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**SUBSTITUTE HOUSE BILL 2483**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Van Werven, Goodman, and Ormsby)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to vehicle impoundment and redemption following  
2 arrest for driving or being in physical control of a vehicle while  
3 under the influence of alcohol or drugs; amending RCW 46.55.113 and  
4 46.55.360; creating a new section; and repealing RCW 46.55.350.

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

6 NEW SECTION. **Sec. 1.** The legislature enacted "Hailey's law" in  
7 2011, which requires impoundment of a vehicle when the driver is  
8 arrested for driving or being in physical control of the vehicle  
9 while under the influence of alcohol or drugs, and also prevents the  
10 impaired driver from redeeming the impounded vehicle for a period of  
11 twelve hours. In its findings, the legislature reasoned that vehicle  
12 impoundment both increases deterrence and prevents an impaired driver  
13 from accessing the vehicle for a specified time. In addition, it  
14 noted that vehicle impoundment provides an appropriate measure of  
15 accountability for registered owners who allow impaired drivers to  
16 drive or control their vehicles, but it also allows the registered  
17 owners to redeem their vehicles once impounded. The legislature  
18 additionally found that any inconvenience on a registered owner is  
19 outweighed by the need to protect the public.

20 The Washington state supreme court recently decided in *State v.*  
21 *Villela* that the mandatory impoundment component of the statute

1 violates the state Constitution. In coming to this conclusion, the  
2 court determined that the Constitution requires that the arresting  
3 officer make a discretionary determination that impoundment is  
4 reasonable and that there are no reasonable alternatives to  
5 impoundment.

6 The legislature finds that, even without mandatory impoundment in  
7 every case, there are still many circumstances in which an officer  
8 making an arrest for impaired driving or physical control of a  
9 vehicle while under the influence will determine that impoundment is  
10 reasonable under the circumstances and within the constitutional  
11 limitations. In such cases, it is still appropriate and necessary for  
12 the protection of the public to prevent redemption of the impounded  
13 vehicle for a minimum of twelve hours. To this end, the legislature  
14 intends to clarify that, in cases in which a vehicle is lawfully  
15 impounded following the driver's arrest for impaired driving or  
16 physical control of a vehicle while under the influence, the twelve  
17 hour restriction on redemption of the vehicle still applies.

18 **Sec. 2.** RCW 46.55.113 and 2011 c 167 s 6 are each amended to  
19 read as follows:

20 (1) Whenever the driver of a vehicle is arrested for a violation  
21 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary  
22 impoundment, pursuant to the terms and conditions of an applicable  
23 local ordinance or state agency rule at the direction of a law  
24 enforcement officer.

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

28 (a) Whenever a police officer finds a vehicle standing upon the  
29 roadway in violation of any of the provisions of RCW 46.61.560, the  
30 officer may provide for the removal of the vehicle or require the  
31 driver or other person in charge of the vehicle to move the vehicle  
32 to a position off the roadway;

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

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

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

3 (e) Whenever the driver of a vehicle is arrested for a violation  
4 of RCW 46.61.502 or 46.61.504;

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

7 (~~(f)~~) (g) Whenever a vehicle without a special license plate,  
8 placard, or decal indicating that the vehicle is being used to  
9 transport a person with disabilities under RCW 46.19.010 is parked in  
10 a stall or space clearly and conspicuously marked under RCW 46.61.581  
11 which space is provided on private property without charge or on  
12 public property;

13 (~~(g)~~) (h) Upon determining that a person is operating a motor  
14 vehicle without a valid and, if required, a specially endorsed  
15 driver's license or with a license that has been expired for ninety  
16 days or more;

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

28 (~~(i)~~) (j) When a vehicle with an expired registration of more  
29 than forty-five days is parked on a public street.

30 (3) When an arrest is made for a violation of RCW 46.20.342, if  
31 the vehicle is a commercial vehicle or farm transport vehicle and the  
32 driver of the vehicle is not the owner of the vehicle, before the  
33 summary impoundment directed under subsection (1) of this section,  
34 the police officer shall attempt in a reasonable and timely manner to  
35 contact the owner of the vehicle and may release the vehicle to the  
36 owner if the owner is reasonably available, as long as the owner was  
37 not in the vehicle at the time of the stop and arrest and the owner  
38 has not received a prior release under this subsection or RCW  
39 46.55.120(1) (~~(a)~~) (b) (ii).

1       (4) The additional procedures outlined in RCW 46.55.360 apply to  
2 any impoundment of a vehicle under subsection (2) (e) of this section.

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

7       ~~((5))~~ (6) For purposes of this section "farm transport vehicle"  
8 means a motor vehicle owned by a farmer and that is being actively  
9 used in the transportation of the farmer's or another farmer's farm,  
10 orchard, aquatic farm, or dairy products, including livestock and  
11 plant or animal wastes, from point of production to market or  
12 disposal, or supplies or commodities to be used on the farm, orchard,  
13 aquatic farm, or dairy, and that has a gross vehicle weight rating of  
14 7,258 kilograms (16,001 pounds) or more.

15       **Sec. 3.** RCW 46.55.360 and 2011 c 167 s 3 are each amended to  
16 read as follows:

17       (1) (a) When a driver of a vehicle is arrested for a violation of  
18 RCW 46.61.502 or 46.61.504 and the officer directs the impoundment of  
19 the vehicle under RCW 46.55.113(2) (e), ~~((the vehicle is subject to~~  
20 ~~summary impoundment and except for a commercial vehicle or farm~~  
21 ~~transport vehicle under subsection (3) (c) of this section,))~~ the  
22 vehicle must be impounded and retained under the process outlined in  
23 this section. With the exception of the twelve-hour hold mandated  
24 under this section, the procedures for notice, redemption, storage,  
25 auction, and sale shall remain the same as for other impounded  
26 vehicles under this chapter.

27       (b) If the police officer directing that a vehicle be impounded  
28 under ~~((this section))~~ RCW 46.55.113(2) (e) has:

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

32       (ii) If the police officer is presented with exigent  
33 circumstances such as being called to another incident or due to  
34 limited available resources being required to return to patrol,  
35 the police officer may place the completed impound order and  
36 inventory inside the vehicle and secure the vehicle by closing the  
37 windows and locking the doors before leaving.

38       (c) If a police officer ~~((directing that a vehicle be impounded~~  
39 ~~under this section))~~ has secured the vehicle and left it pursuant to

1 (b) of this subsection, the police officer and the government or  
2 agency employing the police officer shall not be liable for any  
3 damages to or theft of the vehicle or its contents that occur between  
4 the time the officer leaves and the time that the registered tow  
5 truck operator takes custody of the vehicle, or for the actions of  
6 any person who takes or removes the vehicle before the registered tow  
7 truck operator arrives.

8 (2) (a) When a (~~driver of a~~) vehicle is (~~arrested for a~~  
9 ~~violation of RCW 46.61.502 or 46.61.504~~) impounded under RCW  
10 46.55.113(2)(e) and the driver is a registered owner of the vehicle,  
11 the impounded vehicle may not be redeemed within a twelve-hour period  
12 following the time the impounded vehicle arrives at the registered  
13 tow truck operator's storage facility as noted in the registered tow  
14 truck operator's master log, unless there are two or more registered  
15 owners of the vehicle or there is a legal owner of the vehicle that  
16 is not the driver of the vehicle. A registered owner who is not the  
17 driver of the vehicle or a legal owner who is not the driver of the  
18 vehicle may redeem the impounded vehicle after it arrives at the  
19 registered tow truck operator's storage facility as noted in the  
20 registered tow truck operator's master log.

21 (b) When a (~~driver of a~~) vehicle is (~~arrested for a violation~~  
22 ~~of RCW 46.61.502 or 46.61.504~~) impounded under RCW 46.55.113(2)(e)  
23 and the driver is a registered owner of the vehicle, the police  
24 officer directing the impound shall notify the driver that the  
25 impounded vehicle may not be redeemed within a twelve-hour period  
26 following the time the impounded vehicle arrives at the registered  
27 tow truck operator's storage facility as noted in the registered tow  
28 truck operator's master log, unless there are two or more registered  
29 owners or there is a legal owner who is not the driver of the  
30 vehicle. The police officer directing the impound shall notify the  
31 driver that the impounded vehicle may be redeemed by either a  
32 registered owner or legal owner, who is not the driver of the  
33 vehicle, after the impounded vehicle arrives at the registered tow  
34 truck operator's storage facility as noted in the registered tow  
35 truck operator's master log.

36 (3) (a) When a (~~driver of a~~) vehicle is (~~arrested for a~~  
37 ~~violation of RCW 46.61.502 or 46.61.504~~) impounded under RCW  
38 46.55.113(2)(e) and the driver is not a registered owner of the  
39 vehicle, the impounded vehicle may be redeemed by a registered owner  
40 or legal owner, who is not the driver of the vehicle, after the

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

4 (b) When a (~~driver of a~~) vehicle is (~~arrested for a violation~~  
5 ~~of RCW 46.61.502 or 46.61.504~~) impounded under RCW 46.55.113(2)(e)  
6 and the driver is not a registered owner of the vehicle, the police  
7 officer directing the impound shall notify the driver that the  
8 impounded vehicle may be redeemed by a registered owner or legal  
9 owner, who is not the driver of the vehicle, after the impounded  
10 vehicle arrives at the registered tow truck operator's storage  
11 facility as noted in the registered tow truck operator's master log.

12 (c) If the vehicle is a commercial vehicle or farm transport  
13 vehicle and the driver of the vehicle is not the owner of the  
14 vehicle, (~~before the summary impoundment directed under subsection~~  
15 ~~(1) of this section~~) prior to determining that no reasonable  
16 alternatives to impound exist and directing impoundment of the  
17 vehicle under RCW 46.55.113(2)(e), the police officer (~~shall~~  
18 ~~attempt~~) must have attempted in a reasonable and timely manner to  
19 contact the owner (~~of the vehicle~~), and (~~may~~) release the vehicle  
20 to the owner if the owner (~~is~~) was reasonably available (~~(7, as long~~  
21 ~~as the owner was not in the vehicle at the time of the stop and~~  
22 ~~arrest)~~) and not under the influence of alcohol or any drug.

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

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

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

1        NEW SECTION.   **Sec. 4.**   RCW 46.55.350 (Findings—Intent) and 2011 c  
2   167 s 2 are each repealed.

--- **END** ---