

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1558

56th Legislature
1999 Regular Session

Passed by the House April 19, 1999
Yeas 97 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 14, 1999
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1558** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1558

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Mitchell, Hatfield, McDonald, Poulsen, Bush, Constantine and Radcliff; by request of Washington State Patrol)

Read first time 02/17/1999.

1 AN ACT Relating to release of impounded vehicles; and amending RCW
2 46.55.120.

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

4 **Sec. 1.** RCW 46.55.120 and 1998 c 203 s 5 are each amended to read
5 as follows:

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

10 (a) Only the legal owner, the registered owner, a person authorized
11 in writing by the registered owner or the vehicle's insurer, a person
12 who is determined and verified by the operator to have the permission
13 of the registered owner of the vehicle or other item of personal
14 property registered or titled with the department, or one who has
15 purchased a vehicle or item of personal property registered or titled
16 with the department from the registered owner who produces proof of
17 ownership or written authorization and signs a receipt therefor, may
18 redeem an impounded vehicle or items of personal property registered or
19 titled with the department. In addition, a vehicle impounded because

1 the operator is in violation of RCW 46.20.342(1)(c) shall not be
2 released until a person eligible to redeem it under this subsection
3 (1)(a) satisfies the requirements of (b) of this subsection, including
4 paying all towing, removal, and storage fees, notwithstanding the fact
5 that the hold was ordered by a government agency. If the department's
6 records show that the operator has been convicted of a violation of RCW
7 46.20.342 or a similar local ordinance within the past five years, the
8 vehicle may be held for up to thirty days at the written direction of
9 the agency ordering the vehicle impounded. A vehicle impounded because
10 the operator is arrested for a violation of RCW 46.20.342 may be
11 released only pursuant to a written order from the agency that ordered
12 the vehicle impounded. An agency may issue a written order to release
13 pursuant to a provision of an applicable state agency rule or local
14 ordinance authorizing release on the basis of economic or personal
15 hardship to the spouse of the operator, taking into consideration
16 public safety factors, including the operator's criminal history and
17 driving record.

18 If a vehicle is impounded because the operator is in violation of
19 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
20 days at the written direction of the agency ordering the vehicle
21 impounded. However, if the department's records show that the operator
22 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
23 similar local ordinance within the past five years, the vehicle may be
24 held at the written direction of the agency ordering the vehicle
25 impounded for up to sixty days, and for up to ninety days if the
26 operator has two or more such prior offenses. If a vehicle is
27 impounded because the operator is arrested for a violation of RCW
28 46.20.342, the vehicle may not be released until a person eligible to
29 redeem it under this subsection (1)(a) satisfies the requirements of
30 (b) of this subsection, including paying all towing, removal, and
31 storage fees, notwithstanding the fact that the hold was ordered by a
32 government agency.

33 (b) The vehicle or other item of personal property registered or
34 titled with the department shall be released upon the presentation to
35 any person having custody of the vehicle of commercially reasonable
36 tender sufficient to cover the costs of towing, storage, or other
37 services rendered during the course of towing, removing, impounding, or
38 storing any such vehicle. In addition, if a vehicle is impounded
39 because the operator was arrested for a violation of RCW 46.20.342 or

1 46.20.420 and was being operated by the registered owner when it was
2 impounded, it must not be released to any person until the registered
3 owner establishes with the agency that ordered the vehicle impounded or
4 a court having jurisdiction that any penalties, fines, or forfeitures
5 owed by him or her have been satisfied. Registered tow truck operators
6 are not liable for damages if they rely in good faith on an order from
7 the impounding agency or a court in releasing a vehicle held under a
8 suspended license impound. Commercially reasonable tender shall
9 include, without limitation, cash, major bank credit cards, or personal
10 checks drawn on in-state banks if accompanied by two pieces of valid
11 identification, one of which may be required by the operator to have a
12 photograph. If the towing firm can determine through the customer's
13 bank or a check verification service that the presented check would not
14 be paid by the bank or guaranteed by the service, the towing firm may
15 refuse to accept the check. Any person who stops payment on a personal
16 check or credit card, or does not make restitution within ten days from
17 the date a check becomes insufficient due to lack of funds, to a towing
18 firm that has provided a service pursuant to this section or in any
19 other manner defrauds the towing firm in connection with services
20 rendered pursuant to this section shall be liable for damages in the
21 amount of twice the towing and storage fees, plus costs and reasonable
22 attorney's fees.

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

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

1 Any request for a hearing shall be made in writing on the form provided
2 for that purpose and must be received by the appropriate court within
3 ten days of the date the opportunity was provided for in subsection
4 (2)(a) of this section. At the time of the filing of the hearing
5 request, the petitioner shall pay to the court clerk a filing fee in
6 the same amount required for the filing of a suit in district court.
7 If the hearing request is not received by the court within the ten-day
8 period, the right to a hearing is waived and the registered owner is
9 liable for any towing, storage, or other impoundment charges permitted
10 under this chapter. Upon receipt of a timely hearing request, the
11 court shall proceed to hear and determine the validity of the
12 impoundment.

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

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

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

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

36 (e) If the impoundment is determined to be in violation of this
37 chapter, then the registered and legal owners of the vehicle or other
38 item of personal property registered or titled with the department
39 shall bear no impoundment, towing, or storage fees, and any security

1 shall be returned or discharged as appropriate, and the person or
2 agency who authorized the impoundment shall be liable for any towing,
3 storage, or other impoundment fees permitted under this chapter. The
4 court shall enter judgment in favor of the registered tow truck
5 operator against the person or agency authorizing the impound for the
6 impoundment, towing, and storage fees paid. In addition, the court
7 shall enter judgment in favor of the registered and legal owners of the
8 vehicle, or other item of personal property registered or titled with
9 the department, for the amount of the filing fee required by law for
10 the impound hearing petition as well as reasonable damages for loss of
11 the use of the vehicle during the time the same was impounded, for not
12 less than fifty dollars per day, against the person or agency
13 authorizing the impound. However, if an impoundment arising from an
14 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in
15 violation of this chapter, then the law enforcement officer directing
16 the impoundment and the government employing the officer are not liable
17 for damages if the officer relied in good faith and without gross
18 negligence on the records of the department in ascertaining that the
19 operator of the vehicle had a suspended or revoked driver's license.
20 If any judgment entered is not paid within fifteen days of notice in
21 writing of its entry, the court shall award reasonable attorneys' fees
22 and costs against the defendant in any action to enforce the judgment.
23 Notice of entry of judgment may be made by registered or certified
24 mail, and proof of mailing may be made by affidavit of the party
25 mailing the notice. Notice of the entry of the judgment shall read
26 essentially as follows:

27 TO:
28 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
29 Court located at in the sum of
30 \$., in an action entitled, Case No.
31 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
32 will be awarded against you under RCW . . . if the judgment is
33 not paid within 15 days of the date of this notice.
34 DATED this day of, (year) . . .
35 Signature
36 Typed name and address
37 of party mailing notice

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

--- END ---