33 *an alternative to impoundment by a registered tow truck operator. Home*  
34 *impoundment consists of removing a vehicle to the registered owner's*  
35 *residence or other property, or to another place authorized by the*  
36 *ordinance or rule, and placing a boot or other device on the vehicle to*  
37 *render it immobile. The jurisdiction authorizing home impoundment may*  
38 *charge a reasonable rental fee for the use of the boot or other device*

1 during the period of home impoundment. The local government ordinance  
2 or state agency rule may provide that the owner or driver of the  
3 vehicle may elect whether to be subject to impoundment under RCW  
4 46.55.120 or home impoundment under this section.

5 (3) Before any home impoundment is begun, the vehicle must be  
6 redeemed as provided for in RCW 46.55.120 if any impoundment has  
7 occurred under that section, and any towing fee incurred in getting the  
8 vehicle to the place of home impoundment must be paid.

9 (4) At the end of the period of home impoundment, the vehicle may  
10 be released only after all rental fees have been paid and only to a  
11 person who would qualify to redeem an impounded vehicle under RCW  
12 46.55.120.

13 (5) A local ordinance or state agency rule may provide for  
14 impoundment by a registered tow truck operator if at the end of the  
15 period of home impoundment there is no qualified person to whom the  
16 vehicle may be released.

17 (6) A local ordinance or state agency rule may provide that if the  
18 boot or other device on a vehicle in home impoundment is tampered with,  
19 damaged, removed, or rendered inoperative, the vehicle may be released  
20 only upon payment of all applicable rental fees plus payment of a fee  
21 equal to the impoundment costs that would have been incurred had the  
22 vehicle been impounded under RCW 46.55.120 during the period of home  
23 impoundment.

24 \*Sec. 7 was vetoed. See message at end of chapter.

25 **Sec. 8.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read  
26 as follows:

27 The definitions set forth in this section apply throughout this  
28 chapter:

29 (1) "Abandoned vehicle" means a vehicle that a registered tow truck  
30 operator has impounded and held in the operator's possession for  
31 (~~ninety-six~~) one hundred twenty consecutive hours.

32 (2) "Abandoned vehicle report" means the document prescribed by the  
33 state that the towing operator forwards to the department after a  
34 vehicle has become abandoned.

35 (3) "Impound" means to take and hold a vehicle in legal custody.  
36 There are two types of impounds«public and private.

37 (a) "Public impound" means that the vehicle has been impounded at  
38 the direction of a law enforcement officer or by a public official

1 having jurisdiction over the public property upon which the vehicle was  
2 located.

3 (b) "Private impound" means that the vehicle has been impounded at  
4 the direction of a person having control or possession of the private  
5 property upon which the vehicle was located.

6 (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as  
7 meeting at least three of the following requirements:

8 (a) Is three years old or older;

9 (b) Is extensively damaged, such damage including but not limited  
10 to any of the following: A broken window or windshield, or missing  
11 wheels, tires, motor, or transmission;

12 (c) Is apparently inoperable;

13 (d) Has an approximate fair market value equal only to the  
14 approximate value of the scrap in it.

15 (5) "Master log" means the document or an electronic facsimile  
16 prescribed by the department and the Washington state patrol in which  
17 an operator records transactions involving impounded vehicles.

18 (6) "Registered tow truck operator" or "operator" means any person  
19 who engages in the impounding, transporting, or storage of unauthorized  
20 vehicles or the disposal of abandoned vehicles.

21 (7) "Residential property" means property that has no more than  
22 four living units located on it.

23 (8) "Tow truck" means a motor vehicle that is equipped for and used  
24 in the business of towing vehicles with equipment as approved by the  
25 state patrol.

26 (9) "Tow truck number" means the number issued by the department to  
27 tow trucks used by a registered tow truck operator in the state of  
28 Washington.

29 (10) "Tow truck permit" means the permit issued annually by the  
30 department that has the classification of service the tow truck may  
31 provide stamped upon it.

32 (11) "Tow truck service" means the transporting upon the public  
33 streets and highways of this state of vehicles, together with personal  
34 effects and cargo, by a tow truck of a registered operator.

35 (12) "Unauthorized vehicle" means a vehicle that is subject to  
36 impoundment after being left unattended in one of the following public  
37 or private locations for the indicated period of time:





1 is pursuant to a writ, court order, or police hold. The owner  
2 notification and abandonment process shall be initiated by the  
3 registered tow truck operator immediately following notification by a  
4 court or law enforcement officer that the writ, court order, or police  
5 hold is no longer in effect.

6 (3) Following the submittal of an abandoned vehicle report, the  
7 department shall provide the registered tow truck operator with owner  
8 information within seventy-two hours.

9 (4) Within (~~fifteen~~) fourteen days of the sale of an abandoned  
10 vehicle at public auction, the towing operator shall send a copy of the  
11 abandoned vehicle report showing the disposition of the abandoned  
12 vehicle and any other items of personal property registered or titled  
13 with the department to the crime information center of the Washington  
14 state patrol.

15 (5) If the operator sends an abandoned vehicle report to the  
16 department and the department finds no owner information, an operator  
17 may proceed with an inspection of the vehicle and any other items of  
18 personal property registered or titled with the department to determine  
19 whether owner identification is within the vehicle.

20 (6) If the operator finds no owner identification, the operator  
21 shall immediately notify the appropriate law enforcement agency, which  
22 shall search the vehicle and any other items of personal property  
23 registered or titled with the department for the vehicle identification  
24 number or other appropriate identification numbers and check the  
25 necessary records to determine the vehicle's or other property's  
26 owners.

27 **Sec. 10.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended  
28 to read as follows:

29 A security interest in a vehicle other than one held as inventory  
30 by a manufacturer or a dealer and for which a certificate of ownership  
31 is required is perfected only by compliance with the requirements of  
32 section 12 of this act under the circumstances provided for therein or  
33 by compliance with the requirements of this section:

34 (1) A security interest is perfected (~~only~~) by the department's  
35 receipt of: (a) The existing certificate, if any, and (b) an  
36 application for a certificate of ownership containing the name and  
37 address of the secured party, and (c) tender of the required fee.

1 (2) It is perfected as of the time of its creation: (a) If the  
2 papers and fee referred to in ((the preceding)) subsection (1) of this  
3 section are received by this department within ~~((eight department~~  
4 ~~business))~~ twenty calendar days ~~((exclusive))~~ of the day on which the  
5 security agreement was created; or (b) if the secured party's name and  
6 address appear on the outstanding certificate of ownership; otherwise,  
7 as of the date on which the department has received the papers and fee  
8 required in subsection (1) of this section.

9 (3) If a vehicle is subject to a security interest when brought  
10 into this state, perfection of the security interest is determined by  
11 the law of the jurisdiction where the vehicle was when the security  
12 interest was attached, subject to the following:

13 (a) If the security interest was perfected under the law of the  
14 jurisdiction where the vehicle was when the security interest was  
15 attached, the following rules apply:

16 (b) If the name of the secured party is shown on the existing  
17 certificate of ownership issued by that jurisdiction, the security  
18 interest continues perfected in this state. The name of the secured  
19 party shall be shown on the certificate of ownership issued for the  
20 vehicle by this state. The security interest continues perfected in  
21 this state upon the issuance of such ownership certificate.

22 (c) If the security interest was not perfected under the law of the  
23 jurisdiction where the vehicle was when the security interest was  
24 attached, it may be perfected in this state; in that case, perfection  
25 dates from the time of perfection in this state.

26 **Sec. 11.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to  
27 read as follows:

28 A transfer of ownership in a motor vehicle is perfected by  
29 compliance with the requirements of this section.

30 (1) If an owner transfers his or her interest in a vehicle, other  
31 than by the creation, deletion, or change of a security interest, the  
32 owner shall, at the time of the delivery of the vehicle, execute an  
33 assignment to the transferee and provide an odometer disclosure  
34 statement under RCW 46.12.124 on the certificate of ownership or as the  
35 department otherwise prescribes, and cause the certificate and  
36 assignment to be transmitted to the transferee. ~~((Within five days,~~  
37 ~~excluding Saturdays, Sundays, and state and federal holidays,))~~ The  
38 owner shall notify the department or its agents or subagents, in

1 writing, on the appropriate form, of the date of the sale or transfer,  
2 the name and address of the owner and of the transferee, the  
3 transferee's driver's license number if available, and such description  
4 of the vehicle, including the vehicle identification number, the  
5 license plate number, or both, as may be required in the appropriate  
6 form provided or approved for that purpose by the department. The  
7 report of sale will be deemed properly filed if all information  
8 required in this section is provided on the form and includes a  
9 department-authorized notation that the document was received by the  
10 department, its agents, or subagents on or before the fifth day after  
11 the sale of the vehicle, excluding Saturdays, Sundays, and state and  
12 federal holidays. Agents and subagents shall immediately  
13 electronically transmit the seller's report of sale to the department.  
14 Reports of sale processed and recorded by the department's agents or  
15 subagents may be subject to fees as specified in RCW 46.01.140 (4)(a)  
16 or (5)(b).

17 (2) The requirements of subsection (1) of this section to provide  
18 an odometer disclosure statement apply to the transfer of vehicles held  
19 for lease when transferred to a lessee and then to the lessor at the  
20 end of the leasehold and to vehicles held in a fleet when transferred  
21 to a purchaser.

22 (3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the  
23 transferee shall within fifteen days after delivery to the transferee  
24 of the vehicle, execute the application for a new certificate of  
25 ownership in the same space provided therefor on the certificate or as  
26 the department prescribes, and cause the certificates and application  
27 to be transmitted to the department.

28 (4) Upon request of the owner or transferee, a secured party in  
29 possession of the certificate of ownership shall, unless the transfer  
30 was a breach of its security agreement, either deliver the certificate  
31 to the transferee for transmission to the department or, when the  
32 secured party receives the owner's assignment from the transferee, it  
33 shall transmit the transferee's application for a new certificate, the  
34 existing certificate, and the required fee to the department.  
35 Compliance with this section does not affect the rights of the secured  
36 party.

37 (5) If a security interest is reserved or created at the time of  
38 the transfer, the certificate of ownership shall be retained by or

1 delivered to the person who becomes the secured party, and the parties  
2 shall comply with the provisions of RCW 46.12.170.

3 (6) If the purchaser or transferee fails or neglects to make  
4 application to transfer the certificate of ownership and license  
5 registration within fifteen days after the date of delivery of the  
6 vehicle, he or she shall on making application for transfer be assessed  
7 a twenty-five dollar penalty on the sixteenth day and two dollars  
8 additional for each day thereafter, but not to exceed one hundred  
9 dollars. The director may by rule establish conditions under which the  
10 penalty will not be assessed when an application for transfer is  
11 delayed for reasons beyond the control of the purchaser. Conditions  
12 for not assessing the penalty may be established for but not limited to  
13 delays caused by:

- 14 (a) The department requesting additional supporting documents;
- 15 (b) Extended hospitalization or illness of the purchaser;
- 16 (c) Failure of a legal owner to release his or her interest;
- 17 (d) Failure, negligence, or nonperformance of the department,  
18 auditor, or subagent.

19 Failure or neglect to make application to transfer the certificate  
20 of ownership and license registration within forty-five days after the  
21 date of delivery of the vehicle is a misdemeanor.

22 (7) Upon receipt of an application for reissue or replacement of a  
23 certificate of ownership and transfer of license registration,  
24 accompanied by the endorsed certificate of ownership or other  
25 documentary evidence as is deemed necessary, the department shall, if  
26 the application is in order and if all provisions relating to the  
27 certificate of ownership and license registration have been complied  
28 with, issue new certificates of title and license registration as in  
29 the case of an original issue and shall transmit the fees together with  
30 an itemized detailed report to the state treasurer, to be deposited in  
31 the motor vehicle fund.

32 (8) Once each quarter the department shall report to the department  
33 of revenue a list of those vehicles for which a seller's report has  
34 been received but no transfer of title has taken place.

35 NEW SECTION. **Sec. 12.** A new section is added to chapter 46.12 RCW  
36 to read as follows:

37 (1) The purpose of a transitional ownership record is to enable a  
38 security interest in a motor vehicle to be perfected in a timely manner

1 when the certificate of ownership is not available at the time the  
2 security interest is created, and to provide for timely notification to  
3 security interest holders under chapter 46.55 RCW.

4 (2) A transitional ownership record is only acceptable as an  
5 ownership record for vehicles currently stored on the department's  
6 computer system and if the certificate of ownership or other authorized  
7 proof of ownership for the motor vehicle:

8 (a) Is not in the possession of the selling vehicle dealer or new  
9 security interest holder at the time the transitional ownership record  
10 is submitted to the department; and

11 (b) To the best of the knowledge of the selling dealer or new  
12 security interest holder, the certificate of ownership will not be  
13 received for submission to the department within twenty calendar days  
14 of the date of sale of the vehicle, or if no sale is involved, within  
15 twenty calendar days of the date the security agreement or contract is  
16 executed.

17 (3) A person shall submit the transitional ownership record to the  
18 department or to any of its agents or subagents. Agents and subagents  
19 shall immediately electronically transmit the transitional ownership  
20 records to the department. A transitional ownership document processed  
21 and recorded by an agent or subagent may be subject to fees as  
22 specified in RCW 46.01.140(4)(a) or (5)(b).

23 (4) "Transitional ownership record" means a record containing all  
24 of the following information:

25 (a) The date of sale;

26 (b) The name and address of each owner of the vehicle;

27 (c) The name and address of each security interest holder;

28 (d) If there are multiple security interest holders, the priorities  
29 of interest if the security interest holders do not jointly hold a  
30 single security interest;

31 (e) The vehicle identification number, the license plate number, if  
32 any, the year, make, and model of the vehicle;

33 (f) The name of the selling dealer or security interest holder who  
34 is submitting the transitional ownership record; and

35 (g) The transferee's driver's license number, if available.

36 (5) The report of sale form prescribed or approved by the  
37 department under RCW 46.12.101 may be used by a vehicle dealer as the  
38 transitional ownership record.

1 (6) Notwithstanding RCW 46.12.095 (1) and (2), compliance with the  
2 requirements of this section shall result in perfection of a security  
3 interest in the vehicle as of the time the security interest was  
4 created. Upon receipt of the certificate of ownership for the vehicle,  
5 or upon receipt of written confirmation that only an electronic record  
6 of ownership exists or that the certificate of ownership has been lost  
7 or destroyed, the selling dealer or new security interest holder shall  
8 promptly submit the same to the department together with an application  
9 for a new certificate of ownership containing the name and address of  
10 the secured party and tender the required fee as provided in RCW  
11 46.12.095(1).

12 ***\*NEW SECTION. Sec. 13. If this act mandates an increased level of***  
13 ***service by local governments, the local government may, under RCW***  
14 ***43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the***  
15 ***legislature. The claims shall be subject to verification by the office***  
16 ***of financial management.***

17 ***\*Sec. 13 was vetoed. See message at end of chapter.***

18 **NEW SECTION. Sec. 14.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are  
19 each repealed.

Passed the House March 9, 1998.

Passed the Senate March 3, 1998.

Approved by the Governor March 30, 1998, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1998.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 7 and  
3 13, Engrossed Substitute House Bill No. 1221 entitled:

4 "AN ACT Relating to the impoundment and forfeiture of vehicles  
5 being operated by persons who have a suspended or revoked driver's  
6 license;"

7 ESHB 1221 expands the law governing impoundment of vehicles driven  
8 by a person with a suspended or revoked license. I agree with the  
9 purpose of this legislation, however some sections are problematic.

10 Section 7 of ESHB 1221 is technically flawed. That section would  
11 authorize local governments to use "home impoundment" to immobilize  
12 vehicles driven by drunk drivers. This would be done by locking a  
13 "boot" or similar device on the vehicle. Unlike the rest of the bill,  
14 this section would not require that the driver's license have been  
15 suspended or revoked previously. It also would not specify how long  
16 the "boot" could remain on the vehicle. Under existing law, which the  
17 bill does not amend, vehicles impounded on a DUI arrest may be  
18 recovered at any time by paying towing and storage fees. But section  
19 7 refers to a "period of home impoundment" without specifying any

1 period. It also prohibits release of a vehicle if a "boot" is  
2 unlawfully removed, but once the "boot" is removed the question of  
3 release is moot. "Booting" cars is a useful alternative to towing them  
4 to impound lots, especially in rural areas. Regrettably, however, this  
5 section would not create a workable mechanism for that purpose.

6 Section 13 of ESHB 1221 would require that the Office of Financial  
7 Management verify claims from local governments for increased levels of  
8 services mandated by the act. This section would add an unnecessary  
9 additional bureaucratic layer to the existing statutory and procedural  
10 process for handling these claims. I will direct the Office of  
11 Financial Management and the Department of General Administration to  
12 work collaboratively with the appropriate legislative committees to  
13 ensure that timely and accurate information is provided to the  
14 Legislature.

15 For these reasons, I have vetoed sections 7 and 13 of Engrossed  
16 Substitute House Bill No. 1221.

17 With the exception of sections 7 and 13, Engrossed Substitute House  
18 Bill No. 1221 is approved."