
Public Safety Committee

HB 2483

Brief Description: Clarifying vehicle impoundment and redemption following arrest for driving or being in physical control of a vehicle while under the influence of alcohol or drugs.

Sponsors: Representatives Van Werven, Goodman and Ormsby.

Brief Summary of Bill

- Removes provisions of current law requiring impoundment of the vehicle in every case in which the driver is arrested for impaired driving.
- Provides that when a driver is arrested for impaired driving and the officer directs the vehicle's impoundment, the current law procedures preventing the vehicle's redemption for 12 hours must still be followed.

Hearing Date: 2/4/20

Staff: Omeara Harrington (786-7136).

Background:

In general, when a driver of a vehicle is arrested and taken into custody, the officer has the authority to take custody of the vehicle, at his or her discretion, and provide for its prompt removal to a place of safety. This may include having the vehicle impounded and towed. However, if the arrest is for an impaired driving offense, the arresting officer must impound the vehicle. Once impounded, a vehicle involved in an impaired driving offense cannot be redeemed from the towing company for a period of 12 hours.

There are certain exceptions that apply to the 12-hour hold. For example, a registered owner or legal owner who was not the driver of the vehicle may redeem the impounded vehicle once it arrives at the tow truck operator's storage facility without waiting 12 hours. If the vehicle is a commercial vehicle or farm transport vehicle and owner of the vehicle was not the person driving, the arresting officer must attempt in a reasonable and timely manner to contact the

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owner and release the vehicle to the owner as long as he or she is reasonably available and was not in the vehicle at the time of the arrest.

The Washington State Supreme Court recently issued an opinion in *State v. Villela* in which it concluded that the mandatory impound of vehicles driven by suspected impaired drivers violates Article 1, Section 7 of the state Constitution. An impound is constitutionally permissible only if, in the judgment of the impounding officer, impoundment is reasonable under the circumstances and there are no reasonable alternatives. In essence, to comport with the Constitution, the officer must make a discretionary case-by-case determination, and the impoundment must be the only reasonable option. The opinion did not, however, discuss or invalidate the 12-hour prohibition on redemption once the vehicle has been impounded.

Summary of Bill:

Rather than requiring impoundment of the vehicle in every case in which a driver is arrested for impaired driving, the arresting officer may, at his or her discretion, direct the impoundment of the involved vehicle. When the arresting officer does direct the impoundment of the vehicle in an impaired driving case, the procedures preventing the vehicle's redemption for 12 hours must be followed.

An owner of a vehicle impounded in an impaired driving case who was not the driver may redeem the vehicle at any time after it has arrived at the towing facility, and does not need to wait 12 hours. When the involved vehicle is a commercial vehicle or farm transport vehicle and the owner was not the driver, prior to determining no reasonable alternatives to impound exist and directing impoundment of the vehicle, the officer must attempt to contact and release the vehicle to the owner, provided the owner is reasonably available.

Appropriation: None.

Fiscal Note: Requested on February 1, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.