

2 SHB 2343 - S COMM AMD
3 By Committee on Transportation

4 ADOPTED 3/1/00

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

7 "Sec. 1. RCW 46.55.120 and 1999 c 398 s 7 and 1999 c 327 s 5 are
8 each reenacted and amended to read as follows:

9 (1) Vehicles or other items of personal property registered or
10 titled with the department that are impounded by registered tow truck
11 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140
12 may be redeemed only under the following circumstances:

13 (a) Only the legal owner, the registered owner, a person authorized
14 in writing by the registered owner or the vehicle's insurer, a person
15 who is determined and verified by the operator to have the permission
16 of the registered owner of the vehicle or other item of personal
17 property registered or titled with the department, or one who has
18 purchased a vehicle or item of personal property registered or titled
19 with the department from the registered owner who produces proof of
20 ownership or written authorization and signs a receipt therefor, may
21 redeem an impounded vehicle or items of personal property registered or
22 titled with the department. In addition, a vehicle impounded because
23 the operator is in violation of RCW 46.20.342(1)(c) shall not be
24 released until a person eligible to redeem it under this subsection
25 (1)(a) satisfies the requirements of (e) of this subsection, including
26 paying all towing, removal, and storage fees, notwithstanding the fact
27 that the hold was ordered by a government agency. If the department's
28 records show that the operator has been convicted of a violation of RCW
29 46.20.342 or a similar local ordinance within the past five years, the
30 vehicle may be held for up to thirty days at the written direction of
31 the agency ordering the vehicle impounded. A vehicle impounded because
32 the operator is arrested for a violation of RCW 46.20.342 may be
33 released only pursuant to a written order from the agency that ordered
34 the vehicle impounded or from the court having jurisdiction. An agency
35 may issue a written order to release pursuant to a provision of an
36 applicable state agency rule or local ordinance authorizing release on

1 the basis of economic or personal hardship to the spouse of the
2 operator, taking into consideration public safety factors, including
3 the operator's criminal history and driving record.

4 If a vehicle is impounded because the operator is in violation of
5 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
6 days at the written direction of the agency ordering the vehicle
7 impounded. However, if the department's records show that the operator
8 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
9 similar local ordinance within the past five years, the vehicle may be
10 held at the written direction of the agency ordering the vehicle
11 impounded for up to sixty days, and for up to ninety days if the
12 operator has two or more such prior offenses. If a vehicle is
13 impounded because the operator is arrested for a violation of RCW
14 46.20.342, the vehicle may not be released until a person eligible to
15 redeem it under this subsection (1)(a) satisfies the requirements of
16 (e) of this subsection, including paying all towing, removal, and
17 storage fees, notwithstanding the fact that the hold was ordered by a
18 government agency.

19 (b) If the vehicle is directed to be held for a suspended license
20 impound, a person who desires to redeem the vehicle at the end of the
21 period of impound shall within five days of the impound at the request
22 of the tow truck operator pay a security deposit to the tow truck
23 operator of not more than one-half of the applicable impound storage
24 rate for each day of the proposed suspended license impound. The tow
25 truck operator shall credit this amount against the final bill for
26 removal, towing, and storage upon redemption. The tow truck operator
27 may accept other sufficient security in lieu of the security deposit.
28 If the person desiring to redeem the vehicle does not pay the security
29 deposit or provide other security acceptable to the tow truck operator,
30 the tow truck operator may process and sell at auction the vehicle as
31 an abandoned vehicle within the normal time limits set out in RCW
32 46.55.130(1). The security deposit required by this section may be
33 paid and must be accepted at any time up to twenty-four hours before
34 the beginning of the auction to sell the vehicle as abandoned. The
35 registered owner is not eligible to purchase the vehicle at the
36 auction, and the tow truck operator shall sell the vehicle to the
37 highest bidder who is not the registered owner.

38 (c) Notwithstanding (b) of this subsection, a rental car business
39 may immediately redeem a rental vehicle it owns by payment of the costs

1 of removal, towing, and storage, whereupon the vehicle will not be held
2 for a suspended license impound.

3 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer
4 or lender with a perfected security interest in the vehicle may redeem
5 or lawfully repossess a vehicle immediately by payment of the costs of
6 removal, towing, and storage, whereupon the vehicle will not be held
7 for a suspended license impound. A motor vehicle dealer or lender with
8 a perfected security interest in the vehicle may not knowingly and
9 intentionally engage in collusion with a registered owner to repossess
10 and then return or resell a vehicle to the registered owner in an
11 attempt to avoid a suspended license impound. However, this provision
12 does not preclude a vehicle dealer or a lender with a perfected
13 security interest in the vehicle from repossessing the vehicle and then
14 selling, leasing, or otherwise disposing of it in accordance with
15 chapter 62A.9 RCW, including providing redemption rights to the debtor
16 under RCW 62A.9-506. If the debtor is the registered owner of the
17 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9
18 RCW is conditioned upon the debtor obtaining and providing proof from
19 the impounding authority or court having jurisdiction that any fines,
20 penalties, and forfeitures owed by the registered owner, as a result of
21 the suspended license impound, have been paid, and proof of the payment
22 must be tendered to the vehicle dealer or lender at the time the debtor
23 tenders all other obligations required to redeem the vehicle. Vehicle
24 dealers or lenders are not liable for damages if they rely in good
25 faith on an order from the impounding agency or a court in releasing a
26 vehicle held under a suspended license impound.

27 (e) The vehicle or other item of personal property registered or
28 titled with the department shall be released upon the presentation to
29 any person having custody of the vehicle of commercially reasonable
30 tender sufficient to cover the costs of towing, storage, or other
31 services rendered during the course of towing, removing, impounding, or
32 storing any such vehicle, with credit being given for the amount of any
33 security deposit paid under (b) of this subsection. In addition, if a
34 vehicle is impounded because the operator was arrested for a violation
35 of RCW 46.20.342 or (~~46.20.420~~) 46.20.345 and was being operated by
36 the registered owner when it was impounded under local ordinance or
37 agency rule, it must not be released to any person until the registered
38 owner establishes with the agency that ordered the vehicle impounded or
39 the court having jurisdiction that any penalties, fines, or forfeitures

1 owed by him or her have been satisfied. Registered tow truck operators
2 are not liable for damages if they rely in good faith on an order from
3 the impounding agency or a court in releasing a vehicle held under a
4 suspended license impound. Commercially reasonable tender shall
5 include, without limitation, cash, major bank credit cards issued by
6 financial institutions, or personal checks drawn on ~~((in-state banks))~~
7 Washington state branches of financial institutions if accompanied by
8 two pieces of valid identification, one of which may be required by the
9 operator to have a photograph. If the towing firm ~~((can))~~ cannot
10 determine through the customer's bank or a check verification service
11 that the presented check would ~~((not))~~ be paid by the bank or
12 guaranteed by the service, the towing firm may refuse to accept the
13 check. Any person who stops payment on a personal check or credit
14 card, or does not make restitution within ten days from the date a
15 check becomes insufficient due to lack of funds, to a towing firm that
16 has provided a service pursuant to this section or in any other manner
17 defrauds the towing firm in connection with services rendered pursuant
18 to this section shall be liable for damages in the amount of twice the
19 towing and storage fees, plus costs and reasonable attorney's fees.

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

29 (b) Any person seeking to redeem an impounded vehicle under this
30 section has a right to a hearing in the district or municipal court for
31 the jurisdiction in which the vehicle was impounded to contest the
32 validity of the impoundment or the amount of towing and storage
33 charges. The district court has jurisdiction to determine the issues
34 involving all impoundments including those authorized by the state or
35 its agents. The municipal court has jurisdiction to determine the
36 issues involving impoundments authorized by agents of the municipality.
37 Any request for a hearing shall be made in writing on the form provided
38 for that purpose and must be received by the appropriate court within
39 ten days of the date the opportunity was provided for in subsection

1 (2)(a) of this section and more than five days before the date of the
2 auction. At the time of the filing of the hearing request, the
3 petitioner shall pay to the court clerk a filing fee in the same amount
4 required for the filing of a suit in district court. If the hearing
5 request is not received by the court within the ten-day period, the
6 right to a hearing is waived and the registered owner is liable for any
7 towing, storage, or other impoundment charges permitted under this
8 chapter. Upon receipt of a timely hearing request, the court shall
9 proceed to hear and determine the validity of the impoundment.

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

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

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

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

33 (e) If the impoundment is determined to be in violation of this
34 chapter, then the registered and legal owners of the vehicle or other
35 item of personal property registered or titled with the department
36 shall bear no impoundment, towing, or storage fees, and any security
37 shall be returned or discharged as appropriate, and the person or
38 agency who authorized the impoundment shall be liable for any towing,
39 storage, or other impoundment fees permitted under this chapter. The

1 court shall enter judgment in favor of the registered tow truck
2 operator against the person or agency authorizing the impound for the
3 impoundment, towing, and storage fees paid. In addition, the court
4 shall enter judgment in favor of the registered and legal owners of the
5 vehicle, or other item of personal property registered or titled with
6 the department, for the amount of the filing fee required by law for
7 the impound hearing petition as well as reasonable damages for loss of
8 the use of the vehicle during the time the same was impounded, for not
9 less than fifty dollars per day, against the person or agency
10 authorizing the impound. However, if an impoundment arising from an
11 alleged violation of RCW 46.20.342 or ((46.20.420)) 46.20.345 is
12 determined to be in violation of this chapter, then the law enforcement
13 officer directing the impoundment and the government employing the
14 officer are not liable for damages if the officer relied in good faith
15 and without gross negligence on the records of the department in
16 ascertaining that the operator of the vehicle had a suspended or
17 revoked driver's license. If any judgment entered is not paid within
18 fifteen days of notice in writing of its entry, the court shall award
19 reasonable attorneys' fees and costs against the defendant in any
20 action to enforce the judgment. Notice of entry of judgment may be
21 made by registered or certified mail, and proof of mailing may be made
22 by affidavit of the party mailing the notice. Notice of the entry of
23 the judgment shall read essentially as follows:

24 TO:
25 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
26 Court located at in the sum of
27 \$., in an action entitled, Case No.
28 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
29 will be awarded against you under RCW . . . if the judgment is
30 not paid within 15 days of the date of this notice.
31 DATED this day of, (year) . . .
32 Signature
33 Typed name and address
34 of party mailing notice

35 (4) Any impounded abandoned vehicle or item of personal property
36 registered or titled with the department that is not redeemed within
37 fifteen days of mailing of the notice of custody and sale as required
38 by RCW 46.55.110(3) shall be sold at public auction in accordance with

1 all the provisions and subject to all the conditions of RCW 46.55.130.
2 A vehicle or item of personal property registered or titled with the
3 department may be redeemed at any time before the start of the auction
4 upon payment of the applicable towing and storage fees.

5 **Sec. 2.** RCW 46.55.130 and 1998 c 203 s 6 are each amended to read
6 as follows:

7 (1) If, after the expiration of fifteen days from the date of
8 mailing of notice of custody and sale required in RCW 46.55.110(~~(+2)~~)
9 (3) to the registered and legal owners, the vehicle remains unclaimed
10 and has not been listed as a stolen vehicle, or a suspended license
11 impound has been directed, but no security paid under RCW 46.55.120,
12 then the registered tow truck operator having custody of the vehicle
13 shall conduct a sale of the vehicle at public auction after having
14 first published a notice of the date, place, and time of the auction in
15 a newspaper of general circulation in the county in which the vehicle
16 is located not less than three days and no more than ten days before
17 the date of the auction. The notice shall contain a description of the
18 vehicle including the make, model, year, and license number and a
19 notification that a three-hour public viewing period will be available
20 before the auction. The auction shall be held during daylight hours of
21 a normal business day.

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

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

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

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

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

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

1 (f) The successful bidder shall apply for title within fifteen
2 days;

3 (g) The registered tow truck operator shall post a copy of the
4 auction procedure at the bidding site. If the bidding site is
5 different from the licensed office location, the operator shall post a
6 clearly visible sign at the office location that describes in detail
7 where the auction will be held. At the bidding site a copy of the
8 newspaper advertisement that lists the vehicles for sale shall be
9 posted;

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

18 (i) If an operator receives no bid, or if the operator is the
19 successful bidder at auction, the operator shall, within forty-five
20 days sell the vehicle to a licensed vehicle wrecker, hulk hauler, or
21 scrap processor by use of the abandoned vehicle report-affidavit of
22 sale, or the operator shall apply for title to the vehicle.

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

26 (4)(a) In no case may the accumulation of storage charges exceed
27 fifteen days from the date of receipt of the information by the
28 operator from the department as provided by RCW 46.55.110(~~(+2)~~) (3).

29 (b) The failure of the registered tow truck operator to comply with
30 the time limits provided in this chapter limits the accumulation of
31 storage charges to five days except where delay is unavoidable.
32 Providing incorrect or incomplete identifying information to the
33 department in the abandoned vehicle report shall be considered a
34 failure to comply with these time limits if correct information is
35 available. However, storage charges begin to accrue again on the date
36 the correct and complete information is provided to the department by
37 the registered tow truck operator."

1 **SHB 2343** - S COMM AMD
2 By Committee on Transportation

ADOPTED 3/1/00

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4 On page 1, line 2 of the title, after "institutions;" strike the
5 remainder of the title and insert "amending RCW 46.55.130; and
6 reenacting and amending RCW 46.55.120."

--- END ---