

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1820

54th Legislature
1995 Regular Session

Passed by the House April 19, 1995
Yea 88 Nays 5

**Speaker of the
House of Representatives**

Passed by the Senate April 10, 1995
Yea 44 Nays 0

President of the Senate

Approved

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1820** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1820

AS AMENDED BY THE SENATE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Transportation (originally sponsored by Representative K. Schmidt)

Read first time 03/06/95.

1 AN ACT Relating to towing vehicles; amending RCW 46.55.063,
2 46.55.090, 46.55.100, 46.55.110, 46.55.120, 46.55.140, 46.20.435, and
3 46.61.625; adding a new section to chapter 46.37 RCW; adding a new
4 section to chapter 46.55 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.37 RCW
7 to read as follows:

8 (1) "Safety chains" means flexible tension members connected from
9 the front portion of the towed vehicle to the rear portion of the
10 towing vehicle for the purpose of retaining connection between towed
11 and towing vehicle in the event of failure of the connection provided
12 by the primary connecting system, as prescribed by rule of the
13 Washington state patrol.

14 (2) The term "safety chains" includes chains, cables, or wire
15 ropes, or an equivalent flexible member meeting the strength
16 requirements prescribed by rule of the Washington state patrol.

17 (3) A tow truck towing a vehicle and a vehicle towing a trailer
18 must use safety chains. Failure to comply with this section is a class
19 1 civil infraction punishable under RCW 7.80.120.

1 **NEW SECTION.** **Sec. 2.** A new section is added to chapter 46.55 RCW
2 to read as follows:

3 A vehicle engaging in the business of recovery of disabled vehicles
4 for monetary compensation, from or on a public road or highway must
5 either be operated by a registered tow truck operator, or someone who
6 at a minimum has insurance in a like manner and amount as prescribed in
7 RCW 46.55.030(3), and have had their tow trucks inspected in a like
8 manner as prescribed by RCW 46.55.040(1). The department shall adopt
9 rules to enforce this section. Failure to comply with this section is
10 a class 1 civil infraction punishable under RCW 7.80.120.

11 **Sec. 3.** RCW 46.55.063 and 1989 c 111 s 7 are each amended to read
12 as follows:

13 (1) An operator shall file a fee schedule with the department. All
14 filed fees must be adequate to cover the costs of service provided. No
15 fees may exceed those filed with the department. At least ten days
16 before the effective date of any change in an operator's fee schedule,
17 the registered tow truck operator shall file the revised fee schedule
18 with the department.

19 (2) Towing contracts with private property owners shall be in
20 written form and state the hours of authorization to impound, the
21 persons empowered to authorize the impounds, and the present charge of
22 a private impound for the classes of tow trucks to be used in the
23 impound, and must be retained in the files of the registered tow truck
24 operator for three years.

25 (3) A fee that is charged for tow truck service must be calculated
26 on an hourly basis, and after the first hour must be charged to the
27 nearest quarter hour.

28 (4) ((A)) Fees that ((is)) are charged for the storage of a
29 vehicle, or for other items of personal property registered or titled
30 with the department, must be calculated on a twenty-four hour basis and
31 must be charged to the nearest half day from the time the vehicle
32 arrived at the secure storage area. However, items of personal
33 property registered or titled with the department that are wholly
34 contained within an impounded vehicle are not subject to additional
35 storage fees; they are, however, subject to satisfying the underlying
36 lien for towing and storage of the vehicle in which they are contained.

37 (5) All billing invoices that are provided to the redeemer of the
38 vehicle, or other items of personal property registered or titled with

1 the department, must be itemized so that the individual fees are
2 clearly discernable.

3 **Sec. 4.** RCW 46.55.090 and 1989 c 178 s 25 are each amended to read
4 as follows:

5 (1) All vehicles impounded shall be taken to the nearest storage
6 location that has been inspected and is listed on the application filed
7 with the department.

8 (2) All vehicles shall be handled and returned in substantially the
9 same condition as they existed before being towed.

10 (3) All personal belongings and contents in the vehicle, with the
11 exception of those items of personal property that are registered or
12 titled with the department, shall be kept intact, and shall be returned
13 to the vehicle's owner or agent during normal business hours upon
14 request and presentation of a driver's license or other sufficient
15 identification. Personal belongings, with the exception of those items
16 of personal property that are registered or titled with the department,
17 shall not be sold at auction to fulfill a lien against the vehicle.

18 (4) All personal belongings, with the exception of those items of
19 personal property that are registered or titled with the department,
20 not claimed before the auction shall be turned over to the local law
21 enforcement agency to which the initial notification of impoundment was
22 given. Such personal belongings shall be disposed of pursuant to
23 chapter 63.32 or 63.40 RCW.

24 (5) Tow truck drivers shall have a Washington state driver's
25 license endorsed for the appropriate classification under chapter 46.25
26 RCW or the equivalent issued by another state.

27 (6) Any person who shows proof of ownership or written
28 authorization from the impounded vehicle's registered or legal owner or
29 the vehicle's insurer may view the vehicle without charge during normal
30 business hours.

31 **Sec. 5.** RCW 46.55.100 and 1991 c 20 s 1 are each amended to read
32 as follows:

33 (1) At the time of impoundment the registered tow truck operator
34 providing the towing service shall give immediate notification, by
35 telephone or radio, to a law enforcement agency having jurisdiction who
36 shall maintain a log of such reports. A law enforcement agency, or a
37 private communication center acting on behalf of a law enforcement

1 agency, shall within six to twelve hours of the impoundment, provide to
2 a requesting operator the name and address of the legal and registered
3 owners of the vehicle, and the registered owner of any personal
4 property registered or titled with the department that is attached to
5 or contained in or on the impounded vehicle, the vehicle identification
6 number, and any other necessary, pertinent information. The initial
7 notice of impoundment shall be followed by a written or electronic
8 facsimile notice within twenty-four hours. In the case of a vehicle
9 from another state, time requirements of this subsection do not apply
10 until the requesting law enforcement agency in this state receives the
11 information.

12 (2) The operator shall immediately send an abandoned vehicle report
13 to the department for any vehicle, and for any items of personal
14 property registered or titled with the department, that are in the
15 operator's possession after the ninety-six hour abandonment period.
16 Such report need not be sent when the impoundment is pursuant to a
17 writ, court order, or police hold. The owner notification and
18 abandonment process shall be initiated by the registered tow truck
19 operator immediately following notification by a court or law
20 enforcement officer that the writ, court order, or police hold is no
21 longer in effect.

22 (3) Following the submittal of an abandoned vehicle report, the
23 department shall provide the registered tow truck operator with owner
24 information within seventy-two hours.

25 (4) Within fifteen days of the sale of an abandoned vehicle at
26 public auction, the towing operator shall send a copy of the abandoned
27 vehicle report showing the disposition of the abandoned vehicle and any
28 other items of personal property registered or titled with the
29 department to the crime information center of the Washington state
30 patrol.

31 (5) If the operator sends an abandoned vehicle report to the
32 department and the department finds no owner information, an operator
33 may proceed with an inspection of the vehicle and any other items of
34 personal property registered or titled with the department to determine
35 whether owner identification is within the vehicle.

36 (6) If the operator finds no owner identification, the operator
37 shall immediately notify the appropriate law enforcement agency, which
38 shall search the vehicle and any other items of personal property
39 registered or titled with the department for the vehicle identification

1 number or other appropriate identification numbers and check the
2 necessary records to determine the vehicle's or other property's
3 owners.

4 **Sec. 6.** RCW 46.55.110 and 1989 c 111 s 10 are each amended to read
5 as follows:

6 (1) When an unauthorized vehicle is impounded, the impounding
7 towing operator shall notify the legal and registered owners of the
8 impoundment of the unauthorized vehicle and the owners of any other
9 items of personal property registered or titled with the department.
10 The notification shall be sent by first-class mail within twenty-four
11 hours after the impoundment to the last known registered and legal
12 owners of the vehicle, and the owners of any other items of personal
13 property registered or titled with the department, as provided by the
14 law enforcement agency, and shall inform the owners of the identity of
15 the person or agency authorizing the impound. The notification shall
16 include the name of the impounding tow firm, its address, and telephone
17 number. The notice shall also include the location, time of the
18 impound, and by whose authority the vehicle was impounded. The notice
19 shall also include the written notice of the right of redemption and
20 opportunity for a hearing to contest the validity of the impoundment
21 pursuant to RCW 46.55.120.

22 (2) In the case of an abandoned vehicle, or other item of personal
23 property registered or titled with the department, within twenty-four
24 hours after receiving information on the ((vehicle)) owners from the
25 department through the abandoned vehicle report, the tow truck operator
26 shall send by certified mail, with return receipt requested, a notice
27 of custody and sale to the legal and registered owners.

28 (3) No notices need be sent to the legal or registered owners of an
29 impounded vehicle or other item of personal property registered or
30 titled with the department, if the vehicle or personal property has
31 been redeemed.

32 **Sec. 7.** RCW 46.55.120 and 1993 c 121 s 3 are each amended to read
33 as follows:

34 (1) Vehicles or other items of personal property registered or
35 titled with the department that are impounded by registered tow truck
36 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be
37 redeemed only under the following circumstances:

1 (a) Only the legal owner, the registered owner, a person authorized
2 in writing by the registered owner or the vehicle's insurer, a person
3 who is determined and verified by the operator to have the permission
4 of the registered owner of the vehicle or other item of personal
5 property registered or titled with the department, or one who has
6 purchased a vehicle or item of personal property registered or titled
7 with the department from the registered owner who produces proof of
8 ownership or written authorization and signs a receipt therefor, may
9 redeem an impounded vehicle or items of personal property registered or
10 titled with the department.

11 (b) The vehicle or other item of personal property registered or
12 titled with the department shall be released upon the presentation to
13 any person having custody of the vehicle of commercially reasonable
14 tender sufficient to cover the costs of towing, storage, or other
15 services rendered during the course of towing, removing, impounding, or
16 storing any such vehicle. Commercially reasonable tender shall
17 include, without limitation, cash, major bank credit cards, or personal
18 checks drawn on in-state banks if accompanied by two pieces of valid
19 identification, one of which may be required by the operator to have a
20 photograph. If the towing firm can determine through the customer's
21 bank or a check verification service that the presented check would not
22 be paid by the bank or guaranteed by the service, the towing firm may
23 refuse to accept the check. Any person who stops payment on a personal
24 check or credit card, or does not make restitution within ten days from
25 the date a check becomes insufficient due to lack of funds, to a towing
26 firm that has provided a service pursuant to this section or in any
27 other manner defrauds the towing firm in connection with services
28 rendered pursuant to this section shall be liable for damages in the
29 amount of twice the towing and storage fees, plus costs and reasonable
30 attorney's fees.

31 (2)(a) The registered tow truck operator shall give to each person
32 who seeks to redeem an impounded vehicle, or item of personal property
33 registered or titled with the department, written notice of the right
34 of redemption and opportunity for a hearing, which notice shall be
35 accompanied by a form to be used for requesting a hearing, the name of
36 the person or agency authorizing the impound, and a copy of the towing
37 and storage invoice. The registered tow truck operator shall maintain
38 a record evidenced by the redeeming person's signature that such
39 notification was provided.

1 (b) Any person seeking to redeem an impounded vehicle under this
2 section has a right to a hearing in the district court for the
3 jurisdiction in which the vehicle was impounded to contest the validity
4 of the impoundment or the amount of towing and storage charges. The
5 district court has jurisdiction to determine the issues involving all
6 impoundments including those authorized by the state or its agents.
7 Any request for a hearing shall be made in writing on the form provided
8 for that purpose and must be received by the district court within ten
9 days of the date the opportunity was provided for in subsection (2)(a)
10 of this section. If the hearing request is not received by the
11 district court within the ten-day period, the right to a hearing is
12 waived and the registered owner is liable for any towing, storage, or
13 other impoundment charges permitted under this chapter. Upon receipt
14 of a timely hearing request, the district court shall proceed to hear
15 and determine the validity of the impoundment.

16 (3)(a) The district court, within five days after the request for
17 a hearing, shall notify the registered tow truck operator, the person
18 requesting the hearing if not the owner, the registered and legal
19 owners of the vehicle or other item of personal property registered or
20 titled with the department, and the person or agency authorizing the
21 impound in writing of the hearing date and time.

22 (b) At the hearing, the person or persons requesting the hearing
23 may produce any relevant evidence to show that the impoundment, towing,
24 or storage fees charged were not proper.

25 (c) At the conclusion of the hearing, the district court shall
26 determine whether the impoundment was proper, whether the towing or
27 storage fees charged were in compliance with the posted rates, and who
28 is responsible for payment of the fees. The court may not adjust fees
29 or charges that are in compliance with the posted or contracted rates.

30 (d) If the impoundment is found proper, the impoundment, towing,
31 and storage fees as permitted under this chapter together with court
32 costs shall be assessed against the person or persons requesting the
33 hearing, unless the operator did not have a signed and valid
34 impoundment authorization from a private property owner or an
35 authorized agent.

36 (e) If the impoundment is determined to be in violation of this
37 chapter, then the registered and legal owners of the vehicle or other
38 item of personal property registered or titled with the department
39 shall bear no impoundment, towing, or storage fees, and any security

1 shall be returned or discharged as appropriate, and the person or
2 agency who authorized the impoundment shall be liable for any towing,
3 storage, or other impoundment fees permitted under this chapter. The
4 court shall enter judgment in favor of the registered tow truck
5 operator against the person or agency authorizing the impound for the
6 impoundment, towing, and storage fees paid. In addition, the court
7 shall enter judgment in favor of the registered and legal owners of the
8 vehicle, or other item of personal property registered or titled with
9 the department, for reasonable damages for loss of the use of the
10 vehicle during the time the same was impounded, for not less than fifty
11 dollars per day, against the person or agency authorizing the impound.
12 If any judgment entered is not paid within fifteen days of notice in
13 writing of its entry, the court shall award reasonable attorneys' fees
14 and costs against the defendant in any action to enforce the judgment.
15 Notice of entry of judgment may be made by registered or certified
16 mail, and proof of mailing may be made by affidavit of the party
17 mailing the notice. Notice of the entry of the judgment shall read
18 essentially as follows:

19 TO: *[REDACTED]*

20 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
21 Court located at in the sum of
22 \$, in an action entitled , Case No.
23 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
24 will be awarded against you under RCW . . . if the judgment is
25 not paid within 15 days of the date of this notice.

26 DATED this . . . day of 19. . .

27 Signature

30 (4) Any impounded abandoned vehicle or item of personal property
31 registered or titled with the department that is not redeemed within
32 fifteen days of mailing of the notice of custody and sale as required
33 by RCW 46.55.110(2) shall be sold at public auction in accordance with
34 all the provisions and subject to all the conditions of RCW 46.55.130.
35 A vehicle or item of personal property registered or titled with the
36 department may be redeemed at any time before the start of the auction
37 upon payment of the applicable towing and storage fees.

1 **Sec. 8.** RCW 46.55.140 and 1992 c 200 s 1 are each amended to read
2 as follows:

3 (1) A registered tow truck operator who has a valid and signed
4 impoundment authorization has a lien upon the impounded vehicle for
5 services provided in the towing and storage of the vehicle, unless the
6 impoundment is determined to have been invalid. The lien does not
7 apply to personal property in or upon the vehicle that is not
8 permanently attached to or is not an integral part of the vehicle
9 except for items of personal property registered or titled with the
10 department. The registered tow truck operator also has a deficiency
11 claim against the registered owner of the vehicle for services provided
12 in the towing and storage of the vehicle not to exceed the sum of
13 ((three)) five hundred dollars ((less)) after deduction of the amount
14 bid at auction, and for vehicles of over ten thousand pounds gross
15 vehicle weight, the operator has a deficiency claim of one thousand
16 dollars ((less)) after deduction of the amount bid at auction, unless
17 the impound is determined to be invalid. The limitation on towing and
18 storage deficiency claims does not apply to an impound directed by a
19 law enforcement officer. In no case may the cost of the auction or a
20 buyer's fee be added to the amount charged for the vehicle at the
21 auction, the vehicle's lien, or the overage due. A registered owner
22 who has completed and filed with the department the seller's report as
23 provided for by RCW 46.12.101 and has timely and properly filed the
24 seller's report is relieved of liability under this section. The
25 person named as the new owner of the vehicle on the timely and properly
26 filed seller's report shall assume liability under this section.

27 (2) Any person who tows, removes, or otherwise disturbs any vehicle
28 parked, stalled, or otherwise left on privately owned or controlled
29 property, and any person owning or controlling the private property, or
30 either of them, are liable to the owner or operator of a vehicle, or
31 each of them, for consequential and incidental damages arising from any
32 interference with the ownership or use of the vehicle which does not
33 comply with the requirements of this chapter.

34 **Sec. 9.** RCW 46.20.435 and 1985 c 391 s 1 are each amended to read
35 as follows:

36 (1) Upon determining that a person is operating a motor vehicle
37 without a valid driver's license in violation of RCW 46.20.021 or with
38 a license that has been expired for ninety days or more, or with a

1 suspended or revoked license in violation of RCW 46.20.342 or
2 46.20.420, a law enforcement officer may immediately impound the
3 vehicle that the person is operating.

4 (2) ((If the driver of the vehicle is the owner of the vehicle,))
5 The officer shall not release the vehicle impounded under subsection
6 (1) of this section until the owner of the vehicle:

7 (a) Establishes that any penalties, fines, or forfeitures owed by
8 the ((person driving)) registered owner of the vehicle ((when it)) that
9 was impounded have been satisfied; and

10 (b) Pays the reasonable costs of such impoundment and storage.

11 (3) ((If the driver of the vehicle is not the owner of the vehicle,
12 the driver shall be responsible for any penalties, fines, or
13 forfeitures owed or due and for the costs of impoundment and storage.
14 The vehicle shall be released to the owner immediately upon proof of
15 such ownership.)

16 (4)) Whenever a vehicle has been impounded by a law enforcement
17 officer, the officer shall immediately serve upon the driver of the
18 impounded vehicle a notice informing the recipient of his or her right
19 to a hearing in the district court for the jurisdiction in which the
20 vehicle was impounded to contest the validity of the impoundment or the
21 amount of towing or the amount of towing and storage charges. A
22 request for a hearing shall be made in writing on the form provided for
23 that purpose and must be received by the district court within ten days
24 of the date of the impound. If the hearing request is not received by
25 the district court within the ten-day period, the right to a hearing is
26 waived and the driver is liable for any towing, storage, or other
27 impoundment charges permitted under this chapter. Upon receipt of a
28 timely hearing request, the district court shall proceed to hear and
29 determine the validity of the impoundment.

30 ((+5)) (4)(a) The district court, within five days after the
31 request for a hearing, shall notify the driver in writing of the
32 hearing date and time.

33 (b) At the hearing, the person requesting the hearing may produce
34 any relevant evidence to show that the impoundment was not proper.

35 (c) At the conclusion of the hearing, the district court shall
36 determine whether the impoundment was proper, whether the driver was
37 responsible for any penalties, fines, or forfeitures owed or due at the
38 time of the impoundment, and whether they have been satisfied.

1 (d) A certified transcript or abstract of the driving record of the
2 driver, as maintained by the department, is admissible in evidence in
3 any hearing and is prima facie evidence of the status of the driving
4 privilege of the person named in it at the time of the impoundment and
5 whether there were penalties, fines, or forfeitures due and owing by
6 the person named in it at the time the impoundment occurred.

7 **Sec. 10.** RCW 46.61.625 and 1965 ex.s. c 155 s 73 are each amended
8 to read as follows:

9 (1) No person or persons shall occupy any trailer while it is being
10 moved upon a public highway, except a person occupying a proper
11 position for steering a trailer designed to be steered from a rear-end
12 position.

13 (2) No person or persons may occupy a vehicle while it is being
14 towed by a tow truck as defined in RCW 46.55.010(8).

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