
SUBSTITUTE HOUSE BILL 2058

State of Washington 65th Legislature 2017 Regular Session

By House Transportation (originally sponsored by Representative Harmsworth)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to procedures for the redemption of certain
2 vehicles that are towed from accident scenes by registered tow truck
3 companies when the vehicle owner is admitted as a patient in a
4 hospital due to the accident; amending RCW 46.55.120, 46.55.130, and
5 46.55.150; adding a new section to chapter 46.55 RCW; and creating a
6 new section.

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

8 **Sec. 1.** RCW 46.55.120 and 2013 c 150 s 1 are each amended to
9 read as follows:

10 (1)(a) 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, 46.55.113, or
13 9A.88.140 may be redeemed only by the following persons or entities:

- 14 (i) The legal owner;
- 15 (ii) The registered owner;
- 16 (iii) A person authorized in writing by the registered owner;
- 17 (iv) The vehicle's insurer or a vendor working on behalf of the
18 vehicle's insurer;

19 (v) A third-party insurer that has a duty to repair or replace
20 the vehicle, has obtained consent from the registered owner or the
21 owner's agent to move the vehicle, and has documented that consent in

1 the insurer's claim file, or a vendor working on behalf of a third-
2 party insurer that has received such consent; provided, however, that
3 at all times the registered owner must be granted access to and may
4 reclaim possession of the vehicle. For the purposes of this
5 subsection, "owner's agent" means the legal owner of the vehicle, a
6 driver in possession of the vehicle with the registered owner's
7 permission, or an adult member of the registered owner's family;

8 (vi) A person who is determined and verified by the operator to
9 have the permission of the registered owner of the vehicle or other
10 item of personal property registered or titled with the department;
11 (~~(v)~~)

12 (vii) A person who has purchased a vehicle or item of personal
13 property registered or titled with the department from the registered
14 owner who produces proof of ownership or written authorization and
15 signs a receipt therefor; or

16 (viii) If (a)(i) through (vii) of this subsection do not apply, a
17 person, who is known to the registered or legal owner of a motorcycle
18 or moped, as each are defined in chapter 46.04 RCW, that was towed
19 from the scene of an accident, may redeem the motorcycle or moped as
20 a bailment in accordance with section 4 of this act while the
21 registered or legal owner is admitted as a patient in a hospital due
22 to the accident.

23 (b) In addition, a vehicle impounded because the operator is in
24 violation of RCW 46.20.342(1)(c) shall not be released until a person
25 eligible to redeem it under (a) of this subsection satisfies the
26 requirements of (f) of this subsection, including paying all towing,
27 removal, and storage fees, notwithstanding the fact that the hold was
28 ordered by a government agency. If the department's records show that
29 the operator has been convicted of a violation of RCW 46.20.342 or a
30 similar local ordinance within the past five years, the vehicle may
31 be held for up to thirty days at the written direction of the agency
32 ordering the vehicle impounded. A vehicle impounded because the
33 operator is arrested for a violation of RCW 46.20.342 may be released
34 only pursuant to a written order from the agency that ordered the
35 vehicle impounded or from the court having jurisdiction. An agency
36 shall issue a written order to release pursuant to a provision of an
37 applicable state agency rule or local ordinance authorizing release
38 on the basis of the following:

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

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

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

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

28 (c) If the vehicle is directed to be held for a suspended license
29 impound, a person who desires to redeem the vehicle at the end of the
30 period of impound shall within five days of the impound at the
31 request of the tow truck operator pay a security deposit to the tow
32 truck operator of not more than one-half of the applicable impound
33 storage rate for each day of the proposed suspended license impound.
34 The tow truck operator shall credit this amount against the final
35 bill for removal, towing, and storage upon redemption. The tow truck
36 operator may accept other sufficient security in lieu of the security
37 deposit. If the person desiring to redeem the vehicle does not pay
38 the security deposit or provide other security acceptable to the tow
39 truck operator, the tow truck operator may process and sell at
40 auction the vehicle as an abandoned vehicle within the normal time

1 limits set out in RCW 46.55.130(1). The security deposit required by
2 this section may be paid and must be accepted at any time up to
3 twenty-four hours before the beginning of the auction to sell the
4 vehicle as abandoned. The registered owner is not eligible to
5 purchase the vehicle at the auction, and the tow truck operator shall
6 sell the vehicle to the highest bidder who is not the registered
7 owner.

8 (d) Notwithstanding (c) of this subsection, a rental car business
9 may immediately redeem a rental vehicle it owns by payment of the
10 costs of removal, towing, and storage, whereupon the vehicle will not
11 be held for a suspended license impound.

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

37 (f) The vehicle or other item of personal property registered or
38 titled with the department shall be released upon the presentation to
39 any person having custody of the vehicle of commercially reasonable
40 tender sufficient to cover the costs of towing, storage, or other

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

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

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

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

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

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

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

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

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

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

33 TO:
34 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in
35 the Court located at in the sum of
36 \$., in an action entitled, Case
37 No. YOU ARE FURTHER NOTIFIED that attorneys fees and
38 costs will be awarded against you under RCW . . . if the

1 judgment is not paid within 15 days of the date of this
2 notice.

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

4 Signature

5 Typed name and address

6 of party mailing notice

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

16 **Sec. 2.** RCW 46.55.130 and 2011 c 65 s 1 are each amended to read
17 as follows:

18 (1) If, after the expiration of fifteen days from the date of
19 mailing of notice of custody and sale required in RCW 46.55.110(3) to
20 the registered and legal owners, the vehicle remains unclaimed and
21 has not been listed as a stolen vehicle, (~~(or)~~) a suspended license
22 impound has been directed(~~(or)~~) but no (~~(security)~~) commercially
23 reasonable tender has been paid under RCW 46.55.120, or a person
24 eligible to redeem under RCW 46.55.120(1)(a)(viii) has not come forth
25 providing information that the registered or legal owner of a
26 motorcycle or moped is an admitted patient in a hospital, (~~(then)~~)
27 the registered tow truck operator having custody of the vehicle shall
28 conduct a sale of the vehicle at public auction after having first
29 published a notice of the date, place, and time of the auction, and a
30 method to contact the tow truck operator conducting the auction such
31 as a telephone number, (~~(electronic mail)~~) email address, or web
32 site, in a newspaper of general circulation in the county in which
33 the vehicle is located not less than three days and no more than ten
34 days before the date of the auction. For the purposes of this
35 section, a newspaper of general circulation may be a commercial,
36 widely circulated, free, classified advertisement circular not
37 affiliated with the registered tow truck operator and the notice may
38 be listed in a classification delineating "auctions" or similar

1 language designed to attract potential bidders to the auction. The
2 notice shall contain a notification that a public viewing period will
3 be available before the auction and the length of the viewing period.
4 The auction shall be held during daylight hours of a normal business
5 day. The viewing period must be one hour if twenty-five or fewer
6 vehicles are to be auctioned, two hours if more than twenty-five and
7 fewer than fifty vehicles are to be auctioned, and three hours if
8 fifty or more vehicles are to be auctioned. If the registered tow
9 truck operator is notified that the registered or legal owner of the
10 moped or motorcycle is an admitted patient in the hospital as
11 evidenced by a declaration on a form authorized by the department,
12 the registered tow truck operator may delay the auction of the moped
13 or motorcycle for a reasonable time in a good faith effort to provide
14 additional time for the redemption of the vehicle.

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

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

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

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

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

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

32 (f) The successful bidder shall apply for title within fifteen
33 days;

34 (g) The registered tow truck operator shall post a copy of the
35 auction procedure at the bidding site. If the bidding site is
36 different from the licensed office location, the operator shall post
37 a clearly visible sign at the office location that describes in
38 detail where the auction will be held. At the bidding site a copy of
39 the newspaper advertisement that lists the vehicles for sale shall be
40 posted;

1 (h) All surplus moneys derived from the auction after
2 satisfaction of the registered tow truck operator's lien shall be
3 remitted within thirty days to the department for deposit in the
4 state motor vehicle fund. A report identifying the vehicles resulting
5 in any surplus shall accompany the remitted funds. If the director
6 subsequently receives a valid claim from the registered vehicle owner
7 of record as determined by the department within one year from the
8 date of the auction, the surplus moneys shall be remitted to such
9 owner;

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

15 (3) A tow truck operator may refuse to accept a bid at an
16 abandoned vehicle auction under this section for any reason in the
17 operator's posted operating procedures and for any of the following
18 reasons: (a) The bidder is currently indebted to the operator; (b)
19 the operator has knowledge that the bidder has previously abandoned
20 vehicles purchased at auction; or (c) the bidder has purchased, at
21 auction, more than four vehicles in the last calendar year without
22 obtaining title to any or all of the vehicles. In no case may an
23 operator hold a vehicle for longer than ninety days without holding
24 an auction on the vehicle, except for vehicles that are under a
25 police or judicial hold.

26 (4)(a) The accumulation of storage charges applied to the lien at
27 auction under RCW 46.55.140 may not exceed fifteen additional days
28 from the date of receipt of the information by the operator from the
29 department as provided by RCW 46.55.110(3) plus the storage charges
30 accumulated prior to the receipt of the information. However,
31 vehicles redeemed pursuant to RCW 46.55.120 prior to their sale at
32 auction are subject to payment of all accumulated storage charges
33 from the time of impoundment up to the time of redemption.

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

1 the correct and complete information is provided to the department by
2 the registered tow truck operator.

3 **Sec. 3.** RCW 46.55.150 and 1989 c 111 s 14 are each amended to
4 read as follows:

5 The registered tow truck operator shall keep a transaction file
6 on each vehicle. The transaction file shall contain as a minimum
7 those of the following items that are required at the time the
8 vehicle is redeemed or becomes abandoned and is sold at a public
9 auction:

10 (1) A signed impoundment authorization as required by RCW
11 46.55.080;

12 (2) A record of the twenty-four hour written impound notice to a
13 law enforcement agency;

14 (3) A copy of the impoundment notification to registered and
15 legal owners, sent within twenty-four hours of impoundment, that
16 advises the owners of the address of the impounding firm, a twenty-
17 four hour telephone number, and the name of the person or agency
18 under whose authority the vehicle was impounded;

19 (4) A copy of the abandoned vehicle report that was sent to and
20 returned by the department;

21 (5) A copy and proof of mailing of the notice of custody and sale
22 sent by the registered tow truck operator to the owners advising them
23 they have fifteen days to redeem the vehicle before it is sold at
24 public auction;

25 (6) A copy of the published notice of public auction;

26 (7) A copy of the affidavit of sale showing the sales date,
27 purchaser, amount of the lien, and sale price;

28 (8) A record of the two highest bid offers on the vehicle, with
29 the names, addresses, and telephone numbers of the two bidders;

30 (9) A copy of the notice of opportunity for hearing given to
31 those who redeem vehicles;

32 (10) An itemized invoice of charges against the vehicle; and

33 (11) Documentation of a bailment in accordance with section 4 of
34 this act, if applicable.

35 The transaction file shall be kept for a minimum of three years.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.55
37 RCW to read as follows:

1 (1) Any person, who is known to the registered or legal owner of
2 a motorcycle or moped that was towed from the scene of an accident,
3 may redeem the motorcycle or moped as a bailment on behalf of the
4 registered or legal owner who is admitted as a patient in a hospital
5 due to the accident subject to the following requirements:

6 (a) The eligible person must pay the costs of towing, storage, or
7 other services rendered during the course of towing, removal, or
8 storing of the motorcycle or moped.

9 (b) The eligible person must provide a valid government-issued
10 photo identification, such as a current driver's license or state-
11 issued identification card, military identification, or passport.

12 (c) The eligible person must sign a declaration on a form
13 furnished by the department that provides:

14 (i) The person's name, telephone number, and physical address;

15 (ii) The relationship between the person and the registered or
16 legal owner;

17 (iii) The name and location of the hospital where the registered
18 or legal owner is admitted;

19 (iv) The address of the physical location where the motorcycle or
20 moped will be stored for the registered or legal owner at no
21 additional cost to the owner;

22 (v) A statement that the person agrees to protect the motorcycle
23 or moped and return it to the registered or legal owner in the same
24 form it was received when removed from the registered tow truck
25 operator's premises; and

26 (vi) A statement that the person knowingly agrees to become the
27 bailee for the motorcycle or moped.

28 (d) The declaration form under (c) of this subsection must be
29 signed under penalty of perjury.

30 (2) The registered tow truck operator may refuse an offer to
31 redeem under this section for good cause, which includes, but is not
32 limited to, competing applications for redemption from persons
33 identified under RCW 46.55.120(1)(a) or the person applying to be the
34 bailee has been convicted of a crime of dishonesty or theft. This
35 section does not require a registered tow truck operator to
36 investigate or otherwise determine the criminal history or the
37 honesty of the bailee.

38 (3) Any registered tow truck operator acting in good faith in
39 compliance with this section that releases a motorcycle or moped to
40 bailment in accordance with the requirements of this section is

1 immune from civil liability arising out of the bailment unless the
2 tow truck operator's act or omission constitutes gross negligence or
3 willful or wanton misconduct.

4 (4) In addition to any remedies provided by common law for
5 bailments, a person who becomes the bailee of a motorcycle or moped
6 under this section and fails to return the motorcycle or moped to the
7 registered or legal owner may be charged with possession of a stolen
8 vehicle under RCW 9A.56.068.

9 (5) The department must create a declaration form to be completed
10 by individuals that identifies the required information in subsection
11 (1)(b) and (c) of this section. The department must post the form on
12 its web site, and the form must be able to be downloaded from the
13 department's web site.

14 NEW SECTION. **Sec. 5.** This act may be known and cited as the
15 Denise Chew scooter recovery act.

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