
SUBSTITUTE HOUSE BILL 2716

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Delvin, Lovick, O'Brien and Hurst)

Read first time 02/03/2000. Referred to Committee on .

1 AN ACT Relating to vehicle impounds; amending RCW 46.55.240; and
2 reenacting and amending RCW 46.55.120.

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

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

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

10 (a) Only the legal owner, the registered owner, a person authorized
11 in writing by the registered owner or the vehicle's insurer, a person
12 who is determined and verified by the operator to have the permission
13 of the registered owner of the vehicle or other item of personal
14 property registered or titled with the department, or one who has
15 purchased a vehicle or item of personal property registered or titled
16 with the department from the registered owner who produces proof of
17 ownership or written authorization and signs a receipt therefor, may
18 redeem an impounded vehicle or items of personal property registered or
19 titled with the department. In addition, a vehicle impounded because

1 the operator is in violation of RCW 46.20.342(1)(c) shall not be
2 released until a person eligible to redeem it under this subsection
3 (1)(a) satisfies the requirements of (e) of this subsection, including
4 paying all towing, removal, and storage fees, notwithstanding the fact
5 that the hold was ordered by a government agency. If the department's
6 records show that the operator has been convicted of a violation of RCW
7 46.20.342 or a similar local ordinance within the past five years, the
8 vehicle may be held for up to thirty days at the written direction of
9 the agency ordering the vehicle impounded. A vehicle impounded because
10 the operator is arrested for a violation of RCW 46.20.342 may be
11 released only pursuant to a written order from the agency that ordered
12 the vehicle impounded or from the court having jurisdiction. An agency
13 (~~may issue a written order to release pursuant to a provision of an~~
14 ~~applicable state agency rule or local ordinance authorizing release~~)
15 is authorized to release the impounded vehicle prior to the expiration
16 of any period of impoundment on the basis of economic or personal
17 hardship to the spouse of the operator or to the registered owner of
18 the vehicle if the registered owner was not the operator, taking into
19 consideration public safety factors, including the operator's criminal
20 history and driving record.

21 If a vehicle is impounded because the operator is in violation of
22 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
23 days at the written direction of the agency ordering the vehicle
24 impounded. However, if the department's records show that the operator
25 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
26 similar local ordinance within the past five years, the vehicle may be
27 held at the written direction of the agency ordering the vehicle
28 impounded for up to sixty days, and for up to ninety days if the
29 operator has two or more such prior offenses. If a vehicle is
30 impounded because the operator is arrested for a violation of RCW
31 46.20.342, the vehicle may not be released until a person eligible to
32 redeem it under this subsection (1)(a) satisfies the requirements of
33 (e) of this subsection, including paying all towing, removal, and
34 storage fees, notwithstanding the fact that the hold was ordered by a
35 government agency.

36 (b) If the vehicle is directed to be held for a suspended license
37 impound, a person who desires to redeem the vehicle at the end of the
38 period of impound shall within five days of the impound at the request
39 of the tow truck operator pay a security deposit to the tow truck

1 operator of not more than one-half of the applicable impound storage
2 rate for each day of the proposed suspended license impound. The tow
3 truck operator shall credit this amount against the final bill for
4 removal, towing, and storage upon redemption. The tow truck operator
5 may accept other sufficient security in lieu of the security deposit.
6 If the person desiring to redeem the vehicle does not pay the security
7 deposit or provide other security acceptable to the tow truck operator,
8 the tow truck operator may process and sell at auction the vehicle as
9 an abandoned vehicle within the normal time limits set out in RCW
10 46.55.130(1). The security deposit required by this section may be
11 paid and must be accepted at any time up to twenty-four hours before
12 the beginning of the auction to sell the vehicle as abandoned. The
13 registered owner is not eligible to purchase the vehicle at the
14 auction, and the tow truck operator shall sell the vehicle to the
15 highest bidder who is not the registered owner.

16 (c) Notwithstanding (b) of this subsection, a rental car business
17 may immediately redeem a rental vehicle it owns by payment of the costs
18 of removal, towing, and storage, whereupon the vehicle will not be held
19 for a suspended license impound.

20 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer
21 or lender with a perfected security interest in the vehicle may redeem
22 or lawfully repossess a vehicle immediately by payment of the costs of
23 removal, towing, and storage, whereupon the vehicle will not be held
24 for a suspended license impound. A motor vehicle dealer or lender with
25 a perfected security interest in the vehicle may not knowingly and
26 intentionally engage in collusion with a registered owner to repossess
27 and then return or resell a vehicle to the registered owner in an
28 attempt to avoid a suspended license impound. However, this provision
29 does not preclude a vehicle dealer or a lender with a perfected
30 security interest in the vehicle from repossessing the vehicle and then
31 selling, leasing, or otherwise disposing of it in accordance with
32 chapter 62A.9 RCW, including providing redemption rights to the debtor
33 under RCW 62A.9-506. If the debtor is the registered owner of the
34 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9
35 RCW is conditioned upon the debtor obtaining and providing proof from
36 the impounding authority or court having jurisdiction that any fines,
37 penalties, and forfeitures owed by the registered owner, as a result of
38 the suspended license impound, have been paid, and proof of the payment
39 must be tendered to the vehicle dealer or lender at the time the debtor

1 tenders all other obligations required to redeem the vehicle. Vehicle
2 dealers or lenders are not liable for damages if they rely in good
3 faith on an order from the impounding agency or a court in releasing a
4 vehicle held under a suspended license impound.

5 (e) The vehicle or other item of personal property registered or
6 titled with the department shall be released upon the presentation to
7 any person having custody of the vehicle of commercially reasonable
8 tender sufficient to cover the costs of towing, storage, or other
9 services rendered during the course of towing, removing, impounding, or
10 storing any such vehicle, with credit being given for the amount of any
11 security deposit paid under (b) of this subsection. In addition, if a
12 vehicle is impounded because the operator was arrested for a violation
13 of RCW 46.20.342 or (~~46.20.420~~) 46.20.345 and was being operated by
14 the registered owner when it was impounded under local ordinance or
15 agency rule, it must not be released to any person until the registered
16 owner establishes with the agency that ordered the vehicle impounded or
17 the court having jurisdiction that any penalties, fines, or forfeitures
18 owed by him or her have been satisfied. Registered tow truck operators
19 are not liable for damages if they rely in good faith on an order from
20 the impounding agency or a court in releasing a vehicle held under a
21 suspended license impound. Commercially reasonable tender shall
22 include, without limitation, cash, major bank credit cards, or personal
23 checks drawn on in-state banks if accompanied by two pieces of valid
24 identification, one of which may be required by the operator to have a
25 photograph. If the towing firm can determine through the customer's
26 bank or a check verification service that the presented check would not
27 be paid by the bank or guaranteed by the service, the towing firm may
28 refuse to accept the check. Any person who stops payment on a personal
29 check or credit card, or does not make restitution within ten days from
30 the date a check becomes insufficient due to lack of funds, to a towing
31 firm that has provided a service pursuant to this section or in any
32 other manner defrauds the towing firm in connection with services
33 rendered pursuant to this section shall be liable for damages in the
34 amount of twice the towing and storage fees, plus costs and reasonable
35 attorney's fees.

36 (2)(a) The registered tow truck operator shall give to each person
37 who seeks to redeem an impounded vehicle, or item of personal property
38 registered or titled with the department, written notice of the right
39 of redemption and opportunity for a hearing, which notice shall be

1 accompanied by a form to be used for requesting a hearing, the name of
2 the person or agency authorizing the impound, and a copy of the towing
3 and storage invoice. The registered tow truck operator shall maintain
4 a record evidenced by the redeeming person's signature that such
5 notification was provided.

6 (b) Any person seeking to redeem an impounded vehicle under this
7 section has a right to a hearing in the district or municipal court for
8 the jurisdiction in which the vehicle was impounded to contest the
9 validity of the impoundment or the amount of towing and storage
10 charges. The district court has jurisdiction to determine the issues
11 involving all impoundments including those authorized by the state or
12 its agents. The municipal court has jurisdiction to determine the
13 issues involving impoundments authorized by agents of the municipality.
14 Any request for a hearing shall be made in writing on the form provided
15 for that purpose and must be received by the appropriate court within
16 ten days of the date the opportunity was provided for in subsection
17 (2)(a) of this section and more than five days before the date of the
18 auction. At the time of the filing of the hearing request, the
19 petitioner shall pay to the court clerk a filing fee in the same amount
20 required for the filing of a suit in district court. If the hearing
21 request is not received by the court within the ten-day period, the
22 right to a hearing is waived and the registered owner is liable for any
23 towing, storage, or other impoundment charges permitted under this
24 chapter. Upon receipt of a timely hearing request, the court shall
25 proceed to hear and determine the validity of the impoundment.

26 (3)(a) The court, within five days after the request for a hearing,
27 shall notify the registered tow truck operator, the person requesting
28 the hearing if not the owner, the registered and legal owners of the
29 vehicle or other item of personal property registered or titled with
30 the department, and the person or agency authorizing the impound in
31 writing of the hearing date and time.

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

38 (c) At the conclusion of the hearing, the court shall determine
39 whether the impoundment was proper, whether the towing or storage fees

1 charged were in compliance with the posted rates, and who is
2 responsible for payment of the fees. The court may not adjust fees or
3 charges that are in compliance with the posted or contracted rates.

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

10 (e) If the impoundment is determined to be in violation of this
11 chapter, then the registered and legal owners of the vehicle or other
12 item of personal property registered or titled with the department
13 shall bear no impoundment, towing, or storage fees, and any security
14 shall be returned or discharged as appropriate, and the person or
15 agency who authorized the impoundment shall be liable for any towing,
16 storage, or other impoundment fees permitted under this chapter. The
17 court shall enter judgment in favor of the registered tow truck
18 operator against the person or agency authorizing the impound for the
19 impoundment, towing, and storage fees paid. In addition, the court
20 shall enter judgment in favor of the registered and legal owners of the
21 vehicle, or other item of personal property registered or titled with
22 the department, for the amount of the filing fee required by law for
23 the impound hearing petition as well as reasonable damages for loss of
24 the use of the vehicle during the time the same was impounded, for not
25 less than fifty dollars per day, against the person or agency
26 authorizing the impound. However, if an impoundment arising from an
27 alleged violation of RCW 46.20.342 or ((46.20.420)) 46.20.345 is
28 determined to be in violation of this chapter, then the law enforcement
29 officer directing the impoundment and the government employing the
30 officer are not liable for damages if the officer relied in good faith
31 and without gross negligence on the records of the department in
32 ascertaining that the operator of the vehicle had a suspended or
33 revoked driver's license. If any judgment entered is not paid within
34 fifteen days of notice in writing of its entry, the court shall award
35 reasonable attorneys' fees and costs against the defendant in any
36 action to enforce the judgment. Notice of entry of judgment may be
37 made by registered or certified mail, and proof of mailing may be made
38 by affidavit of the party mailing the notice. Notice of the entry of
39 the judgment shall read essentially as follows:

1 TO:
2 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
3 Court located at in the sum of
4 \$., in an action entitled, Case No.
5 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
6 will be awarded against you under RCW . . . if the judgment is
7 not paid within 15 days of the date of this notice.
8 DATED this day of, (year) . . .
9 Signature
10 Typed name and address
11 of party mailing notice

12 (4) Any impounded abandoned vehicle or item of personal property
13 registered or titled with the department that is not redeemed within
14 fifteen days of mailing of the notice of custody and sale as required
15 by RCW 46.55.110(3) shall be sold at public auction in accordance with
16 all the provisions and subject to all the conditions of RCW 46.55.130.
17 A vehicle or item of personal property registered or titled with the
18 department may be redeemed at any time before the start of the auction
19 upon payment of the applicable towing and storage fees.

20 **Sec. 2.** RCW 46.55.240 and 1994 c 176 s 2 are each amended to read
21 as follows:

22 (1) A city, town, or county that adopts an ordinance or resolution
23 concerning unauthorized, abandoned, or impounded vehicles shall include
24 the applicable provisions of this chapter.

25 (a) A city, town, or county may, by ordinance, authorize other
26 impound situations that may arise locally upon the public right-of-way
27 or other publicly owned or controlled property.

28 (b) A city, town, or county ordinance shall contain language that
29 establishes a written form of authorization to impound, which may
30 include a law enforcement notice of infraction or citation, clearly
31 denoting the agency's authorization to impound.

32 (c) A city, town, or county may, by ordinance, provide for release
33 of an impounded vehicle by means of a promissory note in lieu of
34 immediate payment, if at the time of redemption the legal or registered
35 owner requests a hearing on the validity of the impoundment. If the
36 municipal ordinance directs the release of an impounded vehicle before
37 the payment of the impoundment charges, the municipality is responsible

1 for the payment of those charges to the registered tow truck operator
2 within thirty days of the hearing date.

3 (d) The hearing specified in RCW 46.55.120(2) and in this section
4 may be conducted by an administrative hearings officer instead of in
5 the district court. A decision made by an administrative hearing
6 officer may be appealed to the district court for final judgment.

7 (e) A city, town, or county ordinance shall contain language that
8 the city, town, or county is authorized to release an impounded vehicle
9 prior to the expiration of any period of impoundment on the basis of
10 economic or personal hardship to the spouse of the operator or to the
11 registered owner of the vehicle if the registered owner was not the
12 operator, taking into consideration public safety factors, including
13 the operator's criminal history and driving record.

14 (2) A city, town, or county may adopt an ordinance establishing
15 procedures for the abatement and removal as public nuisances of junk
16 vehicles or parts thereof from private property. Costs of removal may
17 be assessed against the registered owner of the vehicle if the identity
18 of the owner can be determined, unless the owner in the transfer of
19 ownership of the vehicle has complied with RCW 46.12.101, or the costs
20 may be assessed against the owner of the property on which the vehicle
21 is stored. A city, town, or county may also provide for the payment to
22 the tow truck operator or wrecker as a part of a neighborhood
23 revitalization program.

24 (3) Ordinances pertaining to public nuisances shall contain:

25 (a) A provision requiring notice to the last registered owner of
26 record and the property owner of record that a hearing may be requested
27 and that if no hearing is requested, the vehicle will be removed;

28 (b) A provision requiring that if a request for a hearing is
29 received, a notice giving the time, location, and date of the hearing
30 on the question of abatement and removal of the vehicle or part thereof
31 as a public nuisance shall be mailed, by certified mail, with a five-
32 day return receipt requested, to the owner of the land as shown on the
33 last equalized assessment roll and to the last registered and legal
34 owner of record unless the vehicle is in such condition that
35 identification numbers are not available to determine ownership;

36 (c) A provision that the ordinance shall not apply to (i) a vehicle
37 or part thereof that is completely enclosed within a building in a
38 lawful manner where it is not visible from the street or other public
39 or private property or (ii) a vehicle or part thereof that is stored or

1 parked in a lawful manner on private property in connection with the
2 business of a licensed dismantler or licensed vehicle dealer and is
3 fenced according to RCW 46.80.130;

4 (d) A provision that the owner of the land on which the vehicle is
5 located may appear in person at the hearing or present a written
6 statement in time for consideration at the hearing, and deny
7 responsibility for the presence of the vehicle on the land, with his
8 reasons for the denial. If it is determined at the hearing that the
9 vehicle was placed on the land without the consent of the landowner and
10 that he has not subsequently acquiesced in its presence, then the local
11 agency shall not assess costs of administration or removal of the
12 vehicle against the property upon which the vehicle is located or
13 otherwise attempt to collect the cost from the owner;

14 (e) A provision that after notice has been given of the intent of
15 the city, town, or county to dispose of the vehicle and after a
16 hearing, if requested, has been held, the vehicle or part thereof shall
17 be removed at the request of a law enforcement officer with notice to
18 the Washington state patrol and the department of licensing that the
19 vehicle has been wrecked. The city, town, or county may operate such
20 a disposal site when its governing body determines that commercial
21 channels of disposition are not available or are inadequate, and it may
22 make final disposition of such vehicles or parts, or may transfer such
23 vehicle or parts to another governmental body provided such disposal
24 shall be only as scrap.

25 (4) A registered disposer under contract to a city or county for
26 the impounding of vehicles shall comply with any administrative
27 regulations adopted by the city or county on the handling and disposing
28 of vehicles.

--- END ---