

ESHB 1362 - S COMM AMD  
By Committee on Judiciary

ADOPTED 04/08/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9A.88.140 and 2007 c 368 s 8 are each amended to read  
4 as follows:

5 (1)(a) Upon an arrest for a suspected violation of patronizing a  
6 prostitute ~~((or))~~, promoting prostitution in the first degree,  
7 promoting prostitution in the second degree, promoting travel for  
8 prostitution, commercial sexual abuse of a minor, promoting commercial  
9 sexual abuse of a minor, or promoting travel for commercial sexual  
10 abuse of a minor, the arresting law enforcement officer may impound the  
11 person's vehicle if ~~((+a))~~ (i) the motor vehicle was used in the  
12 commission of the crime; ~~((+b))~~ (ii) the person arrested is the owner  
13 of the vehicle or the vehicle is a rental car as defined in RCW  
14 46.04.465; and ~~((+c))~~ (iii) either (A) the person arrested has  
15 previously been convicted of ~~((patronizing a prostitute, under RCW~~  
16 ~~9A.88.110, or commercial sexual abuse of a minor, under RCW 9.68A.100))~~  
17 one of the offenses listed in this subsection or (B) the offense was  
18 committed within an area designated under (b) of this subsection.

19 (b) A local governing authority may designate areas within which  
20 vehicles are subject to impoundment under this section regardless of  
21 whether the person arrested has previously been convicted of any of the  
22 offenses listed in (a) of this subsection.

23 (i) The designation must be based on evidence indicating that the  
24 area has a disproportionately higher number of arrests for the offenses  
25 listed in (a) of this subsection as compared to other areas within the  
26 same jurisdiction.

27 (ii) The local governing authority shall post signs at the  
28 boundaries of the designated area to indicate that the area has been  
29 designated under this subsection.

1 (2) Impoundments performed under this section shall be in  
2 accordance with chapter 46.55 RCW and the impoundment order must  
3 clearly state "prostitution hold."

4 (3)(a) Prior to redeeming the impounded vehicle, and in addition to  
5 all applicable impoundment, towing, and storage fees paid to the towing  
6 company under chapter 46.55 RCW, the owner of the impounded vehicle  
7 must pay a fine of five hundred dollars to the impounding agency. The  
8 fine shall be deposited in the prostitution prevention and intervention  
9 account established under RCW 43.63A.740.

10 (b) Upon receipt of the fine paid under (a) of this subsection, the  
11 impounding agency shall issue a written receipt to the owner of the  
12 impounded vehicle.

13 (4)(a) In order to redeem a vehicle impounded under this section,  
14 the owner must provide the towing company with the written receipt  
15 issued under subsection (3)(b) of this section.

16 (b) The written receipt issued under subsection (3)(b) of this  
17 section authorizes the towing company to release the impounded vehicle  
18 upon payment of all impoundment, towing, and storage fees.

19 (c) A towing company that relies on a forged receipt to release a  
20 vehicle impounded under this section is not liable to the impounding  
21 authority for any unpaid fine under subsection (3)(a) of this section.

22 (5)(a) In any proceeding under chapter 46.55 RCW to contest the  
23 validity of an impoundment under this section where the claimant  
24 substantially prevails, the claimant is entitled to a full refund of  
25 the impoundment, towing, and storage fees paid under chapter 46.55 RCW  
26 and the five hundred dollar fine paid under subsection (3) of this  
27 section.

28 (b) If the person is found not guilty at trial for a crime listed  
29 under subsection (1) of this section, the person is entitled to a full  
30 refund of the impoundment, towing, and storage fees paid under chapter  
31 46.55 RCW and the five hundred dollar fine paid under subsection (3) of  
32 this section.

33 (c) All refunds made under this section shall be paid by the  
34 impounding agency.

35 (d) Prior to receiving any refund under this section, the claimant  
36 must provide proof of payment.

1       **Sec. 2.** RCW 43.63A.740 and 1995 c 353 s 11 are each amended to  
2 read as follows:

3       The prostitution prevention and intervention account is created in  
4 the state treasury. All designated receipts from fees under RCW  
5 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall  
6 be deposited into the account. Expenditures from the account may be  
7 used only for funding the grant program to enhance prostitution  
8 prevention and intervention services under RCW 43.63A.720.

9       **Sec. 3.** RCW 46.55.120 and 2004 c 250 s 1 are each amended to read  
10 as follows:

11       (1) Vehicles or other items of personal property registered or  
12 titled with the department that are impounded by registered tow truck  
13 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140  
14 may be redeemed only under the following 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 vehicle impounded because  
25 the operator is in violation of RCW 46.20.342(1)(c) shall not be  
26 released until a person eligible to redeem it under this subsection  
27 (1)(a) satisfies the requirements of (e) of this subsection, including  
28 paying all towing, removal, and storage fees, notwithstanding the fact  
29 that the hold was ordered by a government agency. If the department's  
30 records show that the operator has been convicted of a violation of RCW  
31 46.20.342 or a similar local ordinance within the past five years, the  
32 vehicle may be held for up to thirty days at the written direction of  
33 the agency ordering the vehicle impounded. A vehicle impounded because  
34 the operator is arrested for a violation of RCW 46.20.342 may be  
35 released only pursuant to a written order from the agency that ordered  
36 the vehicle impounded or from the court having jurisdiction. An agency

1 ((may)) shall issue a written order to release pursuant to a provision  
2 of an applicable state agency rule or local ordinance authorizing  
3 release on the basis of the following:

4 (i) Economic or personal hardship to the spouse of the operator,  
5 taking into consideration public safety factors, including the  
6 operator's criminal history and driving record; or

7 (ii) The owner of the vehicle was not the driver, the owner did not  
8 know that the driver's license was suspended or revoked, and the owner  
9 has not received a prior release under this subsection or RCW  
10 46.55.113(3).

11 In order to avoid discriminatory application, other than for the  
12 reasons for release set forth in (a)(i) and (ii) of this subsection, an  
13 agency shall, under a provision of an applicable state agency rule or  
14 local ordinance, deny release in all other circumstances without  
15 discretion.

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

31 (b) If the vehicle is directed to be held for a suspended license  
32 impound, a person who desires to redeem the vehicle at the end of the  
33 period of impound shall within five days of the impound at the request  
34 of the tow truck operator pay a security deposit to the tow truck  
35 operator of not more than one-half of the applicable impound storage  
36 rate for each day of the proposed suspended license impound. The tow  
37 truck operator shall credit this amount against the final bill for  
38 removal, towing, and storage upon redemption. The tow truck operator

1 may accept other sufficient security in lieu of the security deposit.  
2 If the person desiring to redeem the vehicle does not pay the security  
3 deposit or provide other security acceptable to the tow truck operator,  
4 the tow truck operator may process and sell at auction the vehicle as  
5 an abandoned vehicle within the normal time limits set out in RCW  
6 46.55.130(1). The security deposit required by this section may be  
7 paid and must be accepted at any time up to twenty-four hours before  
8 the beginning of the auction to sell the vehicle as abandoned. The  
9 registered owner is not eligible to purchase the vehicle at the  
10 auction, and the tow truck operator shall sell the vehicle to the  
11 highest bidder who is not the registered owner.

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

16 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
17 or lender with a perfected security interest in the vehicle may redeem  
18 or lawfully repossess a vehicle immediately by payment of the costs of  
19 removal, towing, and storage, whereupon the vehicle will not be held  
20 for a suspended license impound. A motor vehicle dealer or lender with  
21 a perfected security interest in the vehicle may not knowingly and  
22 intentionally engage in collusion with a registered owner to repossess  
23 and then return or resell a vehicle to the registered owner in an  
24 attempt to avoid a suspended license impound. However, this provision  
25 does not preclude a vehicle dealer or a lender with a perfected  
26 security interest in the vehicle from repossessing the vehicle and then  
27 selling, leasing, or otherwise disposing of it in accordance with  
28 chapter 62A.9A RCW, including providing redemption rights to the debtor  
29 under RCW 62A.9A-623. If the debtor is the registered owner of the  
30 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A  
31 RCW is conditioned upon the debtor obtaining and providing proof from  
32 the impounding authority or court having jurisdiction that any fines,  
33 penalties, and forfeitures owed by the registered owner, as a result of  
34 the suspended license impound, have been paid, and proof of the payment  
35 must be tendered to the vehicle dealer or lender at the time the debtor  
36 tenders all other obligations required to redeem the vehicle. Vehicle  
37 dealers or lenders are not liable for damages if they rely in good

1 faith on an order from the impounding agency or a court in releasing a  
2 vehicle held under a suspended license impound.

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

35 (2)(a) The registered tow truck operator shall give to each person  
36 who seeks to redeem an impounded vehicle, or item of personal property  
37 registered or titled with the department, written notice of the right  
38 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.

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

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

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



1 be made by registered or certified mail, and proof of mailing may be  
2 made by affidavit of the party mailing the notice. Notice of the entry  
3 of the judgment shall read essentially as follows:

4 TO: . . . . .

5 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
6 . . . . . Court located at . . . . . in the sum of  
7 \$. . . . ., in an action entitled . . . . ., Case No.  
8 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
9 will be awarded against you under RCW . . . if the judgment is  
10 not paid within 15 days of the date of this notice.

11 DATED this . . . . day of . . . . ., (year) . . .

12 Signature . . . . .  
13 Typed name and address  
14 of party mailing notice

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

**ESHB 1362** - S COMM AMD  
By Committee on Judiciary

**ADOPTED 04/08/2009**

23 On page 1, line 1 of the title, after "Relating to" strike the  
24 remainder of the title and insert "vehicles used in prostitution-  
25 related offenses; and amending RCW 9A.88.140, 43.63A.740, and  
26 46.55.120."

EFFECT: Rental cars are also subject to impoundment.

Prostitution itself is removed from the list of offenses subjecting a car to impoundment. Acquittal at trial is added to what entitles the person to a full refund of all fees and fines. If the impoundment causes a hardship to the innocent spouse and a local governing body has an ordinance or law to allow for such an exception, the vehicle must be released to the spouse without a fine being paid.

--- END ---