

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1362**

Chapter 387, Laws of 2009

61st Legislature  
2009 Regular Session

PROSTITUTION-RELATED OFFENSES--VEHICLE IMPOUNDMENT

EFFECTIVE DATE: 07/26/09

Passed by the House April 18, 2009  
Yeas 97 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate April 9, 2009  
Yeas 47 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved May 7, 2009, 2:12 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1362** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

May 8, 2009

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 1362

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AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington                      61st Legislature                      2009 Regular Session

By House Judiciary (originally sponsored by Representatives Goodman, Rodne, Sullivan, Williams, Orwall, O'Brien, Kirby, Chase, and Conway)

READ FIRST TIME 02/13/09.

1            AN ACT Relating to vehicles used in prostitution-related offenses;  
2 and amending RCW 9A.88.140, 43.63A.740, and 46.55.120.

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

4            **Sec. 1.** RCW 9A.88.140 and 2007 c 368 s 8 are each amended to read  
5 as follows:

6            (1)(a) Upon an arrest for a suspected violation of patronizing a  
7 prostitute ~~((e))~~, promoting prostitution in the first degree,  
8 promoting prostitution in the second degree, promoting travel for  
9 prostitution, commercial sexual abuse of a minor, promoting commercial  
10 sexual abuse of a minor, or promoting travel for commercial sexual  
11 abuse of a minor, the arresting law enforcement officer may impound the  
12 person's vehicle if ~~((a))~~ (i) the motor vehicle was used in the  
13 commission of the crime; ~~((b))~~ (ii) the person arrested is the owner  
14 of the vehicle or the vehicle is a rental car as defined in RCW  
15 46.04.465; and ~~((c))~~ (iii) either (A) the person arrested has  
16 previously been convicted of ~~((patronizing a prostitute, under RCW~~  
17 ~~9A.88.110, or commercial sexual abuse of a minor, under RCW 9.68A.100))~~  
18 one of the offenses listed in this subsection or (B) the offense was  
19 committed within an area designated under (b) of this subsection.

1       (b) A local governing authority may designate areas within which  
2 vehicles are subject to impoundment under this section regardless of  
3 whether the person arrested has previously been convicted of any of the  
4 offenses listed in (a) of this subsection.

5       (i) The designation must be based on evidence indicating that the  
6 area has a disproportionately higher number of arrests for the offenses  
7 listed in (a) of this subsection as compared to other areas within the  
8 same jurisdiction.

9       (ii) The local governing authority shall post signs at the  
10 boundaries of the designated area to indicate that the area has been  
11 designated under this subsection.

12       (2) Impoundments performed under this section shall be in  
13 accordance with chapter 46.55 RCW and the impoundment order must  
14 clearly state "prostitution hold."

15       (3)(a) Prior to redeeming the impounded vehicle, and in addition to  
16 all applicable impoundment, towing, and storage fees paid to the towing  
17 company under chapter 46.55 RCW, the owner of the impounded vehicle  
18 must pay a fine of five hundred dollars to the impounding agency. The  
19 fine shall be deposited in the prostitution prevention and intervention  
20 account established under RCW 43.63A.740.

21       (b) Upon receipt of the fine paid under (a) of this subsection, the  
22 impounding agency shall issue a written receipt to the owner of the  
23 impounded vehicle.

24       (4)(a) In order to redeem a vehicle impounded under this section,  
25 the owner must provide the towing company with the written receipt  
26 issued under subsection (3)(b) of this section.

27       (b) The written receipt issued under subsection (3)(b) of this  
28 section authorizes the towing company to release the impounded vehicle  
29 upon payment of all impoundment, towing, and storage fees.

30       (c) A towing company that relies on a forged receipt to release a  
31 vehicle impounded under this section is not liable to the impounding  
32 authority for any unpaid fine under subsection (3)(a) of this section.

33       (5)(a) In any proceeding under chapter 46.55 RCW to contest the  
34 validity of an impoundment under this section where the claimant  
35 substantially prevails, the claimant is entitled to a full refund of  
36 the impoundment, towing, and storage fees paid under chapter 46.55 RCW  
37 and the five hundred dollar fine paid under subsection (3) of this  
38 section.

1       (b) If the person is found not guilty at trial for a crime listed  
2 under subsection (1) of this section, the person is entitled to a full  
3 refund of the impoundment, towing, and storage fees paid under chapter  
4 46.55 RCW and the five hundred dollar fine paid under subsection (3) of  
5 this section.

6       (c) All refunds made under this section shall be paid by the  
7 impounding agency.

8       (d) Prior to receiving any refund under this section, the claimant  
9 must provide proof of payment.

10       **Sec. 2.** RCW 43.63A.740 and 1995 c 353 s 11 are each amended to  
11 read as follows:

12       The prostitution prevention and intervention account is created in  
13 the state treasury. All designated receipts from fees under RCW  
14 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall  
15 be deposited into the account. Expenditures from the account may be  
16 used only for funding the grant program to enhance prostitution  
17 prevention and intervention services under RCW 43.63A.720.

18       **Sec. 3.** RCW 46.55.120 and 2004 c 250 s 1 are each amended to read  
19 as follows:

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

24       (a) Only the legal owner, the registered owner, a person authorized  
25 in writing by the registered owner or the vehicle's insurer, a person  
26 who is determined and verified by the operator to have the permission  
27 of the registered owner of the vehicle or other item of personal  
28 property registered or titled with the department, or one who has  
29 purchased a vehicle or item of personal property registered or titled  
30 with the department from the registered owner who produces proof of  
31 ownership or written authorization and signs a receipt therefor, may  
32 redeem an impounded vehicle or items of personal property registered or  
33 titled with the department. In addition, a vehicle impounded because  
34 the operator is in violation of RCW 46.20.342(1)(c) shall not be  
35 released until a person eligible to redeem it under this subsection  
36 (1)(a) satisfies the requirements of (e) of this subsection, including

1 paying all towing, removal, and storage fees, notwithstanding the fact  
2 that the hold was ordered by a government agency. If the department's  
3 records show that the operator has been convicted of a violation of RCW  
4 46.20.342 or a similar local ordinance within the past five years, the  
5 vehicle may be held for up to thirty days at the written direction of  
6 the agency ordering the vehicle impounded. A vehicle impounded because  
7 the operator is arrested for a violation of RCW 46.20.342 may be  
8 released only pursuant to a written order from the agency that ordered  
9 the vehicle impounded or from the court having jurisdiction. An agency  
10 (~~may~~) shall issue a written order to release pursuant to a provision  
11 of an applicable state agency rule or local ordinance authorizing  
12 release on the basis of the following:

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

16 (ii) The owner of the vehicle was not the driver, the owner did not  
17 know that the driver's license was suspended or revoked, and the owner  
18 has not received a prior release under this subsection or RCW  
19 46.55.113(3).

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

25 If a vehicle is impounded because the operator is in violation of  
26 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty  
27 days at the written direction of the agency ordering the vehicle  
28 impounded. However, if the department's records show that the operator  
29 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a  
30 similar local ordinance within the past five years, the vehicle may be  
31 held at the written direction of the agency ordering the vehicle  
32 impounded for up to sixty days, and for up to ninety days if the  
33 operator has two or more such prior offenses. If a vehicle is  
34 impounded because the operator is arrested for a violation of RCW  
35 46.20.342, the vehicle may not be released until a person eligible to  
36 redeem it under this subsection (1)(a) satisfies the requirements of  
37 (e) of this subsection, including paying all towing, removal, and

1 storage fees, notwithstanding the fact that the hold was ordered by a  
2 government agency.

3 (b) If the vehicle is directed to be held for a suspended license  
4 impound, a person who desires to redeem the vehicle at the end of the  
5 period of impound shall within five days of the impound at the request  
6 of the tow truck operator pay a security deposit to the tow truck  
7 operator of not more than one-half of the applicable impound storage  
8 rate for each day of the proposed suspended license impound. The tow  
9 truck operator shall credit this amount against the final bill for  
10 removal, towing, and storage upon redemption. The tow truck operator  
11 may accept other sufficient security in lieu of the security deposit.  
12 If the person desiring to redeem the vehicle does not pay the security  
13 deposit or provide other security acceptable to the tow truck operator,  
14 the tow truck operator may process and sell at auction the vehicle as  
15 an abandoned vehicle within the normal time limits set out in RCW  
16 46.55.130(1). The security deposit required by this section may be  
17 paid and must be accepted at any time up to twenty-four hours before  
18 the beginning of the auction to sell the vehicle as abandoned. The  
19 registered owner is not eligible to purchase the vehicle at the  
20 auction, and the tow truck operator shall sell the vehicle to the  
21 highest bidder who is not the registered owner.

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

26 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
27 or lender with a perfected security interest in the vehicle may redeem  
28 or lawfully repossess a vehicle immediately by payment of the costs of  
29 removal, towing, and storage, whereupon the vehicle will not be held  
30 for a suspended license impound. A motor vehicle dealer or lender with  
31 a perfected security interest in the vehicle may not knowingly and  
32 intentionally engage in collusion with a registered owner to repossess  
33 and then return or resell a vehicle to the registered owner in an  
34 attempt to avoid a suspended license impound. However, this provision  
35 does not preclude a vehicle dealer or a lender with a perfected  
36 security interest in the vehicle from repossessing the vehicle and then  
37 selling, leasing, or otherwise disposing of it in accordance with  
38 chapter 62A.9A RCW, including providing redemption rights to the debtor

1 under RCW 62A.9A-623. If the debtor is the registered owner of the  
2 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A  
3 RCW is conditioned upon the debtor obtaining and providing proof from  
4 the impounding authority or court having jurisdiction that any fines,  
5 penalties, and forfeitures owed by the registered owner, as a result of  
6 the suspended license impound, have been paid, and proof of the payment  
7 must be tendered to the vehicle dealer or lender at the time the debtor  
8 tenders all other obligations required to redeem the vehicle. Vehicle  
9 dealers or lenders are not liable for damages if they rely in good  
10 faith on an order from the impounding agency or a court in releasing a  
11 vehicle held under a suspended license impound.

12 (e) The vehicle or other item of personal property registered or  
13 titled with the department shall be released upon the presentation to  
14 any person having custody of the vehicle of commercially reasonable  
15 tender sufficient to cover the costs of towing, storage, or other  
16 services rendered during the course of towing, removing, impounding, or  
17 storing any such vehicle, with credit being given for the amount of any  
18 security deposit paid under (b) of this subsection. In addition, if a  
19 vehicle is impounded because the operator was arrested for a violation  
20 of RCW 46.20.342 or 46.20.345 and was being operated by the registered  
21 owner when it was impounded under local ordinance or agency rule, it  
22 must not be released to any person until the registered owner  
23 establishes with the agency that ordered the vehicle impounded or the  
24 court having jurisdiction that any penalties, fines, or forfeitures  
25 owed by him or her have been satisfied. Registered tow truck operators  
26 are not liable for damages if they rely in good faith on an order from  
27 the impounding agency or a court in releasing a vehicle held under a  
28 suspended license impound. Commercially reasonable tender shall  
29 include, without limitation, cash, major bank credit cards issued by  
30 financial institutions, or personal checks drawn on Washington state  
31 branches of financial institutions if accompanied by two pieces of  
32 valid identification, one of which may be required by the operator to  
33 have a photograph. If the towing firm cannot determine through the  
34 customer's bank or a check verification service that the presented  
35 check would be paid by the bank or guaranteed by the service, the  
36 towing firm may refuse to accept the check. Any person who stops  
37 payment on a personal check or credit card, or does not make  
38 restitution within ten days from the date a check becomes insufficient

1 due to lack of funds, to a towing firm that has provided a service  
2 pursuant to this section or in any other manner defrauds the towing  
3 firm in connection with services rendered pursuant to this section  
4 shall be liable for damages in the amount of twice the towing and  
5 storage fees, plus costs and reasonable attorney's fees.

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

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

35 (3)(a) The court, within five days after the request for a hearing,  
36 shall notify the registered tow truck operator, the person requesting  
37 the hearing if not the owner, the registered and legal owners of the



1 vehicle or other item of personal property registered or titled with  
2 the department, and the person or agency authorizing the impound in  
3 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 court shall determine  
11 whether the impoundment was proper, whether the towing or storage fees  
12 charged were in compliance with the posted rates, and who is  
13 responsible for payment of the fees. The court may not adjust fees or  
14 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 against  
36 the person or agency authorizing the impound. However, if an  
37 impoundment arising from an alleged violation of RCW 46.20.342 or  
38 46.20.345 is determined to be in violation of this chapter, then the

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

Passed by the House April 18, 2009.  
Passed by the Senate April 9, 2009.  
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