

RCW 46.55.113 Removal by police officer—Definition. (1)

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

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

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

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

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

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

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

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

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

(h) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for 90 days or more;

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

(j) When a vehicle with an expired registration of more than 45 days is parked on a public street;

(k) Upon determining that a person restricted to use of only a motor vehicle equipped with a functioning ignition interlock device is operating a motor vehicle that is not equipped with such a device in violation of RCW 46.20.740(2);

(l) Whenever the driver of a vehicle is arrested for illegal racing conduct in violation of RCW 46.61.500 or 46.61.530 or a comparable municipal ordinance.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle or farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, before the

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

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

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

(6) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more. [2023 c 283 s 6. Prior: 2020 c 330 s 13; 2020 c 117 s 2; 2011 c 167 s 6; (2011 c 167 s 5 expired July 1, 2011); 2010 c 161 s 1120; prior: 2007 c 242 s 1; 2007 c 86 s 1; 2005 c 390 s 5; prior: 2003 c 178 s 1; 2003 c 177 s 1; 1998 c 203 s 4; 1997 c 66 s 7; 1996 c 89 s 1; 1994 c 275 s 32; 1987 c 311 s 10. Formerly RCW 46.61.565.]

Effective date—2023 c 283: See note following RCW 46.04.367.

Finding—Intent—2020 c 117: "The legislature enacted "Hailey's law" in 2011, which requires impoundment of a vehicle when the driver is arrested for driving or being in physical control of the vehicle while under the influence of alcohol or drugs, and also prevents the impaired driver from redeeming the impounded vehicle for a period of twelve hours. In its findings, the legislature reasoned that vehicle impoundment both increases deterrence and prevents an impaired driver from accessing the vehicle for a specified time. In addition, it noted that vehicle impoundment provides an appropriate measure of accountability for registered owners who allow impaired drivers to drive or control their vehicles, but it also allows the registered owners to redeem their vehicles once impounded. The legislature additionally found that any inconvenience on a registered owner is outweighed by the need to protect the public.

The Washington state supreme court recently decided in *State v. Villela* that the mandatory impoundment component of the statute violates the state Constitution. In coming to this conclusion, the court determined that the Constitution requires that the arresting officer make a discretionary determination that impoundment is reasonable and that there are no reasonable alternatives to impoundment.

The legislature finds that, even without mandatory impoundment in every case, there are still many circumstances in which an officer making an arrest for impaired driving or physical control of a vehicle while under the influence will determine that impoundment is reasonable under the circumstances and within the constitutional limitations. In such cases, it is still appropriate and necessary for

the protection of the public to prevent redemption of the impounded vehicle for a minimum of twelve hours. To this end, the legislature intends to clarify that, in cases in which a vehicle is lawfully impounded following the driver's arrest for impaired driving or physical control of a vehicle while under the influence, the twelve hour restriction on redemption of the vehicle still applies." [2020 c 117 s 1.]

Effective date—2011 c 167 s 6: "Section 6 of this act takes effect July 1, 2011." [2011 c 167 s 8.]

Effective date—2011 c 167 s 5: "Section 5 of this act expires July 1, 2011." [2011 c 167 s 9.]

Short title—2011 c 167: See note following RCW 46.55.360.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Finding—1998 c 203: See note following RCW 46.55.105.

Short title—Effective date—1994 c 275: See notes following RCW 46.04.015.

Intent—1984 c 154: "The legislature intends to extend special parking privileges to persons with disabilities that substantially impair mobility." [1984 c 154 s 1.]

Application—1984 c 154: "This act applies to special license plates, cards, or decals issued after June 7, 1984. Nothing in this act invalidates special license plates, cards, or decals issued before June 7, 1984." [1984 c 154 s 9.]

Severability—1984 c 154: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 154 s 10.]