

2 SSB 5135 - S AMD - 588
3 By Senator Roach

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

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

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

1 fail to appear for court hearings. Vehicle impoundment will provide an
2 immediate consequence which will increase deterrence and reduce
3 unlawful driving by preventing a suspended driver access to that
4 vehicle. Vehicle impoundment will also provide an appropriate measure
5 of accountability for registered owners who permit suspended drivers to
6 drive their vehicles. Impoundment of vehicles driven by suspended
7 drivers has been shown to reduce future driving while suspended or
8 revoked offenses for up to two years afterwards, and the recidivism
9 rate for drivers whose cars were not impounded was one hundred percent
10 higher than for drivers whose cars were impounded. In order to
11 adequately protect public safety and to enforce the state's driver
12 licensing laws, it is necessary to authorize the impoundment of any
13 vehicle when it is found to be operated by a driver with a suspended or
14 revoked license, and to provide in certain circumstances for the
15 forfeiture of such vehicles where the owner continues to drive despite
16 having been previously convicted of the crime of driving with a
17 suspended or revoked license in violation of RCW 46.20.342 and
18 46.20.420.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20 RCW
20 to read as follows:

21 (1) Notwithstanding RCW 46.55.113, whenever a motor vehicle is
22 found to be operated by a person with a suspended or revoked driver's
23 license in violation of RCW 46.20.342 or 46.20.420, the vehicle is
24 subject to impoundment, pursuant to applicable local ordinance, at the
25 direction of a law enforcement officer.

26 (2) If a vehicle is impounded under this section because the
27 operator is in violation of RCW 46.20.342(1)(c), the vehicle shall not
28 be released until a person eligible to redeem it under RCW
29 46.55.120(1)(a) satisfies the requirements of RCW 46.55.120(1)(b),
30 including paying all towing, removal, and storage fees, notwithstanding
31 the fact that the hold was ordered by a government agency. However, if
32 the department's records show that the operator has been convicted of
33 a violation of RCW 46.20.342 or a similar local ordinance within the
34 past five years, the vehicle may be held for up to fifteen days at the
35 written direction of the agency ordering the vehicle impounded.

36 (3) If a vehicle is impounded under this section because the
37 operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle
38 may be held for up to fifteen days and must not be released until a

1 person eligible to redeem it under RCW 46.55.120(1)(a) satisfies the
2 requirements of RCW 46.55.120(1)(b), including paying all towing,
3 removal, and storage fees, notwithstanding the fact that the hold was
4 ordered by a government agency. However, if the department's records
5 show that the operator has been convicted of a violation of RCW
6 46.20.342(1) (a) or (b) or a similar local ordinance within the past
7 five years and the operator has a financial interest in the vehicle,
8 the vehicle is subject to forfeiture. If the vehicle is forfeited,
9 then the forfeiting agency shall pay all the impoundment, towing, and
10 storage fees for the vehicle and shall be entitled to recover those
11 fees from the operator of the forfeited vehicle, including any
12 attorneys' fees, costs of collection, and interest at the statutory
13 rate for judgment interest from the date of payment by the forfeiting
14 agency of such fees.

15 (4) A forfeiture proceeding is commenced by the law enforcement
16 agency causing notice of the intended forfeiture of the seized vehicle
17 to be served not less than ten days after seizure on the registered tow
18 truck operator which impounded the vehicle, the owner of the vehicle
19 seized, the person in charge of the vehicle when it was seized, and any
20 person having a known right or interest in the vehicle, including a
21 community property interest. The notice may be served by any method
22 authorized by law or court rule, including, but not limited to, service
23 by certified mail with return receipt requested. Service by mail is
24 complete upon mailing. Notice in the case of a vehicle subject to a
25 security interest that has been perfected on a certificate of title
26 must be made by service upon the secured party or the secured party's
27 assignee at the address shown on the financing statement or the
28 certificate of title. Once the registered tow truck operator which
29 impounded the vehicle receives notice, the vehicle must not be released
30 except upon written order of the chief law enforcement officer of the
31 agency directing the impoundment or his or her designee, an
32 administrative law judge, or a court.

33 (5) The remaining procedures for forfeiting the vehicle are the
34 same as set forth in RCW 46.61.5058 (5) through (14).

35 (6) Notwithstanding RCW 46.52.120(2), in any hearing under RCW
36 46.55.120 to contest the validity of the impoundment or under this
37 section to contest the validity of the forfeiture, an abstract of the
38 person's driving record may be admitted as and is prima facie evidence
39 of the status of the person's driving privilege and that the person was

1 convicted of each offense shown by the abstract. In addition, a
2 certified vehicle registration of the vehicle sought to be forfeited
3 shall be admissible without further evidentiary foundation.

4 (7) No determination of facts made by a person conducting a hearing
5 under this section or RCW 46.55.120 shall have any collateral estoppel
6 effect on a subsequent criminal prosecution and shall not preclude
7 litigation of those same facts in a subsequent criminal prosecution.

8 **Sec. 3.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read
9 as follows:

10 Whenever the driver of a vehicle is arrested for a violation of RCW
11 46.61.502 or 46.61.504, the arresting officer may take custody of the
12 vehicle and provide for its prompt removal to a place of safety. In
13 addition, a police officer may take custody of a vehicle and provide
14 for its prompt removal to a place of safety under any of the following
15 circumstances:

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

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

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

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

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

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

37 (7) Upon determining that a person is operating a motor vehicle
38 without a valid driver's license in violation of RCW 46.20.005 or with

1 a license that has been expired for ninety days or more(~~(, or with a~~
2 ~~suspended or revoked license in violation of RCW 46.20.342 or~~
3 ~~46.20.420)~~).

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

8 **Sec. 4.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read
9 as follows:

10 (1) Vehicles or other items of personal property registered or
11 titled with the department that are impounded by registered tow truck
12 operators pursuant to RCW 46.55.080, 46.55.085, (~~or~~) 46.55.113, or
13 section 2 of this act may be redeemed only under the following
14 circumstances:

15 (a) Only the legal owner, the registered owner, a person authorized
16 in writing by the registered owner or the vehicle's insurer, a person
17 who is determined and verified by the operator to have the permission
18 of the registered owner of the vehicle or other item of personal
19 property registered or titled with the department, or one who has
20 purchased a vehicle or item of personal property registered or titled
21 with the department from the registered owner who produces proof of
22 ownership or written authorization and signs a receipt therefor, may
23 redeem an impounded vehicle or items of personal property registered or
24 titled with the department. In addition, a person redeeming a vehicle
25 impounded under section 2 of this act must prior to redemption
26 establish with the agency that ordered the vehicle impounded that he or
27 she has a valid driver's license and is in compliance with RCW
28 46.30.020. A vehicle impounded under section 2 of this act can only be
29 released pursuant to a written order from the agency that ordered the
30 vehicle impounded.

31 (b) The vehicle or other item of personal property registered or
32 titled with the department shall be released upon the presentation to
33 any person having custody of the vehicle of commercially reasonable
34 tender sufficient to cover the costs of towing, storage, or other
35 services rendered during the course of towing, removing, impounding, or
36 storing any such vehicle. In addition, if a vehicle is impounded under
37 section 2 of this act and was being operated by the registered owner
38 when it was impounded, it must not be released to any person until the

1 registered owner establishes with the agency that ordered the vehicle
2 impounded that any penalties, fines, or forfeitures owed by him or her
3 have been satisfied. Commercially reasonable tender shall include,
4 without limitation, cash, major bank credit cards, or personal checks
5 drawn on in-state banks if accompanied by two pieces of valid
6 identification, one of which may be required by the operator to have a
7 photograph. If the towing firm can determine through the customer's
8 bank or a check verification service that the presented check would not
9 be paid by the bank or guaranteed by the service, the towing firm may
10 refuse to accept the check. Any person who stops payment on a personal
11 check or credit card, or does not make restitution within ten days from
12 the date a check becomes insufficient due to lack of funds, to a towing
13 firm that has provided a service pursuant to this section or in any
14 other manner defrauds the towing firm in connection with services
15 rendered pursuant to this section shall be liable for damages in the
16 amount of twice the towing and storage fees, plus costs and reasonable
17 attorney's fees.

18 (2)(a) The registered tow truck operator shall give to each person
19 who seeks to redeem an impounded vehicle, or item of personal property
20 registered or titled with the department, written notice of the right
21 of redemption and opportunity for a hearing, which notice shall be
22 accompanied by a form to be used for requesting a hearing, the name of
23 the person or agency authorizing the impound, and a copy of the towing
24 and storage invoice. The registered tow truck operator shall maintain
25 a record evidenced by the redeeming person's signature that such
26 notification was provided.

27 (b) Any person seeking to redeem an impounded vehicle under this
28 section has a right to a hearing in the district or municipal court for
29 the jurisdiction in which the vehicle was impounded to contest the
30 validity of the impoundment or the amount of towing and storage
31 charges. The district court has jurisdiction to determine the issues
32 involving all impoundments including those authorized by the state or
33 its agents. The municipal court has jurisdiction to determine the
34 issues involving impoundments authorized by agents of the municipality.
35 Any request for a hearing shall be made in writing on the form provided
36 for that purpose and must be received by the district or municipal
37 court within ten days of the date the opportunity was provided for in
38 subsection (2)(a) of this section. If the hearing request is not
39 received by the district or municipal court within the ten-day period,

1 the right to a hearing is waived and the registered owner is liable for
2 any towing, storage, or other impoundment charges permitted under this
3 chapter. Upon receipt of a timely hearing request, the district or
4 municipal court shall proceed to hear and determine the validity of the
5 impoundment.

6 (3)(a) The district or municipal court, within five days after the
7 request for a hearing, shall notify the registered tow truck operator,
8 the person requesting the hearing if not the owner, the registered and
9 legal owners of the vehicle or other item of personal property
10 registered or titled with the department, and the person or agency
11 authorizing the impound in writing of the hearing date and time.

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

18 (c) At the conclusion of the hearing, the district or municipal
19 court shall determine whether the impoundment was proper, whether the
20 towing or storage fees charged were in compliance with the posted
21 rates, and who is responsible for payment of the fees. The court may
22 not adjust fees or charges that are in compliance with the posted or
23 contracted rates.

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

30 (e) If the impoundment is determined to be in violation of this
31 chapter, then the registered and legal owners of the vehicle or other
32 item of personal property registered or titled with the department
33 shall bear no impoundment, towing, or storage fees, and any security
34 shall be returned or discharged as appropriate, and the person or
35 agency who authorized the impoundment shall be liable for any towing,
36 storage, or other impoundment fees permitted under this chapter. The
37 court shall enter judgment in favor of the registered tow truck
38 operator against the person or agency authorizing the impound for the
39 impoundment, towing, and storage fees paid. In addition, the court

1 shall enter judgment in favor of the registered and legal owners of the
2 vehicle, or other item of personal property registered or titled with
3 the department, for reasonable damages for loss of the use of the
4 vehicle during the time the same was impounded, for not less than fifty
5 dollars per day, against the person or agency authorizing the impound.
6 However, if an impoundment under section 2 of this act is determined to
7 be in violation of this chapter, then the law enforcement officer
8 directing the impoundment and the local government employing the
9 officer are not liable for damages if the officer relied in good faith
10 and without gross negligence on the records of the department in
11 ascertaining that the operator of the vehicle had a suspended or
12 revoked driver's license. If any judgment entered is not paid within
13 fifteen days of notice in writing of its entry, the court shall award
14 reasonable attorneys' fees and costs against the defendant in any
15 action to enforce the judgment. Notice of entry of judgment may be
16 made by registered or certified mail, and proof of mailing may be made
17 by affidavit of the party mailing the notice. Notice of the entry of
18 the judgment shall read essentially as follows:

19 TO:
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
28 Typed name and address
29 of party mailing notice

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

3 In any administrative or judicial proceeding involving a forfeiture
4 of a vehicle under section 2 of this act, the chief law enforcement
5 officer or court shall provide for the protection of a bona fide
6 community property interest in the vehicle of a person other than the
7 person whose operation of the vehicle with a suspended or revoked
8 license led to the forfeiture.

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

11 The definitions set forth in this section apply throughout this
12 chapter:

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

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

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

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

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

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

30 (a) Is three years old or older;

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

34 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

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

24 Subject to removal after:

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

1 **Sec. 7.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read
2 as follows:

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

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

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

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

38 (5) If the operator sends an abandoned vehicle report to the
39 department and the department finds no owner information, an operator

1 may proceed with an inspection of the vehicle and any other items of
2 personal property registered or titled with the department to determine
3 whether owner identification is within the vehicle.

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

11 **Sec. 8.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended
12 to read as follows:

13 A security interest in a vehicle other than one held as inventory
14 by a manufacturer or a dealer and for which a certificate of ownership
15 is required is perfected only by compliance with the requirements of
16 section 10 of this act under the circumstances provided for therein or
17 by compliance with the requirements of this section:

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

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

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

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

37 (b) If the name of the secured party is shown on the existing
38 certificate of ownership issued by that jurisdiction, the security

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

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

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

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

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

36 (2) The requirements of subsection (1) of this section to provide
37 an odometer disclosure statement apply to the transfer of vehicles held
38 for lease when transferred to a lessee and then to the lessor at the

1 end of the leasehold and to vehicles held in a fleet when transferred
2 to a purchaser.

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

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

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

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

- 33 (a) The department requesting additional supporting documents;
- 34 (b) Extended hospitalization or illness of the purchaser;
- 35 (c) Failure of a legal owner to release his or her interest;
- 36 (d) Failure, negligence, or nonperformance of the department,
37 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. 10.** 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 acceptable as an ownership
25 record only if the certificate of ownership for the motor vehicle:

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

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

35 (3) A person shall submit the transitional ownership record to the
36 department or to any of its authorized subagents or auditors, and pay
37 a filing fee of five dollars. The fee shall be paid at the time of

1 submission of the record unless the department by rule establishes an
2 alternative payment method.

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

5 (a) The date of sale, or if no sale is involved, the date the
6 contract or security agreement creating the security interest being
7 perfected was signed;

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; and

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

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

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

31 (7) The department shall adopt rules in accordance with chapter
32 34.05 RCW to develop the form for the transitional ownership record.

33 NEW SECTION. **Sec. 11.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are
34 each repealed."

1 **SSB 5135** - S AMD - 588

2 By Senator Roach

3

4 On page 1, line 2 of the title, after "license;" strike the
5 remainder of the title and insert "amending RCW 46.55.113, 46.55.120,
6 46.55.010, 46.55.100, 46.12.095, and 46.12.101; adding a new section to
7 chapter 46.20 RCW; adding a new section to chapter 46.55 RCW; adding a
8 new section to chapter 46.12 RCW; creating a new section; and repealing
9 RCW 46.20.344."

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