

2 ESHB 1221 - S AMD - 850

3 By Senators Roach, Kline, Stevens, Long, Thibaudeau, Hargrove,
4 Johnson, McCaslin, Fairley, Zarelli and Goings

5 ADOPTED 3/3/98

6 Strike everything after the enacting clause and insert the
7 following:

8 "NEW SECTION. Sec. 1. The legislature finds that the license to
9 drive a motor vehicle on the public highways is suspended or revoked in
10 order to protect public safety following a driver's failure to comply
11 with the laws of this state. Over six hundred persons are killed in
12 traffic accidents in Washington annually, and more than eighty-four
13 thousand persons are injured. It is estimated that of the three
14 million four hundred thousand drivers' licenses issued to citizens of
15 Washington, more than two hundred sixty thousand are suspended or
16 revoked at any given time. Suspended drivers are more likely to be
17 involved in causing traffic accidents, including fatal accidents, than
18 properly licensed drivers, and pose a serious threat to the lives and
19 property of Washington residents. Statistics show that suspended
20 drivers are three times more likely to kill or seriously injure others
21 in the commission of traffic felony offenses than are validly licensed
22 drivers. In addition to not having a driver's license, most such
23 drivers also lack required liability insurance, increasing the
24 financial burden upon other citizens through uninsured losses and
25 higher insurance costs for validly licensed drivers. Because of the
26 threat posed by suspended drivers, all registered owners of motor
27 vehicles in Washington have a duty to not allow their vehicles to be
28 driven by a suspended driver.

29 Despite the existence of criminal penalties for driving with a
30 suspended or revoked license, an estimated seventy-five percent of
31 these drivers continue to drive anyway. Existing sanctions are not
32 sufficient to deter or prevent persons with a suspended or revoked
33 license from driving. It is common for suspended drivers to resume
34 driving immediately after being stopped, cited, and released by a
35 police officer and to continue to drive while a criminal prosecution
36 for suspended driving is pending. More than half of all suspended

1 drivers charged with the crime of driving while suspended or revoked
2 fail to appear for court hearings. Vehicle impoundment will provide an
3 immediate consequence which will increase deterrence and reduce
4 unlawful driving by preventing a suspended driver access to that
5 vehicle. Vehicle impoundment will also provide an appropriate measure
6 of accountability for registered owners who permit suspended drivers to
7 drive their vehicles. Impoundment of vehicles driven by suspended
8 drivers has been shown to reduce future driving while suspended or
9 revoked offenses for up to two years afterwards, and the recidivism
10 rate for drivers whose cars were not impounded was one hundred percent
11 higher than for drivers whose cars were impounded. In order to
12 adequately protect public safety and to enforce the state's driver
13 licensing laws, it is necessary to authorize the impoundment of any
14 vehicle when it is found to be operated by a driver with a suspended or
15 revoked license in violation of RCW 46.20.342 and 46.20.420. The
16 impoundment of a vehicle operated in violation of RCW 46.20.342 or
17 46.20.420 is intended to be a civil in rem action against the vehicle
18 in order to remove it from the public highways and reduce the risk
19 posed to traffic safety by a vehicle accessible to a driver who is
20 reasonably believed to have violated these laws.

21 **Sec. 2.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read
22 as follows:

23 (1) The abandonment of any vehicle creates a prima facie
24 presumption that the last registered owner of record is responsible for
25 the abandonment and is liable for costs incurred in removing, storing,
26 and disposing of the abandoned vehicle, less amounts realized at
27 auction.

28 (2) If an unauthorized vehicle is found abandoned under subsection
29 (1) of this section and removed at the direction of law enforcement,
30 the last registered owner of record is guilty of a traffic infraction,
31 unless the vehicle is redeemed as provided in RCW 46.55.120. In
32 addition to any other monetary penalty payable under chapter 46.63 RCW,
33 the court shall not consider all monetary penalties as having been paid
34 until the court is satisfied that the person found to have committed
35 the infraction has made restitution in the amount of the deficiency
36 remaining after disposal of the vehicle under RCW 46.55.140.

37 (3) A vehicle theft report filed with a law enforcement agency
38 relieves the last registered owner of liability under subsection (2) of

1 this section for failure to redeem the vehicle. However, the last
2 registered owner remains liable for the costs incurred in removing,
3 storing, and disposing of the abandoned vehicle under subsection (1) of
4 this section. Nothing in this section limits in any way the registered
5 owner's rights in a civil action or as restitution in a criminal action
6 against a person responsible for the theft of the vehicle.

7 (4) Properly filing a report of sale or transfer regarding the
8 vehicle involved in accordance with RCW 46.12.101(1) (~~or a vehicle~~
9 theft report filed with a law enforcement agency)) relieves the last
10 registered owner of liability under subsections (1) and (2) of this
11 section. If the date of sale as indicated on the report of sale is on
12 or before the date of impoundment, the buyer identified on the latest
13 properly filed report of sale with the department is assumed liable for
14 the costs incurred in removing, storing, and disposing of the abandoned
15 vehicle, less amounts realized at auction. If the date of sale is
16 after the date of impoundment, the previous registered owner is assumed
17 to be liable for such costs. A licensed vehicle dealer is not liable
18 under subsections (1) and (2) of this section if the dealer, as
19 transferee or assignee of the last registered owner of the vehicle
20 involved, has complied with the requirements of RCW 46.70.122 upon
21 selling or otherwise disposing of the vehicle, or if the dealer has
22 timely filed a transitional ownership record or report of sale under
23 section 12 of this act. In that case the person to whom the licensed
24 vehicle dealer has sold or transferred the vehicle is assumed liable
25 for the costs incurred in removing, storing, and disposing of the
26 abandoned vehicle, less amounts realized at auction.

27 ~~((+4))~~ (5) For the purposes of reporting notices of traffic
28 infraction to the department under RCW 46.20.270 and 46.52.100, and for
29 purposes of reporting notices of failure to appear, respond, or comply
30 regarding a notice of traffic infraction to the department under RCW
31 46.63.070(5), a traffic infraction under subsection (2) of this section
32 is not considered to be a standing, stopping, or parking violation.

33 ~~((+5))~~ (6) A notice of infraction for a violation of this section
34 may be filed with a court of limited jurisdiction organized under Title
35 3, 35, or 35A RCW, or with a violations bureau subject to the court's
36 jurisdiction.

37 **Sec. 3.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read
38 as follows:

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

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

23 (3) If the date on which a notice required by subsection (2) of
24 this section is to be mailed falls upon a Saturday, Sunday, or a postal
25 holiday, the notice may be mailed on the next day that is neither a
26 Saturday, Sunday, nor a postal holiday.

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

31 **Sec. 4.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read
32 as follows:

33 Whenever the driver of a vehicle is arrested for a violation of RCW
34 46.61.502 or 46.61.504 or of RCW 46.20.342 or 46.20.420, the
35 ~~((arresting officer may take custody of the vehicle and provide for its~~
36 ~~prompt removal to a place of safety)) vehicle is subject to
37 impoundment, pursuant to applicable local ordinance or state agency
38 rule at the direction of a law enforcement officer. In addition, a~~

1 police officer may take custody of a vehicle and provide for its prompt
2 removal to a place of safety under any of the following circumstances:

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

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

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

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

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

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

24 (7) Upon determining that a person is operating a motor vehicle
25 without a valid driver's license in violation of RCW 46.20.005 or with
26 a license that has been expired for ninety days or more(~~(, or with a~~
27 ~~suspended or revoked license in violation of RCW 46.20.342 or~~
28 ~~46.20.420))).~~

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

33 **Sec. 5.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read
34 as follows:

35 (1) Vehicles or other items of personal property registered or
36 titled with the department that are impounded by registered tow truck
37 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be
38 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. In addition, a vehicle impounded because
11 the operator is in violation of RCW 46.20.342(1)(c) shall not be
12 released until a person eligible to redeem it under this subsection
13 (1)(a) satisfies the requirements of (b) of this subsection, including
14 paying all towing, removal, and storage fees, notwithstanding the fact
15 that the hold was ordered by a government agency. If the department's
16 records show that the operator has been convicted of a violation of RCW
17 46.20.342 or a similar local ordinance within the past five years, the
18 vehicle may be held for up to thirty days at the written direction of
19 the agency ordering the vehicle impounded. A vehicle impounded because
20 the operator is arrested for a violation of RCW 46.20.342 may be
21 released only pursuant to a written order from the agency that ordered
22 the vehicle impounded. An agency may issue a written order to release
23 pursuant to a provision of an applicable state agency rule or local
24 ordinance authorizing release on the basis of economic or personal
25 hardship to the spouse of the operator, taking into consideration
26 public safety factors, including the operator's criminal history and
27 driving record.

28 If a vehicle is impounded because the operator is in violation of
29 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
30 days at the written direction of the agency ordering the vehicle
31 impounded. However, if the department's records show that the operator
32 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
33 similar local ordinance within the past five years, the vehicle may be
34 held at the written direction of the agency ordering the vehicle
35 impounded for up to sixty days, and for up to ninety days if the
36 operator has two or more such prior offenses. If a vehicle is
37 impounded because the operator is arrested for a violation of RCW
38 46.20.342, the vehicle may not be released until a person eligible to
39 redeem it under this subsection (1)(a) satisfies the requirements of

1 (b) of this subsection, including paying all towing, removal, and
2 storage fees, notwithstanding the fact that the hold was ordered by a
3 government agency.

4 (b) The vehicle or other item of personal property registered or
5 titled with the department shall be released upon the presentation to
6 any person having custody of the vehicle of commercially reasonable
7 tender sufficient to cover the costs of towing, storage, or other
8 services rendered during the course of towing, removing, impounding, or
9 storing any such vehicle. In addition, if a vehicle is impounded
10 because the operator was arrested for a violation of RCW 46.20.342 or
11 46.20.420 and was being operated by the registered owner when it was
12 impounded, it must not be released to any person until the registered
13 owner establishes with the agency that ordered the vehicle impounded
14 that any penalties, fines, or forfeitures owed by him or her have been
15 satisfied. Commercially reasonable tender shall include, without
16 limitation, cash, major bank credit cards, or personal checks drawn on
17 in-state banks if accompanied by two pieces of valid identification,
18 one of which may be required by the operator to have a photograph. If
19 the towing firm can determine through the customer's bank or a check
20 verification service that the presented check would not be paid by the
21 bank or guaranteed by the service, the towing firm may refuse to accept
22 the check. Any person who stops payment on a personal check or credit
23 card, or does not make restitution within ten days from the date a
24 check becomes insufficient due to lack of funds, to a towing firm that
25 has provided a service pursuant to this section or in any other manner
26 defrauds the towing firm in connection with services rendered pursuant
27 to this section shall be liable for damages in the amount of twice the
28 towing and storage fees, plus costs and reasonable attorney's fees.

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

38 (b) Any person seeking to redeem an impounded vehicle under this
39 section has a right to a hearing in the district or municipal court for

1 the jurisdiction in which the vehicle was impounded to contest the
2 validity of the impoundment or the amount of towing and storage
3 charges. The district court has jurisdiction to determine the issues
4 involving all impoundments including those authorized by the state or
5 its agents. The municipal court has jurisdiction to determine the
6 issues involving impoundments authorized by agents of the municipality.
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~~)) appropriate
9 court within ten days of the date the opportunity was provided for in
10 subsection (2)(a) of this section. At the time of the filing of the
11 hearing request, the petitioner shall pay to the court clerk a filing
12 fee in the same amount required for the filing of a suit in district
13 court. If the hearing request is not received by the ((~~district~~))
14 court within the ten-day period, the right to a hearing is waived and
15 the registered owner is liable for any towing, storage, or other
16 impoundment charges permitted under this chapter. Upon receipt of a
17 timely hearing request, the ((~~district~~)) court shall proceed to hear
18 and determine the validity of the impoundment.

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

25 (b) At the hearing, the person or persons requesting the hearing
26 may produce any relevant evidence to show that the impoundment, towing,
27 or storage fees charged were not proper. The court may consider a
28 written report made under oath by the officer who authorized the
29 impoundment in lieu of the officer's personal appearance at the
30 hearing.

31 (c) At the conclusion of the hearing, the ((~~district~~)) court shall
32 determine whether the impoundment was proper, whether the towing or
33 storage fees charged were in compliance with the posted rates, and who
34 is responsible for payment of the fees. The court may not adjust fees
35 or charges that are in compliance with the posted or contracted rates.

36 (d) If the impoundment is found proper, the impoundment, towing,
37 and storage fees as permitted under this chapter together with court
38 costs shall be assessed against the person or persons requesting the
39 hearing, unless the operator did not have a signed and valid

1 impoundment authorization from a private property owner or an
2 authorized agent.

3 (e) If the impoundment is determined to be in violation of this
4 chapter, then the registered and legal owners of the vehicle or other
5 item of personal property registered or titled with the department
6 shall bear no impoundment, towing, or storage fees, and any security
7 shall be returned or discharged as appropriate, and the person or
8 agency who authorized the impoundment shall be liable for any towing,
9 storage, or other impoundment fees permitted under this chapter. The
10 court shall enter judgment in favor of the registered tow truck
11 operator against the person or agency authorizing the impound for the
12 impoundment, towing, and storage fees paid. In addition, the court
13 shall enter judgment in favor of the registered and legal owners of the
14 vehicle, or other item of personal property registered or titled with
15 the department, for the amount of the filing fee required by law for
16 the impound hearing petition as well as reasonable damages for loss of
17 the use of the vehicle during the time the same was impounded, for not
18 less than fifty dollars per day, against the person or agency
19 authorizing the impound. However, if an impoundment arising from an
20 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in
21 violation of this chapter, then the law enforcement officer directing
22 the impoundment and the government employing the officer are not liable
23 for damages if the officer relied in good faith and without gross
24 negligence on the records of the department in ascertaining that the
25 operator of the vehicle had a suspended or revoked driver's license.
26 If any judgment entered is not paid within fifteen days of notice in
27 writing of its entry, the court shall award reasonable attorneys' fees
28 and costs against the defendant in any action to enforce the judgment.
29 Notice of entry of judgment may be made by registered or certified
30 mail, and proof of mailing may be made by affidavit of the party
31 mailing the notice. Notice of the entry of the judgment shall read
32 essentially as follows:

33 TO:
34 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
35 Court located at in the sum of
36 \$., in an action entitled, Case No.
37 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
38 will be awarded against you under RCW . . . if the judgment is
39 not paid within 15 days of the date of this notice.

1 DATED this day of, ((19)) (year) . . .

2 Signature

3 Typed name and address

4 of party mailing notice

5 (4) Any impounded abandoned vehicle or item of personal property
6 registered or titled with the department that is not redeemed within
7 fifteen days of mailing of the notice of custody and sale as required
8 by RCW 46.55.110(2) shall be sold at public auction in accordance with
9 all the provisions and subject to all the conditions of RCW 46.55.130.
10 A vehicle or item of personal property registered or titled with the
11 department may be redeemed at any time before the start of the auction
12 upon payment of the applicable towing and storage fees.

13 **Sec. 6.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read
14 as follows:

15 (1) If, after the expiration of fifteen days from the date of
16 mailing of notice of custody and sale required in RCW 46.55.110(2) to
17 the registered and legal owners, the vehicle remains unclaimed and has
18 not been listed as a stolen vehicle, then the registered tow truck
19 operator having custody of the vehicle shall conduct a sale of the
20 vehicle at public auction after having first published a notice of the
21 date, place, and time of the auction in a newspaper of general
22 circulation in the county in which the vehicle is located not less than
23 three days and no more than ten days before the date of the auction.
24 The notice shall contain a description of the vehicle including the
25 make, model, year, and license number and a notification that a three-
26 hour public viewing period will be available before the auction. The
27 auction shall be held during daylight hours of a normal business day.

28 (2) The following procedures are required in any public auction of
29 such abandoned vehicles:

30 (a) The auction shall be held in such a manner that all persons
31 present are given an equal time and opportunity to bid;

32 (b) All bidders must be present at the time of auction unless they
33 have submitted to the registered tow truck operator, who may or may not
34 choose to use the preauction bid method, a written bid on a specific
35 vehicle. Written bids may be submitted up to five days before the
36 auction and shall clearly state which vehicle is being bid upon, the
37 amount of the bid, and who is submitting the bid;

1 (c) The open bid process, including all written bids, shall be used
2 so that everyone knows the dollar value that must be exceeded;

3 (d) The highest two bids received shall be recorded in written form
4 and shall include the name, address, and telephone number of each such
5 bidder;

6 (e) In case the high bidder defaults, the next bidder has the right
7 to purchase the vehicle for the amount of his or her bid;

8 (f) The successful bidder shall apply for title within fifteen
9 days;

10 (g) The registered tow truck operator shall post a copy of the
11 auction procedure at the bidding site. If the bidding site is
12 different from the licensed office location, the operator shall post a
13 clearly visible sign at the office location that describes in detail
14 where the auction will be held. At the bidding site a copy of the
15 newspaper advertisement that lists the vehicles for sale shall be
16 posted;

17 (h) All surplus moneys derived from the auction after satisfaction
18 of the registered tow truck operator's lien shall be remitted within
19 thirty days to the department for deposit in the state motor vehicle
20 fund. A report identifying the vehicles resulting in any surplus shall
21 accompany the remitted funds. If the director subsequently receives a
22 valid claim from the registered vehicle owner of record as determined
23 by the department within one year from the date of the auction, the
24 surplus moneys shall be remitted to such owner;

25 (i) If an operator receives no bid, or if the operator is the
26 successful bidder at auction, the operator shall, within (~~thirty~~)
27 forty-five days sell the vehicle to a licensed vehicle wrecker, hulk
28 hauler, or scrap processor by use of the abandoned vehicle report-
29 affidavit of sale, or the operator shall apply for title to the
30 vehicle.

31 (3) In no case may an operator hold a vehicle for longer than
32 ninety days without holding an auction on the vehicle, except for
33 vehicles that are under a police or judicial hold.

34 (4)(a) In no case may the accumulation of storage charges exceed
35 fifteen days from the date of receipt of the information by the
36 operator from the department as provided by RCW 46.55.110(2).

37 (b) The failure of the registered tow truck operator to comply with
38 the time limits provided in this chapter limits the accumulation of
39 storage charges to five days except where delay is unavoidable.

1 Providing incorrect or incomplete identifying information to the
2 department in the abandoned vehicle report shall be considered a
3 failure to comply with these time limits if correct information is
4 available.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.55 RCW
6 to read as follows:

7 (1) This section applies to any impoundment of a vehicle when a
8 driver is arrested for a violation of RCW 46.61.502 or 46.61.504, or of
9 RCW 46.61.520 or 46.61.522 if committed while under the influence, as
10 provided for in RCW 46.55.113 and 46.55.120.

11 (2) Any local government ordinance or state agency rule that
12 provides for impoundment and redemption of vehicles may allow for
13 alternative home impoundment of vehicles for all or part of the
14 impoundment periods authorized in RCW 46.55.120. Home impoundment is
15 an alternative to impoundment by a registered tow truck operator. Home
16 impoundment consists of removing a vehicle to the registered owner's
17 residence or other property, or to another place authorized by the
18 ordinance or rule, and placing a boot or other device on the vehicle to
19 render it immobile. The jurisdiction authorizing home impoundment may
20 charge a reasonable rental fee for the use of the boot or other device
21 during the period of home impoundment. The local government ordinance
22 or state agency rule may provide that the owner or driver of the
23 vehicle may elect whether to be subject to impoundment under RCW
24 46.55.120 or home impoundment under this section.

25 (3) Before any home impoundment is begun, the vehicle must be
26 redeemed as provided for in RCW 46.55.120 if any impoundment has
27 occurred under that section, and any towing fee incurred in getting the
28 vehicle to the place of home impoundment must be paid.

29 (4) At the end of the period of home impoundment, the vehicle may
30 be released only after all rental fees have been paid and only to a
31 person who would qualify to redeem an impounded vehicle under RCW
32 46.55.120.

33 (5) A local ordinance or state agency rule may provide for
34 impoundment by a registered tow truck operator if at the end of the
35 period of home impoundment there is no qualified person to whom the
36 vehicle may be released.

37 (6) A local ordinance or state agency rule may provide that if the
38 boot or other device on a vehicle in home impoundment is tampered with,

1 damaged, removed, or rendered inoperative, the vehicle may be released
2 only upon payment of all applicable rental fees plus payment of a fee
3 equal to the impoundment costs that would have been incurred had the
4 vehicle been impounded under RCW 46.55.120 during the period of home
5 impoundment.

6 **Sec. 8.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read
7 as follows:

8 The definitions set forth in this section apply throughout this
9 chapter:

10 (1) "Abandoned vehicle" means a vehicle that a registered tow truck
11 operator has impounded and held in the operator's possession for
12 (~~ninety-six~~) one hundred twenty consecutive hours.

13 (2) "Abandoned vehicle report" means the document prescribed by the
14 state that the towing operator forwards to the department after a
15 vehicle has become abandoned.

16 (3) "Impound" means to take and hold a vehicle in legal custody.
17 There are two types of impounds«public and private.

18 (a) "Public impound" means that the vehicle has been impounded at
19 the direction of a law enforcement officer or by a public official
20 having jurisdiction over the public property upon which the vehicle was
21 located.

22 (b) "Private impound" means that the vehicle has been impounded at
23 the direction of a person having control or possession of the private
24 property upon which the vehicle was located.

25 (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as
26 meeting at least three of the following requirements:

27 (a) Is three years old or older;

28 (b) Is extensively damaged, such damage including but not limited
29 to any of the following: A broken window or windshield, or missing
30 wheels, tires, motor, or transmission;

31 (c) Is apparently inoperable;

32 (d) Has an approximate fair market value equal only to the
33 approximate value of the scrap in it.

34 (5) "Master log" means the document or an electronic facsimile
35 prescribed by the department and the Washington state patrol in which
36 an operator records transactions involving impounded vehicles.

1 (6) "Registered tow truck operator" or "operator" means any person
2 who engages in the impounding, transporting, or storage of unauthorized
3 vehicles or the disposal of abandoned vehicles.

4 (7) "Residential property" means property that has no more than
5 four living units located on it.

6 (8) "Tow truck" means a motor vehicle that is equipped for and used
7 in the business of towing vehicles with equipment as approved by the
8 state patrol.

9 (9) "Tow truck number" means the number issued by the department to
10 tow trucks used by a registered tow truck operator in the state of
11 Washington.

12 (10) "Tow truck permit" means the permit issued annually by the
13 department that has the classification of service the tow truck may
14 provide stamped upon it.

15 (11) "Tow truck service" means the transporting upon the public
16 streets and highways of this state of vehicles, together with personal
17 effects and cargo, by a tow truck of a registered operator.

18 (12) "Unauthorized vehicle" means a vehicle that is subject to
19 impoundment after being left unattended in one of the following public
20 or private locations for the indicated period of time:

21 Subject to removal after:

- 22 (a) Public locations:
- 23 (i) Constituting an accident or a traffic hazard as
24 defined in RCW 46.55.113 Immediately
 - 25 (ii) On a highway and tagged as described in RCW
26 46.55.085 24 hours
 - 27 (iii) In a publicly owned or controlled parking facility,
28 properly posted under RCW
29 46.55.070 Immediately
- 30 (b) Private locations:
- 31 (i) On residential property Immediately
 - 32 (ii) On private, nonresidential property, properly
33 posted under RCW 46.55.070 Immediately
 - 34 (iii) On private, nonresidential property,
35 not posted 24 hours

36 **Sec. 9.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read
37 as follows:

1 (1) At the time of impoundment the registered tow truck operator
2 providing the towing service shall give immediate notification, by
3 telephone or radio, to a law enforcement agency having jurisdiction who
4 shall maintain a log of such reports. A law enforcement agency, or a
5 private communication center acting on behalf of a law enforcement
6 agency, shall within six to twelve hours of the impoundment, provide to
7 a requesting operator the name and address of the legal and registered
8 owners of the vehicle, and the registered owner of any personal
9 property registered or titled with the department that is attached to
10 or contained in or on the impounded vehicle, the vehicle identification
11 number, and any other necessary, pertinent information. The initial
12 notice of impoundment shall be followed by a written or electronic
13 facsimile notice within twenty-four hours. In the case of a vehicle
14 from another state, time requirements of this subsection do not apply
15 until the requesting law enforcement agency in this state receives the
16 information.

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

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

30 (4) Within (~~fifteen~~) fourteen days of the sale of an abandoned
31 vehicle at public auction, the towing operator shall send a copy of the
32 abandoned vehicle report showing the disposition of the abandoned
33 vehicle and any other items of personal property registered or titled
34 with the department to the crime information center of the Washington
35 state patrol.

36 (5) If the operator sends an abandoned vehicle report to the
37 department and the department finds no owner information, an operator
38 may proceed with an inspection of the vehicle and any other items of

1 personal property registered or titled with the department to determine
2 whether owner identification is within the vehicle.

3 (6) If the operator finds no owner identification, the operator
4 shall immediately notify the appropriate law enforcement agency, which
5 shall search the vehicle and any other items of personal property
6 registered or titled with the department for the vehicle identification
7 number or other appropriate identification numbers and check the
8 necessary records to determine the vehicle's or other property's
9 owners.

10 **Sec. 10.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended
11 to read as follows:

12 A security interest in a vehicle other than one held as inventory
13 by a manufacturer or a dealer and for which a certificate of ownership
14 is required is perfected only by compliance with the requirements of
15 section 12 of this act under the circumstances provided for therein or
16 by compliance with the requirements of this section:

17 (1) A security interest is perfected (~~(only)~~) by the department's
18 receipt of: (a) The existing certificate, if any, and (b) an
19 application for a certificate of ownership containing the name and
20 address of the secured party, and (c) tender of the required fee.

21 (2) It is perfected as of the time of its creation: (a) If the
22 papers and fee referred to in (~~the preceding~~) subsection (1) of this
23 section are received by this department within (~~eight department~~
24 business)) twenty calendar days (~~(exclusive)~~) of the day on which the
25 security agreement was created; or (b) if the secured party's name and
26 address appear on the outstanding certificate of ownership; otherwise,
27 as of the date on which the department has received the papers and fee
28 required in subsection (1) of this section.

29 (3) If a vehicle is subject to a security interest when brought
30 into this state, perfection of the security interest is determined by
31 the law of the jurisdiction where the vehicle was when the security
32 interest was attached, subject to the following:

33 (a) If the security interest was perfected under the law of the
34 jurisdiction where the vehicle was when the security interest was
35 attached, the following rules apply:

36 (b) If the name of the secured party is shown on the existing
37 certificate of ownership issued by that jurisdiction, the security
38 interest continues perfected in this state. The name of the secured

1 party shall be shown on the certificate of ownership issued for the
2 vehicle by this state. The security interest continues perfected in
3 this state upon the issuance of such ownership certificate.

4 (c) If the security interest was not perfected under the law of the
5 jurisdiction where the vehicle was when the security interest was
6 attached, it may be perfected in this state; in that case, perfection
7 dates from the time of perfection in this state.

8 **Sec. 11.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to
9 read as follows:

10 A transfer of ownership in a motor vehicle is perfected by
11 compliance with the requirements of this section.

12 (1) If an owner transfers his or her interest in a vehicle, other
13 than by the creation, deletion, or change of a security interest, the
14 owner shall, at the time of the delivery of the vehicle, execute an
15 assignment to the transferee and provide an odometer disclosure
16 statement under RCW 46.12.124 on the certificate of ownership or as the
17 department otherwise prescribes, and cause the certificate and
18 assignment to be transmitted to the transferee. (~~Within five days,~~
19 ~~excluding Saturdays, Sundays, and state and federal holidays,~~) The
20 owner shall notify the department or its agents or subagents, in
21 writing, on the appropriate form, of the date of the sale or transfer,
22 the name and address of the owner and of the transferee, the
23 transferee's driver's license number if available, and such description
24 of the vehicle, including the vehicle identification number, the
25 license plate number, or both, as may be required in the appropriate
26 form provided or approved for that purpose by the department. The
27 report of sale will be deemed properly filed if all information
28 required in this section is provided on the form and includes a
29 department-authorized notation that the document was received by the
30 department, its agents, or subagents on or before the fifth day after
31 the sale of the vehicle, excluding Saturdays, Sundays, and state and
32 federal holidays. Agents and subagents shall immediately
33 electronically transmit the seller's report of sale to the department.
34 Reports of sale processed and recorded by the department's agents or
35 subagents may be subject to fees as specified in RCW 46.01.140 (4)(a)
36 or (5)(b).

37 (2) The requirements of subsection (1) of this section to provide
38 an odometer disclosure statement apply to the transfer of vehicles held

1 for lease when transferred to a lessee and then to the lessor at the
2 end of the leasehold and to vehicles held in a fleet when transferred
3 to a purchaser.

4 (3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the
5 transferee shall within fifteen days after delivery to the transferee
6 of the vehicle, execute the application for a new certificate of
7 ownership in the same space provided therefor on the certificate or as
8 the department prescribes, and cause the certificates and application
9 to be transmitted to the department.

10 (4) Upon request of the owner or transferee, a secured party in
11 possession of the certificate of ownership shall, unless the transfer
12 was a breach of its security agreement, either deliver the certificate
13 to the transferee for transmission to the department or, when the
14 secured party receives the owner's assignment from the transferee, it
15 shall transmit the transferee's application for a new certificate, the
16 existing certificate, and the required fee to the department.
17 Compliance with this section does not affect the rights of the secured
18 party.

19 (5) If a security interest is reserved or created at the time of
20 the transfer, the certificate of ownership shall be retained by or
21 delivered to the person who becomes the secured party, and the parties
22 shall comply with the provisions of RCW 46.12.170.

23 (6) If the purchaser or transferee fails or neglects to make
24 application to transfer the certificate of ownership and license
25 registration within fifteen days after the date of delivery of the
26 vehicle, he or she shall on making application for transfer be assessed
27 a twenty-five dollar penalty on the sixteenth day and two dollars
28 additional for each day thereafter, but not to exceed one hundred
29 dollars. The director may by rule establish conditions under which the
30 penalty will not be assessed when an application for transfer is
31 delayed for reasons beyond the control of the purchaser. Conditions
32 for not assessing the penalty may be established for but not limited to
33 delays caused by:

- 34 (a) The department requesting additional supporting documents;
- 35 (b) Extended hospitalization or illness of the purchaser;
- 36 (c) Failure of a legal owner to release his or her interest;
- 37 (d) Failure, negligence, or nonperformance of the department,
38 auditor, or subagent.

1 Failure or neglect to make application to transfer the certificate
2 of ownership and license registration within forty-five days after the
3 date of delivery of the vehicle is a misdemeanor.

4 (7) Upon receipt of an application for reissue or replacement of a
5 certificate of ownership and transfer of license registration,
6 accompanied by the endorsed certificate of ownership or other
7 documentary evidence as is deemed necessary, the department shall, if
8 the application is in order and if all provisions relating to the
9 certificate of ownership and license registration have been complied
10 with, issue new certificates of title and license registration as in
11 the case of an original issue and shall transmit the fees together with
12 an itemized detailed report to the state treasurer, to be deposited in
13 the motor vehicle fund.

14 (8) Once each quarter the department shall report to the department
15 of revenue a list of those vehicles for which a seller's report has
16 been received but no transfer of title has taken place.

17 NEW SECTION. **Sec. 12.** A new section is added to chapter 46.12 RCW
18 to read as follows:

19 (1) The purpose of a transitional ownership record is to enable a
20 security interest in a motor vehicle to be perfected in a timely manner
21 when the certificate of ownership is not available at the time the
22 security interest is created, and to provide for timely notification to
23 security interest holders under chapter 46.55 RCW.

24 (2) A transitional ownership record is only acceptable as an
25 ownership record for vehicles currently stored on the department's
26 computer system and if the certificate of ownership or other authorized
27 proof of ownership for the motor vehicle:

28 (a) Is not in the possession of the selling vehicle dealer or new
29 security interest holder at the time the transitional ownership record
30 is submitted to the department; and

31 (b) To the best of the knowledge of the selling dealer or new
32 security interest holder, the certificate of ownership will not be
33 received for submission to the department within twenty calendar days
34 of the date of sale of the vehicle, or if no sale is involved, within
35 twenty calendar days of the date the security agreement or contract is
36 executed.

37 (3) A person shall submit the transitional ownership record to the
38 department or to any of its agents or subagents. Agents and subagents

1 shall immediately electronically transmit the transitional ownership
2 records to the department. A transitional ownership document processed
3 and recorded by an agent or subagent may be subject to fees as
4 specified in RCW 46.01.140(4)(a) or (5)(b).

5 (4) "Transitional ownership record" means a record containing all
6 of the following information:

7 (a) The date of sale;

8 (b) The name and address of each owner of the vehicle;

9 (c) The name and address of each security interest holder;

10 (d) If there are multiple security interest holders, the priorities
11 of interest if the security interest holders do not jointly hold a
12 single security interest;

13 (e) The vehicle identification number, the license plate number, if
14 any, the year, make, and model of the vehicle;

15 (f) The name of the selling dealer or security interest holder who
16 is submitting the transitional ownership record; and

17 (g) The transferee's driver's license number, if available.

18 (5) The report of sale form prescribed or approved by the
19 department under RCW 46.12.101 may be used by a vehicle dealer as the
20 transitional ownership record.

21 (6) Notwithstanding RCW 46.12.095 (1) and (2), compliance with the
22 requirements of this section shall result in perfection of a security
23 interest in the vehicle as of the time the security interest was
24 created. Upon receipt of the certificate of ownership for the vehicle,
25 or upon receipt of written confirmation that only an electronic record
26 of ownership exists or that the certificate of ownership has been lost
27 or destroyed, the selling dealer or new security interest holder shall
28 promptly submit the same to the department together with an application
29 for a new certificate of ownership containing the name and address of
30 the secured party and tender the required fee as provided in RCW
31 46.12.095(1).

32 NEW SECTION. **Sec. 13.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are
33 each repealed."

1 **ESHB 1221** - S AMD - 850

2 By Senators Roach, Kline, stevens, Long, Thibaudeau, Hargrove,
3 Johnson, McCaslin, Fairley, Zarelli and Goings

4 ADOPTED 3/3/98

5 On page 1, line 2 of the title, after "license;" strike the
6 remainder of the title and insert "amending RCW 46.55.105, 46.55.110,
7 46.55.113, 46.55.120, 46.55.130, 46.55.010, 46.55.100, 46.12.095, and
8 46.12.101; adding a new section to chapter 46.55 RCW; adding a new
9 section to chapter 46.12 RCW; creating a new section; and repealing RCW
10 46.20.344."

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