
HOUSE BILL 1688

State of Washington

68th Legislature

2023 Regular Session

By Representatives Hackney and Barkis

Read first time 01/31/23. Referred to Committee on Transportation.

1 AN ACT Relating to payments to tow truck operators for the
2 release of vehicles to indigent citizens; amending RCW 46.55.115 and
3 46.55.120; and adding a new section to chapter 46.55 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.55
6 RCW to read as follows:

7 (1) The department shall create a program to compensate
8 registered tow truck operators for impounds performed at the
9 direction of law enforcement to apply when the owner of the vehicle
10 is indigent, except when the vehicle has been impounded after the
11 vehicle owner has been arrested by a law enforcement officer.

12 (2) An individual seeking the release of a vehicle under this
13 program must:

14 (a) Be the legal or registered owner of the vehicle;

15 (b) Be indigent;

16 (c) Either not have the ability to pay for the towing service or
17 when making such payment would be a severe hardship;

18 (d) Not have applied for the release of a vehicle under this
19 program more than once in the preceding year; and

1 (e) Fill out and certify the first part of the form described in
2 subsection (4)(a) of this section and submit it to the registered tow
3 truck operator.

4 (3) A registered tow truck operator may seek payment for impounds
5 ordered by a law enforcement agency for vehicles owned by individuals
6 meeting the requirements of subsection (2) of this section when the
7 impound was not ordered following an arrest. The registered tow truck
8 operator applying for payment must fill out the second part of the
9 form described in subsection (4)(b) of this section and must submit
10 the completed form to the department.

11 (4) The department shall provide a form to registered tow truck
12 operators that consists of two parts.

13 (a) The first part of the form is to be completed by individuals
14 seeking the release of a vehicle and must include a requirement that
15 individuals self-certify under penalty of perjury that they meet the
16 requirements of the program and acknowledge that they understand that
17 the department may verify or audit the information and that perjury
18 is a criminal offense.

19 (b)(i) The second part of the form is to be completed by
20 registered tow truck operators and must include a requirement that
21 registered tow truck operators self-certify under penalty of perjury
22 that they have verified that:

23 (A) The impound was ordered by a law enforcement agency;

24 (B) The impound was not ordered following an arrest;

25 (C) The individual seeking the release of a vehicle is the owner
26 of the vehicle registered or titled with the department; and

27 (ii) The registered tow truck operators must acknowledge that
28 they understand that the department may verify or audit the
29 information and that perjury is a criminal offense.

30 (5) Subject to availability of funds, the department shall
31 disburse surplus funds deposited under RCW 46.55.130(2)(h) that are
32 no longer subject to payment for a valid claim under RCW
33 46.55.130(2)(h) in an amount equal to the cost of the towing,
34 storage, or other services incurred by the registered tow truck
35 operators during the course of the law enforcement directed impound
36 to the eligible registered tow truck operators following submission
37 of the form by the registered tow truck operator. Eligibility for
38 payment under this section does not constitute an entitlement for
39 payment. If eligible applications for payment exceed the funds
40 available, the department must create and maintain a waitlist in the

1 order the forms are received pursuant to this section. The department
2 is not civilly or criminally liable and no penalty or cause of action
3 may be brought against it regarding the provision or lack of
4 provision of funds.

5 (6) The department shall provide an annual report to the
6 appropriate committees of the legislature by October 1st of each
7 year. The annual report must include the total number of law
8 enforcement directed tows not following an arrest, the number of
9 vehicles released under this program, the number of applicants who
10 received payment under this program, the total funds provided to
11 applicants, the number of applicants on the waitlist who did not
12 receive grants, the total amount of grants unpaid due to lack of
13 funds, and the number of ineligible applicants and the reasons for
14 ineligibility.

15 (7) A registered tow truck operator who releases the vehicle
16 under this section does not have a lien or deficiency claim on the
17 released vehicle.

18 (8) When an impounding tow truck operator sends notification to
19 the legal and registered owners of a vehicle regarding the
20 impoundment of it as required under RCW 46.55.110 and the vehicle may
21 be eligible under this program, the impounding tow truck operator
22 must include information in the notification about the program
23 established in this section for the release of vehicles to indigent
24 persons.

25 (9) The registered tow truck operator shall provide to each
26 person who seeks to redeem an impounded vehicle that may be eligible
27 under this program written notice, in a form and manner specified by
28 the department, of the release of vehicles to indigent individuals.
29 The notice must be accompanied by the form described in subsection
30 (4) of this section.

31 **Sec. 2.** RCW 46.55.115 and 1993 c 121 s 2 are each amended to
32 read as follows:

33 The Washington state patrol, under its authority to remove
34 vehicles from the highway, may remove the vehicles directly, through
35 towing operators appointed by the state patrol and called on a
36 rotational or other basis, through contracts with towing operators,
37 or by a combination of these methods. When removal is to be
38 accomplished through a towing operator on a noncontractual basis, the
39 state patrol may appoint any towing operator for this purpose upon

1 the application of the operator. Each appointment shall be contingent
2 upon the submission of an application to the state patrol and the
3 making of subsequent reports in such form and frequency and
4 compliance with such standards of equipment, performance, pricing,
5 and practices as may be required by rule of the state patrol.

6 An appointment may be rescinded by the state patrol upon evidence
7 that the appointed towing operator is not complying with the laws or
8 rules relating to the removal and storage of vehicles from the
9 highway. The state patrol may not rescind an appointment merely
10 because a registered tow truck operator negotiates a different rate
11 for voluntary, owner-requested towing than for involuntary towing
12 under this chapter. The costs of removal and storage of vehicles
13 under this section shall be paid by the owner or driver of the
14 vehicle and shall be a lien upon the vehicle until paid, unless the
15 removal is determined to be invalid or the registered tow truck
16 operator releases the vehicle under the program established in
17 section 1 of this act.

18 Rules promulgated under this section shall be binding only upon
19 those towing operators appointed by the state patrol for the purpose
20 of performing towing services at the request of the Washington state
21 patrol. Any person aggrieved by a decision of the state patrol made
22 under this section may appeal the decision under chapter 34.05 RCW.

23 **Sec. 3.** RCW 46.55.120 and 2017 c 152 s 1 are each amended to
24 read as follows:

25 (1)(a) Vehicles or other items of personal property registered or
26 titled with the department that are impounded by registered tow truck
27 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or
28 9A.88.140 may be redeemed only by the following persons or entities:

29 (i) The legal owner;

30 (ii) The registered owner;

31 (iii) A person authorized in writing by the registered owner;

32 (iv) The vehicle's insurer or a vendor working on behalf of the
33 vehicle's insurer;

34 (v) A third-party insurer that has a duty to repair or replace
35 the vehicle, has obtained consent from the registered owner or the
36 owner's agent to move the vehicle, and has documented that consent in
37 the insurer's claim file, or a vendor working on behalf of a third-
38 party insurer that has received such consent; provided, however, that
39 at all times the registered owner must be granted access to and may

1 reclaim possession of the vehicle. For the purposes of this
2 subsection, "owner's agent" means the legal owner of the vehicle, a
3 driver in possession of the vehicle with the registered owner's
4 permission, or an adult member of the registered owner's family;

5 (vi) A person who is determined and verified by the operator to
6 have the permission of the registered owner of the vehicle or other
7 item of personal property registered or titled with the department;

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

12 (viii) If (a)(i) through (vii) of this subsection do not apply, a
13 person, who is known to the registered or legal owner of a motorcycle
14 or moped, as each are defined in chapter 46.04 RCW, that was towed
15 from the scene of an accident, may redeem the motorcycle or moped as
16 a bailment in accordance with RCW 46.55.125 while the registered or
17 legal owner is admitted as a patient in a hospital due to the
18 accident.

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

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

38 (ii) The owner of the vehicle was not the driver, the owner did
39 not know that the driver's license was suspended or revoked, and the

1 owner has not received a prior release under this subsection or RCW
2 46.55.113(3).

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

8 If a vehicle is impounded because the operator is in violation of
9 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to
10 (~~thirty~~) 30 days at the written direction of the agency ordering
11 the vehicle impounded. However, if the department's records show that
12 the operator has been convicted of a violation of RCW 46.20.342(1)
13 (a) or (b) or a similar local ordinance within the past five years,
14 the vehicle may be held at the written direction of the agency
15 ordering the vehicle impounded for up to (~~sixty~~) 60 days, and for
16 up to (~~ninety~~) 90 days if the operator has two or more such prior
17 offenses. If a vehicle is impounded because the operator is arrested
18 for a violation of RCW 46.20.342, the vehicle may not be released
19 until a person eligible to redeem it under (a) of this subsection
20 satisfies the requirements of (f) of this subsection, including
21 paying all towing, removal, and storage fees, notwithstanding the
22 fact that the hold was ordered by a government agency.

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

1 sell the vehicle to the highest bidder who is not the registered
2 owner.

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

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

32 (f) The vehicle or other item of personal property registered or
33 titled with the department shall be released upon the presentation to
34 any person having custody of the vehicle of commercially reasonable
35 tender sufficient to cover the costs of towing, storage, or other
36 services rendered during the course of towing, removing, impounding,
37 or storing any such vehicle, with credit being given for the amount
38 of any security deposit paid under (c) of this subsection.
39 Alternatively, a vehicle must be released when the registered tow
40 truck operator completes the form described in section 1(4)(a) of

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

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

37 (b) Any person seeking to redeem an impounded vehicle under this
38 section has a right to a hearing in the district or municipal court
39 for the jurisdiction in which the vehicle was impounded to contest
40 the validity of the impoundment or the amount of towing and storage

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

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

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

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

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

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

31 TO:
32 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in
33 the Court located at in the sum of
34 \$., in an action entitled, Case
35 No. YOU ARE FURTHER NOTIFIED that attorneys fees and
36 costs will be awarded against you under RCW . . . if the
37 judgment is not paid within 15 days of the date of this
38 notice.
39 DATED this day of, (year) . . .

1 Signature
2 Typed name and address
3 of party mailing notice

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

- 12 (a) Payment of the applicable towing and storage fees; or
- 13 (b) The completion of the form specified in section 1 of this
- 14 act.

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