

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2595**

Chapter 89, Laws of 1996

54th Legislature  
1996 Regular Session

IMPOUNDMENT OF VEHICLES--COURT PROCEDURES

EFFECTIVE DATE: 6/6/96

Passed by the House January 5, 1996  
Yeas 97 Nays 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate March 1, 1996  
Yeas 49 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Approved March 15, 1996

MIKE LOWRY  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2595** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

March 15, 1996 - 3:20 p.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 2595

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Passed Legislature - 1996 Regular Session

State of Washington                      54th Legislature                      1996 Regular Session

By Representatives Robertson and Scott

Read first time 01/15/96. Referred to Committee on Transportation.

1            AN ACT Relating to court procedures following impoundment of  
2 vehicles; amending RCW 46.55.113 and 46.55.120; and repealing RCW  
3 46.20.435.

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

5            **Sec. 1.** RCW 46.55.113 and 1994 c 275 s 32 are each amended to read  
6 as follows:

7            Whenever the driver of a vehicle is arrested for a violation of RCW  
8 46.61.502 or 46.61.504, the arresting officer may take custody of the  
9 vehicle and provide for its prompt removal to a place of safety. In  
10 addition, a police officer may take custody of a vehicle and provide  
11 for its prompt removal to a place of safety under any of the following  
12 circumstances:

13            (1) Whenever a police officer finds a vehicle standing upon the  
14 roadway in violation of any of the provisions of RCW 46.61.560, the  
15 officer may provide for the removal of the vehicle or require the  
16 driver or other person in charge of the vehicle to move the vehicle to  
17 a position off the roadway;

1 (2) Whenever a police officer finds a vehicle unattended upon a  
2 highway where the vehicle constitutes an obstruction to traffic or  
3 jeopardizes public safety;

4 (3) Whenever a police officer finds an unattended vehicle at the  
5 scene of an accident or when the driver of a vehicle involved in an  
6 accident is physically or mentally incapable of deciding upon steps to  
7 be taken to protect his or her property;

8 (4) Whenever the driver of a vehicle is arrested and taken into  
9 custody by a police officer;

10 (5) Whenever a police officer discovers a vehicle that the officer  
11 determines to be a stolen vehicle;

12 (6) Whenever a vehicle without a special license plate, card, or  
13 decal indicating that the vehicle is being used to transport a disabled  
14 person under RCW 46.16.381 is parked in a stall or space clearly and  
15 conspicuously marked under RCW 46.61.581 which space is provided on  
16 private property without charge or on public property;

17 (7) Upon determining that a person is operating a motor vehicle  
18 without a valid driver's license in violation of RCW 46.20.021 or with  
19 a license that has been expired for ninety days or more, or with a  
20 suspended or revoked license in violation of RCW 46.20.342 or  
21 46.20.420.

22 Nothing in this section may derogate from the powers of police  
23 officers under the common law. For the purposes of this section, a  
24 place of safety may include the business location of a registered tow  
25 truck operator.

26 **Sec. 2.** RCW 46.55.120 and 1995 c 360 s 7 are each amended to read  
27 as follows:

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

32 (a) Only the legal owner, the registered owner, a person authorized  
33 in writing by the registered owner or the vehicle's insurer, a person  
34 who is determined and verified by the operator to have the permission  
35 of the registered owner of the vehicle or other item of personal  
36 property registered or titled with the department, or one who has  
37 purchased a vehicle or item of personal property registered or titled  
38 with the department from the registered owner who produces proof of

1 ownership or written authorization and signs a receipt therefor, may  
2 redeem an impounded vehicle or items of personal property registered or  
3 titled with the department.

4 (b) The vehicle or other item of personal property registered or  
5 titled with the department shall be released upon the presentation to  
6 any person having custody of the vehicle of commercially reasonable  
7 tender sufficient to cover the costs of towing, storage, or other  
8 services rendered during the course of towing, removing, impounding, or  
9 storing any such vehicle. Commercially reasonable tender shall  
10 include, without limitation, cash, major bank credit cards, or personal  
11 checks drawn on in-state banks if accompanied by two pieces of valid  
12 identification, one of which may be required by the operator to have a  
13 photograph. If the towing firm can determine through the customer's  
14 bank or a check verification service that the presented check would not  
15 be paid by the bank or guaranteed by the service, the towing firm may  
16 refuse to accept the check. Any person who stops payment on a personal  
17 check or credit card, or does not make restitution within ten days from  
18 the date a check becomes insufficient due to lack of funds, to a towing  
19 firm that has provided a service pursuant to this section or in any  
20 other manner defrauds the towing firm in connection with services  
21 rendered pursuant to this section shall be liable for damages in the  
22 amount of twice the towing and storage fees, plus costs and reasonable  
23 attorney's fees.

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

33 (b) Any person seeking to redeem an impounded vehicle under this  
34 section has a right to a hearing in the district court for the  
35 jurisdiction in which the vehicle was impounded to contest the validity  
36 of the impoundment or the amount of towing and storage charges. The  
37 district court has jurisdiction to determine the issues involving all  
38 impoundments including those authorized by the state or its agents.  
39 Any request for a hearing shall be made in writing on the form provided

1 for that purpose and must be received by the district court within ten  
2 days of the date the opportunity was provided for in subsection (2)(a)  
3 of this section. If the hearing request is not received by the  
4 district court within the ten-day period, the right to a hearing is  
5 waived and the registered owner is liable for any towing, storage, or  
6 other impoundment charges permitted under this chapter. Upon receipt  
7 of a timely hearing request, the district court shall proceed to hear  
8 and determine the validity of the impoundment.

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

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

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

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

32 (e) If the impoundment is determined to be in violation of this  
33 chapter, then the registered and legal owners of the vehicle or other  
34 item of personal property registered or titled with the department  
35 shall bear no impoundment, towing, or storage fees, and any security  
36 shall be returned or discharged as appropriate, and the person or  
37 agency who authorized the impoundment shall be liable for any towing,  
38 storage, or other impoundment fees permitted under this chapter. The  
39 court shall enter judgment in favor of the registered tow truck

1 operator against the person or agency authorizing the impound for the  
2 impoundment, towing, and storage fees paid. In addition, the court  
3 shall enter judgment in favor of the registered and legal owners of the  
4 vehicle, or other item of personal property registered or titled with  
5 the department, for reasonable damages for loss of the use of the  
6 vehicle during the time the same was impounded, for not less than fifty  
7 dollars per day, against the person or agency authorizing the impound.  
8 If any judgment entered is not paid within fifteen days of notice in  
9 writing of its entry, the court shall award reasonable attorneys' fees  
10 and costs against the defendant in any action to enforce the judgment.  
11 Notice of entry of judgment may be made by registered or certified  
12 mail, and proof of mailing may be made by affidavit of the party  
13 mailing the notice. Notice of the entry of the judgment shall read  
14 essentially as follows:

15 TO: . . . . .  
16 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
17 . . . . . Court located at . . . . . in the sum of  
18 \$. . . . ., in an action entitled . . . . ., Case No.  
19 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
20 will be awarded against you under RCW . . . if the judgment is  
21 not paid within 15 days of the date of this notice.  
22 DATED this . . . . day of . . . . ., 19. . .  
23 Signature . . . . .  
24 Typed name and address  
25 of party mailing notice

26 (4) Any impounded abandoned vehicle or item of personal property  
27 registered or titled with the department that is not redeemed within  
28 fifteen days of mailing of the notice of custody and sale as required  
29 by RCW 46.55.110(2) shall be sold at public auction in accordance with  
30 all the provisions and subject to all the conditions of RCW 46.55.130.  
31 A vehicle or item of personal property registered or titled with the  
32 department may be redeemed at any time before the start of the auction  
33 upon payment of the applicable towing and storage fees.

34 NEW SECTION. **Sec. 3.** RCW 46.20.435 and 1995 c 360 s 9, 1985 c 391  
35 s 1, & 1982 c 8 s 1 are each repealed.

Passed the House January 5, 1996.  
Passed the Senate March 1, 1996.  
Approved by the Governor March 15, 1996.  
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