

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5000

Chapter 167, Laws of 2011

62nd Legislature
2011 Regular Session

DRIVING UNDER THE INFLUENCE--VEHICLE IMPOUNDMENT

EFFECTIVE DATE: 07/22/11 - Except section 6, which becomes effective 07/01/11.

Passed by the Senate April 14, 2011
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 5, 2011
YEAS 95 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 27, 2011, 1:51 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5000** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 27, 2011

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5000

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington **62nd Legislature** **2011 Regular Session**

By Senate Transportation (originally sponsored by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon, and Kilmer)

READ FIRST TIME 02/23/11.

1 AN ACT Relating to mandating a twelve-hour impound hold on motor
2 vehicles used by persons arrested for driving under the influence of
3 alcohol or drugs or being in physical control of a vehicle while under
4 the influence of alcohol or drugs; amending RCW 46.55.113; reenacting
5 and amending RCW 46.55.113; adding new sections to chapter 46.55 RCW;
6 creating a new section; providing an effective date; and providing an
7 expiration date.

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

9 NEW SECTION. **Sec. 1.** This act shall be known and cited as
10 Hailey's Law.

11 NEW SECTION. **Sec. 2.** (1) The legislature finds that:

12 (a) Despite every effort, the problem of driving or controlling a
13 vehicle while under the influence of alcohol or drugs remains a great
14 threat to the lives and safety of citizens. Over five hundred people
15 are killed by traffic accidents in Washington each year and impaired
16 vehicle drivers account for almost forty-five percent, or over two
17 hundred deaths per year. That is, impairment is the leading cause of
18 traffic deaths in this state;

1 (b) Over thirty-nine thousand people are arrested each year in
2 Washington for driving or controlling a vehicle while under the
3 influence of alcohol or drugs. Persons arrested for driving or
4 controlling a vehicle while under the influence of alcohol or drugs may
5 still be impaired after they are cited and released and could return to
6 drive or control a vehicle. If the vehicle was impounded, there is
7 nothing to stop the impaired person from going to the tow truck
8 operator's storage facility and redeeming the vehicle while still
9 impaired;

10 (c) More can be done to deter those arrested for driving or
11 controlling a vehicle while under the influence of alcohol or drugs.
12 Approximately one-third of those arrested for operating a vehicle under
13 the influence are repeat offenders. Vehicle impoundment effectively
14 increases deterrence and prevents an impaired driver from accessing the
15 vehicle for a specified time. In addition, vehicle impoundment
16 provides an appropriate measure of accountability for registered owners
17 who allow impaired drivers to drive or control their vehicles, but it
18 also allows the registered owners to redeem their vehicles once
19 impounded. Any inconvenience on a registered owner is outweighed by
20 the need to protect the public;

21 (d) In order to protect public safety and to enforce the state's
22 laws, it is reasonable and necessary to mandatorily impound the vehicle
23 operated by a person who has been arrested for driving or controlling
24 a vehicle while under the influence of alcohol or drugs.

25 (2) The legislature intends by this act:

26 (a) To change the primary reason for impounding the vehicle
27 operated by a person arrested for driving or controlling a vehicle
28 under the influence of alcohol or drugs. The purpose of impoundment
29 under this act is to protect the public from a person operating a
30 vehicle while still impaired, rather than to prevent a potential
31 traffic obstruction; and

32 (b) To require that officers have no discretion as to whether or
33 not to order an impound after they have arrested a vehicle driver with
34 reasonable grounds to believe the driver of the vehicle was driving
35 while under the influence of alcohol or drugs, or was in physical
36 control of a vehicle while under the influence of alcohol or drugs.

1 NEW SECTION. **Sec. 3.** (1)(a) When a driver of a vehicle is
2 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is
3 subject to summary impoundment and except for a commercial vehicle or
4 farm transport vehicle under subsection (3)(c) of this section, the
5 vehicle must be impounded. With the exception of the twelve-hour hold
6 mandated under this section, the procedures for notice, redemption,
7 storage, auction, and sale shall remain the same as for other impounded
8 vehicles under this chapter.

9 (b) If the police officer directing that a vehicle be impounded
10 under this section has:

11 (i) Waited thirty minutes after the police officer contacted the
12 police dispatcher requesting a registered tow truck operator and the
13 tow truck responding has not arrived, or

14 (ii) If the police officer is presented with exigent circumstances
15 such as being called to another incident or due to limited available
16 resources being required to return to patrol,
17 the police officer may place the completed impound order and inventory
18 inside the vehicle and secure the vehicle by closing the windows and
19 locking the doors before leaving.

20 (c) If a police officer directing that a vehicle be impounded under
21 this section has secured the vehicle and left it pursuant to (b) of
22 this subsection, the police officer and the government or agency
23 employing the police officer shall not be liable for any damages to or
24 theft of the vehicle or its contents that occur between the time the
25 officer leaves and the time that the registered tow truck operator
26 takes custody of the vehicle, or for the actions of any person who
27 takes or removes the vehicle before the registered tow truck operator
28 arrives.

29 (2)(a) When a driver of a vehicle is arrested for a violation of
30 RCW 46.61.502 or 46.61.504 and the driver is a registered owner of the
31 vehicle, the impounded vehicle may not be redeemed within a twelve-hour
32 period following the time the impounded vehicle arrives at the
33 registered tow truck operator's storage facility as noted in the
34 registered tow truck operator's master log, unless there are two or
35 more registered owners of the vehicle or there is a legal owner of the
36 vehicle that is not the driver of the vehicle. A registered owner who
37 is not the driver of the vehicle or a legal owner who is not the driver

1 of the vehicle may redeem the impounded vehicle after it arrives at the
2 registered tow truck operator's storage facility as noted in the
3 registered tow truck operator's master log.

4 (b) When a driver of a vehicle is arrested for a violation of RCW
5 46.61.502 or 46.61.504 and the driver is a registered owner of the
6 vehicle, the police officer directing the impound shall notify the
7 driver that the impounded vehicle may not be redeemed within a
8 twelve-hour period following the time the impounded vehicle arrives at
9 the registered tow truck operator's storage facility as noted in the
10 registered tow truck operator's master log, unless there are two or
11 more registered owners or there is a legal owner who is not the driver
12 of the vehicle. The police officer directing the impound shall notify
13 the driver that the impounded vehicle may be redeemed by either a
14 registered owner or legal owner, who is not the driver of the vehicle,
15 after the impounded vehicle arrives at the registered tow truck
16 operator's storage facility as noted in the registered tow truck
17 operator's master log.

18 (3)(a) When a driver of a vehicle is arrested for a violation of
19 RCW 46.61.502 or 46.61.504 and the driver is not a registered owner of
20 the vehicle, the impounded vehicle may be redeemed by a registered
21 owner or legal owner, who is not the driver of the vehicle, after the
22 impounded vehicle arrives at the registered tow truck operator's
23 storage facility as noted in the registered tow truck operator's master
24 log.

25 (b) When a driver of a vehicle is arrested for a violation of RCW
26 46.61.502 or 46.61.504 and the driver is not a registered owner of the
27 vehicle, the police officer directing the impound shall notify the
28 driver that the impounded vehicle may be redeemed by a registered owner
29 or legal owner, who is not the driver of the vehicle, after the
30 impounded vehicle arrives at the registered tow truck operator's
31 storage facility as noted in the registered tow truck operator's master
32 log.

33 (c) If the vehicle is a commercial vehicle or farm transport
34 vehicle and the driver of the vehicle is not the owner of the vehicle,
35 before the summary impoundment directed under subsection (1) of this
36 section, the police officer shall attempt in a reasonable and timely
37 manner to contact the owner of the vehicle and may release the vehicle

1 to the owner if the owner is reasonably available, as long as the owner
2 was not in the vehicle at the time of the stop and arrest.

3 (d) The registered tow truck operator shall notify the agency that
4 ordered that the vehicle be impounded when the vehicle arrives at the
5 registered tow truck operator's storage facility and has been entered
6 into the master log starting the twelve-hour period.

7 (4) A registered tow truck operator that releases an impounded
8 vehicle pursuant to the requirements stated in this section is not
9 liable for injuries or damages sustained by the operator of the vehicle
10 or sustained by third parties that may result from the vehicle driver's
11 intoxicated state.

12 (5) For purposes of this section "farm transport vehicle" means a
13 motor vehicle owned by a farmer and that is being actively used in the
14 transportation of the farmer's or another farmer's farm, orchard,
15 aquatic farm, or dairy products, including livestock and plant or
16 animal wastes, from point of production to market or disposal, or
17 supplies or commodities to be used on the farm, orchard, aquatic farm,
18 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms
19 (16,001 pounds) or more.

20 NEW SECTION. **Sec. 4.** If an impoundment arising from an alleged
21 violation of RCW 46.61.502 or 46.61.504 is determined to be in
22 violation of this chapter, then the police officer directing the
23 impoundment and the government employing the officer are not liable for
24 damages for loss of use of the vehicle if the officer had reasonable
25 suspicion to believe that the driver of the vehicle was driving while
26 under the influence of intoxicating liquor or any drug, or was in
27 physical control of a vehicle while under the influence of intoxicating
28 liquor or any drug.

29 **Sec. 5.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are
30 each amended to read as follows:

31 (1) Whenever the driver of a vehicle is arrested for a violation of
32 RCW ((~~46.61.502, 46.61.504~~),) 46.20.342(~~(7)~~) or 46.20.345, the vehicle
33 is subject to summary impoundment, pursuant to the terms and conditions
34 of an applicable local ordinance or state agency rule at the direction
35 of a law enforcement officer.

1 (2) In addition, a police officer may take custody of a vehicle, at
2 his or her discretion, and provide for its prompt removal to a place of
3 safety under any of the following circumstances:

4 (a) Whenever a police officer finds a vehicle standing upon the
5 roadway in violation of any of the provisions of RCW 46.61.560, the
6 officer may provide for the removal of the vehicle or require the
7 driver or other person in charge of the vehicle to move the vehicle to
8 a position off the roadway;

9 (b) Whenever a police officer finds a vehicle unattended upon a
10 highway where the vehicle constitutes an obstruction to traffic or
11 jeopardizes public safety;

12 (c) Whenever a police officer finds an unattended vehicle at the
13 scene of an accident or when the driver of a vehicle involved in an
14 accident is physically or mentally incapable of deciding upon steps to
15 be taken to protect his or her property;

16 (d) Whenever the driver of a vehicle is arrested and taken into
17 custody by a police officer;

18 (e) Whenever a police officer discovers a vehicle that the officer
19 determines to be a stolen vehicle;

20 (f) Whenever a vehicle without a special license plate, placard, or
21 decal indicating that the vehicle is being used to transport a person
22 with disabilities under RCW 46.16.381 is parked in a stall or space
23 clearly and conspicuously marked under RCW 46.61.581 which space is
24 provided on private property without charge or on public property;

25 (g) Upon determining that a person is operating a motor vehicle
26 without a valid and, if required, a specially endorsed driver's license
27 or with a license that has been expired for ninety days or more;

28 (h) When a vehicle is illegally occupying a truck, commercial
29 loading zone, restricted parking zone, bus, loading, hooded-meter,
30 taxi, street construction or maintenance, or other similar zone where,
31 by order of the director of transportation or chiefs of police or fire
32 or their designees, parking is limited to designated classes of
33 vehicles or is prohibited during certain hours, on designated days or
34 at all times, if the zone has been established with signage for at
35 least twenty-four hours and where the vehicle is interfering with the
36 proper and intended use of the zone. Signage must give notice to the
37 public that a vehicle will be removed if illegally parked in the zone;

1 (i) When a vehicle with an expired registration of more than
2 forty-five days is parked on a public street.

3 (3) When an arrest is made for a violation of RCW 46.20.342, if the
4 vehicle is a commercial vehicle or farm transport vehicle and the
5 driver of the vehicle is not the owner of the vehicle, before the
6 summary impoundment directed under subsection (1) of this section, the
7 police officer shall attempt in a reasonable and timely manner to
8 contact the owner of the vehicle and may release the vehicle to the
9 owner if the owner is reasonably available, as long as the owner was
10 not in the vehicle at the time of the stop and arrest and the owner has
11 not received a prior release under this subsection or RCW
12 46.55.120(1)(a)(ii).

13 (4) Nothing in this section may derogate from the powers of police
14 officers under the common law. For the purposes of this section, a
15 place of safety may include the business location of a registered tow
16 truck operator.

17 (5) For purposes of this section "farm transport vehicle" means a
18 motor vehicle owned by a farmer and that is being actively used in the
19 transportation of the farmer's or another farmer's farm, orchard,
20 aquatic farm, or dairy products, including livestock and plant or
21 animal wastes, from point of production to market or disposal, or
22 supplies or commodities to be used on the farm, orchard, aquatic farm,
23 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms
24 (16,001 pounds) or more.

25 **Sec. 6.** RCW 46.55.113 and 2010 c 161 s 1120 are each amended to
26 read as follows:

27 (1) Whenever the driver of a vehicle is arrested for a violation of
28 RCW (~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~) or 46.20.345, the vehicle
29 is subject to summary impoundment, pursuant to the terms and conditions
30 of an applicable local ordinance or state agency rule at the direction
31 of a law enforcement officer.

32 (2) In addition, a police officer may take custody of a vehicle, at
33 his or her discretion, and provide for its prompt removal to a place of
34 safety under any of the following circumstances:

35 (a) Whenever a police officer finds a vehicle standing upon the
36 roadway in violation of any of the provisions of RCW 46.61.560, the

1 officer may provide for the removal of the vehicle or require the
2 driver or other person in charge of the vehicle to move the vehicle to
3 a position off the roadway;

4 (b) Whenever a police officer finds a vehicle unattended upon a
5 highway where the vehicle constitutes an obstruction to traffic or
6 jeopardizes public safety;

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

11 (d) Whenever the driver of a vehicle is arrested and taken into
12 custody by a police officer;

13 (e) Whenever a police officer discovers a vehicle that the officer
14 determines to be a stolen vehicle;

15 (f) Whenever a vehicle without a special license plate, placard, or
16 decal indicating that the vehicle is being used to transport a person
17 with disabilities under RCW 46.19.010 is parked in a stall or space
18 clearly and conspicuously marked under RCW 46.61.581 which space is
19 provided on private property without charge or on public property;

20 (g) Upon determining that a person is operating a motor vehicle
21 without a valid and, if required, a specially endorsed driver's license
22 or with a license that has been expired for ninety days or more;

23 (h) When a vehicle is illegally occupying a truck, commercial
24 loading zone, restricted parking zone, bus, loading, hooded-meter,
25 taxi, street construction or maintenance, or other similar zone where,
26 by order of the director of transportation or chiefs of police or fire
27 or their designees, parking is limited to designated classes of
28 vehicles or is prohibited during certain hours, on designated days or
29 at all times, if the zone has been established with signage for at
30 least twenty-four hours and where the vehicle is interfering with the
31 proper and intended use of the zone. Signage must give notice to the
32 public that a vehicle will be removed if illegally parked in the zone;

33 (i) When a vehicle with an expired registration of more than
34 forty-five days is parked on a public street.

35 (3) When an arrest is made for a violation of RCW 46.20.342, if the
36 vehicle is a commercial vehicle or farm transport vehicle and the
37 driver of the vehicle is not the owner of the vehicle, before the
38 summary impoundment directed under subsection (1) of this section, the

1 police officer shall attempt in a reasonable and timely manner to
2 contact the owner of the vehicle and may release the vehicle to the
3 owner if the owner is reasonably available, as long as the owner was
4 not in the vehicle at the time of the stop and arrest and the owner has
5 not received a prior release under this subsection or RCW
6 46.55.120(1)(a)(ii).

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

11 (5) For purposes of this section "farm transport vehicle" means a
12 motor vehicle owned by a farmer and that is being actively used in the
13 transportation of the farmer's or another farmer's farm, orchard,
14 aquatic farm, or dairy products, including livestock and plant or
15 animal wastes, from point of production to market or disposal, or
16 supplies or commodities to be used on the farm, orchard, aquatic farm,
17 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms
18 (16,001 pounds) or more.

19 NEW SECTION. Sec. 7. Sections 2 through 4 of this act are each
20 added to chapter 46.55 RCW.

21 NEW SECTION. Sec. 8. Section 6 of this act takes effect July 1,
22 2011.

23 NEW SECTION. Sec. 9. Section 5 of this act expires July 1, 2011.
Passed by the Senate April 14, 2011.
Passed by the House April 5, 2011.
Approved by the Governor April 27, 2011.
Filed in Office of Secretary of State April 27, 2011.