

2 **ESHB 1820** - S COMM AMD
3 By Committee on Transportation

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 46.37 RCW
8 to read as follows:

9 (1) "Safety chains" means flexible tension members connected from
10 the front portion of the towed vehicle to the rear portion of the
11 towing vehicle for the purpose of retaining connection between towed
12 and towing vehicle in the event of failure of the connection provided
13 by the primary connecting system, as prescribed by rule of the
14 Washington state patrol.

15 (2) The term "safety chains" includes chains, cables, or wire
16 ropes, or an equivalent flexible member meeting the strength
17 requirements prescribed by rule of the Washington state patrol.

18 (3) A tow truck towing a vehicle and a vehicle towing a trailer
19 must use safety chains. Failure to comply with this section is a class
20 1 civil infraction punishable under RCW 7.80.120.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.55 RCW
22 to read as follows:

23 A vehicle engaging in the business of recovery of disabled vehicles
24 for monetary compensation, from or on a public road or highway must
25 either be operated by a registered tow truck operator, or someone who
26 at a minimum has insurance in a like manner and amount as prescribed in
27 RCW 46.55.030(3), and have had their tow trucks inspected in a like
28 manner as prescribed by RCW 46.55.040(1). The department shall adopt
29 rules to enforce this section. Failure to comply with this section is
30 a class 1 civil infraction punishable under RCW 7.80.120.

31 **Sec. 3.** RCW 46.55.063 and 1989 c 111 s 7 are each amended to read
32 as follows:

33 (1) An operator shall file a fee schedule with the department. All
34 filed fees must be adequate to cover the costs of service provided. No

1 fees may exceed those filed with the department. At least ten days
2 before the effective date of any change in an operator's fee schedule,
3 the registered tow truck operator shall file the revised fee schedule
4 with the department.

5 (2) Towing contracts with private property owners shall be in
6 written form and state the hours of authorization to impound, the
7 persons empowered to authorize the impounds, and the present charge of
8 a private impound for the classes of tow trucks to be used in the
9 impound, and must be retained in the files of the registered tow truck
10 operator for three years.

11 (3) A fee that is charged for tow truck service must be calculated
12 on an hourly basis, and after the first hour must be charged to the
13 nearest quarter hour.

14 (4) ~~((A))~~ Fees that ((is)) are charged for the storage of a
15 vehicle, or for other items of personal property registered or titled
16 with the department, must be calculated on a twenty-four hour basis and
17 must be charged to the nearest half day from the time the vehicle
18 arrived at the secure storage area. However, items of personal
19 property registered or titled with the department that are wholly
20 contained within an impounded vehicle are not subject to additional
21 storage fees; they are, however, subject to satisfying the underlying
22 lien for towing and storage of the vehicle in which they are contained.

23 (5) All billing invoices that are provided to the redeemer of the
24 vehicle, or other items of personal property registered or titled with
25 the department, must be itemized so that the individual fees are
26 clearly discernable.

27 **Sec. 4.** RCW 46.55.090 and 1989 c 178 s 25 are each amended to read
28 as follows:

29 (1) All vehicles impounded shall be taken to the nearest storage
30 location that has been inspected and is listed on the application filed
31 with the department.

32 (2) All vehicles shall be handled and returned in substantially the
33 same condition as they existed before being towed.

34 (3) All personal belongings and contents in the vehicle, with the
35 exception of those items of personal property that are registered or
36 titled with the department, shall be kept intact, and shall be returned
37 to the vehicle's owner or agent during normal business hours upon
38 request and presentation of a driver's license or other sufficient

1 identification. Personal belongings, with the exception of those items
2 of personal property that are registered or titled with the department,
3 shall not be sold at auction to fulfill a lien against the vehicle.

4 (4) All personal belongings, with the exception of those items of
5 personal property that are registered or titled with the department,
6 not claimed before the auction shall be turned over to the local law
7 enforcement agency to which the initial notification of impoundment was
8 given. Such personal belongings shall be disposed of pursuant to
9 chapter 63.32 or 63.40 RCW.

10 (5) Tow truck drivers shall have a Washington state driver's
11 license endorsed for the appropriate classification under chapter 46.25
12 RCW or the equivalent issued by another state.

13 (6) Any person who shows proof of ownership or written
14 authorization from the impounded vehicle's registered or legal owner or
15 the vehicle's insurer may view the vehicle without charge during normal
16 business hours.

17 **Sec. 5.** RCW 46.55.100 and 1991 c 20 s 1 are each amended to read
18 as follows:

19 (1) At the time of impoundment the registered tow truck operator
20 providing the towing service shall give immediate notification, by
21 telephone or radio, to a law enforcement agency having jurisdiction who
22 shall maintain a log of such reports. A law enforcement agency, or a
23 private communication center acting on behalf of a law enforcement
24 agency, shall within six to twelve hours of the impoundment, provide to
25 a requesting operator the name and address of the legal and registered
26 owners of the vehicle, and the registered owner of any personal
27 property registered or titled with the department that is attached to
28 or contained in or on the impounded vehicle, the vehicle identification
29 number, and any other necessary, pertinent information. The initial
30 notice of impoundment shall be followed by a written or electronic
31 facsimile notice within twenty-four hours. In the case of a vehicle
32 from another state, time requirements of this subsection do not apply
33 until the requesting law enforcement agency in this state receives the
34 information.

35 (2) The operator shall immediately send an abandoned vehicle report
36 to the department for any vehicle, and for any items of personal
37 property registered or titled with the department, that are in the
38 operator's possession after the ninety-six hour abandonment period.

1 Such report need not be sent when the impoundment is pursuant to a
2 writ, court order, or police hold. The owner notification and
3 abandonment process shall be initiated by the registered tow truck
4 operator immediately following notification by a court or law
5 enforcement officer that the writ, court order, or police hold is no
6 longer in effect.

7 (3) Following the submittal of an abandoned vehicle report, the
8 department shall provide the registered tow truck operator with owner
9 information within seventy-two hours.

10 (4) Within fifteen days of the sale of an abandoned vehicle at
11 public auction, the towing operator shall send a copy of the abandoned
12 vehicle report showing the disposition of the abandoned vehicle and any
13 other items of personal property registered or titled with the
14 department to the crime information center of the Washington state
15 patrol.

16 (5) If the operator sends an abandoned vehicle report to the
17 department and the department finds no owner information, an operator
18 may proceed with an inspection of the vehicle and any other items of
19 personal property registered or titled with the department to determine
20 whether owner identification is within the vehicle.

21 (6) If the operator finds no owner identification, the operator
22 shall immediately notify the appropriate law enforcement agency, which
23 shall search the vehicle and any other items of personal property
24 registered or titled with the department for the vehicle identification
25 number or other appropriate identification numbers and check the
26 necessary records to determine the vehicle's or other property's
27 owners.

28 **Sec. 6.** RCW 46.55.110 and 1989 c 111 s 10 are each amended to read
29 as follows:

30 (1) When an unauthorized vehicle is impounded, the impounding
31 towing operator shall notify the legal and registered owners of the
32 impoundment of the unauthorized vehicle and the owners of any other
33 items of personal property registered or titled with the department.
34 The notification shall be sent by first-class mail within twenty-four
35 hours after the impoundment to the last known registered and legal
36 owners of the vehicle, and the owners of any other items of personal
37 property registered or titled with the department, as provided by the
38 law enforcement agency, and shall inform the owners of the identity of

1 the person or agency authorizing the impound. The notification shall
2 include the name of the impounding tow firm, its address, and telephone
3 number. The notice shall also include the location, time of the
4 impound, and by whose authority the vehicle was impounded. The notice
5 shall also include the written notice of the right of redemption and
6 opportunity for a hearing to contest the validity of the impoundment
7 pursuant to RCW 46.55.120.

8 (2) In the case of an abandoned vehicle, or other item of personal
9 property registered or titled with the department, within twenty-four
10 hours after receiving information on the ((vehicle)) owners from the
11 department through the abandoned vehicle report, the tow truck operator
12 shall send by certified mail, with return receipt requested, a notice
13 of custody and sale to the legal and registered owners.

14 (3) No notices need be sent to the legal or registered owners of an
15 impounded vehicle or other item of personal property registered or
16 titled with the department, if the vehicle or personal property has
17 been redeemed.

18 **Sec. 7.** RCW 46.55.120 and 1993 c 121 s 3 are each amended to read
19 as follows:

20 (1) Vehicles or other items of personal property registered or
21 titled with the department that are impounded by registered tow truck
22 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be
23 redeemed only under the following circumstances:

24 (a) Only the legal owner, the registered owner, a person authorized
25 in writing by the registered owner or the vehicle's insurer, a person
26 who is determined and verified by the operator to have the permission
27 of the registered owner of the vehicle or other item of personal
28 property registered or titled with the department, or one who has
29 purchased a vehicle or item of personal property registered or titled
30 with the department from the registered owner who produces proof of
31 ownership or written authorization and signs a receipt therefor, may
32 redeem an impounded vehicle or items of personal property registered or
33 titled with the department.

34 (b) The vehicle or other item of personal property registered or
35 titled with the department shall be released upon the presentation to
36 any person having custody of the vehicle of commercially reasonable
37 tender sufficient to cover the costs of towing, storage, or other
38 services rendered during the course of towing, removing, impounding, or

1 storing any such vehicle. Commercially reasonable tender shall
2 include, without limitation, cash, major bank credit cards, or personal
3 checks drawn on in-state banks if accompanied by two pieces of valid
4 identification, one of which may be required by the operator to have a
5 photograph. If the towing firm can determine through the customer's
6 bank or a check verification service that the presented check would not
7 be paid by the bank or guaranteed by the service, the towing firm may
8 refuse to accept the check. Any person who stops payment on a personal
9 check or credit card, or does not make restitution within ten days from
10 the date a check becomes insufficient due to lack of funds, to a towing
11 firm that has provided a service pursuant to this section or in any
12 other manner defrauds the towing firm in connection with services
13 rendered pursuant to this section shall be liable for damages in the
14 amount of twice the towing and storage fees, plus costs and reasonable
15 attorney's fees.

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

25 (b) Any person seeking to redeem an impounded vehicle under this
26 section has a right to a hearing in the district court for the
27 jurisdiction in which the vehicle was impounded to contest the validity
28 of the impoundment or the amount of towing and storage charges. The
29 district court has jurisdiction to determine the issues involving all
30 impoundments including those authorized by the state or its agents.
31 Any request for a hearing shall be made in writing on the form provided
32 for that purpose and must be received by the district court within ten
33 days of the date the opportunity was provided for in subsection (2)(a)
34 of this section. If the hearing request is not received by the
35 district court within the ten-day period, the right to a hearing is
36 waived and the registered owner is liable for any towing, storage, or
37 other impoundment charges permitted under this chapter. Upon receipt
38 of a timely hearing request, the district court shall proceed to hear
39 and determine the validity of the impoundment.

1 (3)(a) The district court, within five days after the request for
2 a hearing, shall notify the registered tow truck operator, the person
3 requesting the hearing if not the owner, the registered and legal
4 owners of the vehicle or other item of personal property registered or
5 titled with the department, and the person or agency authorizing the
6 impound in writing of the hearing date and time.

7 (b) At the hearing, the person or persons requesting the hearing
8 may produce any relevant evidence to show that the impoundment, towing,
9 or storage fees charged were not proper.

10 (c) At the conclusion of the hearing, the district court shall
11 determine whether the impoundment was proper, whether the towing or
12 storage fees charged were in compliance with the posted rates, and who
13 is responsible for payment of the fees. The court may not adjust fees
14 or charges that are in compliance with the posted or contracted rates.

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

21 (e) If the impoundment is determined to be in violation of this
22 chapter, then the registered and legal owners of the vehicle or other
23 item of personal property registered or titled with the department
24 shall bear no impoundment, towing, or storage fees, and any security
25 shall be returned or discharged as appropriate, and the person or
26 agency who authorized the impoundment shall be liable for any towing,
27 storage, or other impoundment fees permitted under this chapter. The
28 court shall enter judgment in favor of the registered tow truck
29 operator against the person or agency authorizing the impound for the
30 impoundment, towing, and storage fees paid. In addition, the court
31 shall enter judgment in favor of the registered and legal owners of the
32 vehicle, or other item of personal property registered or titled with
33 the department, for reasonable damages for loss of the use of the
34 vehicle during the time the same was impounded, for not less than fifty
35 dollars per day, against the person or agency authorizing the impound.
36 If any judgment entered is not paid within fifteen days of notice in
37 writing of its entry, the court shall award reasonable attorneys' fees
38 and costs against the defendant in any action to enforce the judgment.
39 Notice of entry of judgment may be made by registered or certified

1 mail, and proof of mailing may be made by affidavit of the party
2 mailing the notice. Notice of the entry of the judgment shall read
3 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, 19. . .

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(2) 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.

23 **Sec. 8.** RCW 46.55.140 and 1992 c 200 s 1 are each amended to read
24 as follows:

25 (1) A registered tow truck operator who has a valid and signed
26 impoundment authorization has a lien upon the impounded vehicle for
27 services provided in the towing and storage of the vehicle, unless the
28 impoundment is determined to have been invalid. The lien does not
29 apply to personal property in or upon the vehicle that is not
30 permanently attached to or is not an integral part of the vehicle
31 except for items of personal property registered or titled with the
32 department. The registered tow truck operator also has a deficiency
33 claim against the registered owner of the vehicle for services provided
34 in the towing and storage of the vehicle not to exceed the sum of
35 (~~three~~) five hundred dollars (~~less~~) after deduction of the amount
36 bid at auction, and for vehicles of over ten thousand pounds gross
37 vehicle weight, the operator has a deficiency claim of one thousand

1 dollars (~~less~~) after deduction of the amount bid at auction, unless
2 the impound is determined to be invalid. The limitation on towing and
3 storage deficiency claims does not apply to an impound directed by a
4 law enforcement officer. In no case may the cost of the auction or a
5 buyer's fee be added to the amount charged for the vehicle at the
6 auction, the vehicle's lien, or the overage due. A registered owner
7 who has completed and filed with the department the seller's report as
8 provided for by RCW 46.12.101 and has timely and properly filed the
9 seller's report is relieved of liability under this section. The
10 person named as the new owner of the vehicle on the timely and properly
11 filed seller's report shall assume liability under this section.

12 (2) Any person who tows, removes, or otherwise disturbs any vehicle
13 parked, stalled, or otherwise left on privately owned or controlled
14 property, and any person owning or controlling the private property, or
15 either of them, are liable to the owner or operator of a vehicle, or
16 each of them, for consequential and incidental damages arising from any
17 interference with the ownership or use of the vehicle which does not
18 comply with the requirements of this chapter.

19 **Sec. 9.** RCW 46.20.435 and 1985 c 391 s 1 are each amended to read
20 as follows:

21 (1) Upon determining that a person is operating a motor vehicle
22 without a valid driver's license in violation of RCW 46.20.021 or with
23 a license that has been expired for ninety days or more, or with a
24 suspended or revoked license in violation of RCW 46.20.342 or
25 46.20.420, a law enforcement officer may immediately impound the
26 vehicle that the person is operating.

27 (~~(2) ((If the driver of the vehicle is the owner of the vehicle,))~~)
28 The officer shall not release the vehicle impounded under subsection
29 (1) of this section until the owner of the vehicle:

30 (a) Establishes that any penalties, fines, or forfeitures owed by
31 the (~~(person driving)~~) registered owner of the vehicle (~~(when it)~~) that
32 was impounded have been satisfied; and

33 (b) Pays the reasonable costs of such impoundment and storage.

34 (~~(3) ((If the driver of the vehicle is not the owner of the vehicle,~~
35 ~~the driver shall be responsible for any penalties, fines, or~~
36 ~~forfeitures owed or due and for the costs of impoundment and storage.~~
37 ~~The vehicle shall be released to the owner immediately upon proof of~~
38 ~~such ownership.~~)

1 ~~(4)~~) Whenever a vehicle has been impounded by a law enforcement
2 officer, the officer shall immediately serve upon the driver of the
3 impounded vehicle a notice informing the recipient of his or her right
4 to a hearing in the district court for the jurisdiction in which the
5 vehicle was impounded to contest the validity of the impoundment or the
6 amount of towing or the amount of towing and storage charges. A
7 request for a hearing shall be made in writing on the form provided for
8 that purpose and must be received by the district court within ten days
9 of the date of the impound. If the hearing request is not received by
10 the district court within the ten-day period, the right to a hearing is
11 waived and the driver is liable for any towing, storage, or other
12 impoundment charges permitted under this chapter. Upon receipt of a
13 timely hearing request, the district court shall proceed to hear and
14 determine the validity of the impoundment.

15 ~~((5))~~ (4)(a) The district court, within five days after the
16 request for a hearing, shall notify the driver in writing of the
17 hearing date and time.

18 (b) At the hearing, the person requesting the hearing may produce
19 any relevant evidence to show that the impoundment was not proper.

20 (c) At the conclusion of the hearing, the district court shall
21 determine whether the impoundment was proper, whether the driver was
22 responsible for any penalties, fines, or forfeitures owed or due at the
23 time of the impoundment, and whether they have been satisfied.

24 (d) A certified transcript or abstract of the driving record of the
25 driver, as maintained by the department, is admissible in evidence in
26 any hearing and is prima facie evidence of the status of the driving
27 privilege of the person named in it at the time of the impoundment and
28 whether there were penalties, fines, or forfeitures due and owing by
29 the person named in it at the time the impoundment occurred.

30 **Sec. 10.** RCW 46.61.625 and 1965 ex.s. c 155 s 73 are each amended
31 to read as follows:

32 (1) No person or persons shall occupy any trailer while it is being
33 moved upon a public highway, except a person occupying a proper
34 position for steering a trailer designed to be steered from a rear-end
35 position.

36 (2) No person or persons may occupy a vehicle while it is being
37 towed by a tow truck."

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4 In line 1 of the title, after "vehicles;" strike the remainder of
5 the title and insert "amending RCW 46.55.063, 46.55.090, 46.55.100,
6 46.55.110, 46.55.120, 46.55.140, 46.20.435, and 46.61.625; adding a new
7 section to chapter 46.37 RCW; adding a new section to chapter 46.55
8 RCW; and prescribing penalties."

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