

**ESHB 1625 - S AMD 268**

By Senator Hasegawa

PULLED 04/12/2013

1 On page 3, after line 1, insert the following:

2

3 **"Sec. 3.** RCW 46.55.120 and 2009 c 387 s 3 are each amended to  
4 read as follows:

5 (1) Vehicles or other items of personal property registered or  
6 titled with the department that are impounded by registered tow truck  
7 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or  
8 9A.88.140 may be redeemed only under the following circumstances:

9 (a) Only the legal owner, the registered owner, a person  
10 authorized in writing by the registered owner or the vehicle's  
11 insurer, a person who is determined and verified by the operator to  
12 have the permission of the registered owner of the vehicle or other  
13 item of personal property registered or titled with the department, or  
14 one who has purchased a vehicle or item of personal property  
15 registered or titled with the department from the registered owner who  
16 produces proof of ownership or written authorization and signs a  
17 receipt therefor, may redeem an impounded vehicle or items of personal  
18 property registered or titled with the department. In addition, a  
19 vehicle impounded because the operator is in violation of RCW  
20 46.20.342(1)(c) shall not be released until a person eligible to  
21 redeem it under this subsection (1)(a) satisfies the requirements of  
22 (e) of this subsection, including paying all towing, removal, and  
23 storage fees, notwithstanding the fact that the hold was ordered by a  
24 government agency. If the department's records show that the operator  
25 has been convicted of a violation of RCW 46.20.342 or a similar local  
26 ordinance within the past five years, the vehicle may be held for up  
27 to thirty days at the written direction of the agency ordering the

1 vehicle impounded. A vehicle impounded because the operator is  
2 arrested for a violation of RCW 46.20.342 may be released only  
3 pursuant to a written order from the agency that ordered the vehicle  
4 impounded or from the court having jurisdiction. An agency shall  
5 issue a written order to release pursuant to a provision of an  
6 applicable state agency rule or local ordinance authorizing release on  
7 the basis of the following:

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

11 (ii) The owner of the vehicle was not the driver, the owner did  
12 not know that the driver's license was suspended or revoked, and the  
13 owner has not received a prior release under this subsection or RCW  
14 46.55.113(3).

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

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

1 (b) If the vehicle is directed to be held for a suspended license  
2 impound, a person who desires to redeem the vehicle at the end of the  
3 period of impound shall within five days of the impound at the request  
4 of the tow truck operator pay a security deposit to the tow truck  
5 operator of not more than one-half of the applicable impound storage  
6 rate for each day of the proposed suspended license impound. The tow  
7 truck operator shall credit this amount against the final bill for  
8 removal, towing, and storage upon redemption. The tow truck operator  
9 may accept other sufficient security in lieu of the security deposit.  
10 If the person desiring to redeem the vehicle does not pay the security  
11 deposit or provide other security acceptable to the tow truck  
12 operator, the tow truck operator may process and sell at auction the  
13 vehicle as an abandoned vehicle within the normal time limits set out  
14 in RCW 46.55.130(1). The security deposit required by this section  
15 may be paid and must be accepted at any time up to twenty-four hours  
16 before the beginning of the auction to sell the vehicle as abandoned.  
17 The registered owner is not eligible to purchase the vehicle at the  
18 auction, and the tow truck operator shall sell the vehicle to the  
19 highest bidder who is not the registered owner.

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

24 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
25 or lender with a perfected security interest in the vehicle may redeem  
26 or lawfully repossess a vehicle immediately by payment of the costs of  
27 removal, towing, and storage, whereupon the vehicle will not be held  
28 for a suspended license impound. A motor vehicle dealer or lender  
29 with a perfected security interest in the vehicle may not knowingly  
30 and intentionally engage in collusion with a registered owner to  
31 repossess and then return or resell a vehicle to the registered owner  
32 in an attempt to avoid a suspended license impound. However, this  
33 provision does not preclude a vehicle dealer or a lender with a  
34 perfected security interest in the vehicle from repossessing the

1 vehicle and then selling, leasing, or otherwise disposing of it in  
2 accordance with chapter 62A.9A RCW, including providing redemption  
3 rights to the debtor under RCW 62A.9A-623. If the debtor is the  
4 registered owner of the vehicle, the debtor's right to redeem the  
5 vehicle under chapter 62A.9A RCW is conditioned upon the debtor  
6 obtaining and providing proof from the impounding authority or court  
7 having jurisdiction that any fines, penalties, and forfeitures owed by  
8 the registered owner, as a result of the suspended license impound,  
9 have been paid, and proof of the payment must be tendered to the  
10 vehicle dealer or lender at the time the debtor tenders all other  
11 obligations required to redeem the vehicle. Vehicle dealers or  
12 lenders are not liable for damages if they rely in good faith on an  
13 order from the impounding agency or a court in releasing a vehicle  
14 held under a suspended license impound.

15 (e) The vehicle or other item of personal property registered or  
16 titled with the department shall be released upon the presentation to  
17 any person having custody of the vehicle of commercially reasonable  
18 tender sufficient to cover the costs of towing, storage, or other  
19 services rendered during the course of towing, removing, impounding,  
20 or storing any such vehicle, with credit being given for the amount of  
21 any security deposit paid under (b) of this subsection. In addition,  
22 if a vehicle is impounded because the operator was arrested for a  
23 violation of RCW 46.20.342 or 46.20.345 and was being operated by the  
24 registered owner when it was impounded under local ordinance or agency  
25 rule, it must not be released to any person until the registered owner  
26 establishes with the agency that ordered the vehicle impounded or the  
27 court having jurisdiction that any penalties, fines, or forfeitures  
28 owed by him or her have been satisfied. Registered tow truck  
29 operators are not liable for damages if they rely in good faith on an  
30 order from the impounding agency or a court in releasing a vehicle  
31 held under a suspended license impound. Commercially reasonable  
32 tender shall include, without limitation, cash, major bank credit  
33 cards issued by financial institutions, or personal checks drawn on  
34 Washington state branches of financial institutions if accompanied by

1 two pieces of valid identification, one of which may be required by  
2 the operator to have a photograph. If the towing firm cannot  
3 determine through the customer's bank or a check verification service  
4 that the presented check would be paid by the bank or guaranteed by  
5 the service, the towing firm may refuse to accept the check. Any  
6 person who stops payment on a personal check or credit card, or does  
7 not make restitution within ten days from the date a check becomes  
8 insufficient due to lack of funds, to a towing firm that has provided  
9 a service pursuant to this section or in any other manner defrauds the  
10 towing firm in connection with services rendered pursuant to this  
11 section shall be liable for damages in the amount of twice the towing  
12 and storage fees, plus costs and reasonable attorney's fees.

13 (f) In lieu of the process provided for in this subsection (1)  
14 for redeeming an impounded vehicle, the registered tow truck  
15 operator shall accept personal property or other items of sufficient  
16 value, as collateral that may be held by the registered tow truck  
17 operator as security against the amounts owed to the registered tow  
18 truck operator by the registered owner of the vehicle, and release  
19 the vehicle to the registered owner or person authorized under  
20 subsection (1)(a) of this section. For purposes of the transaction  
21 provided in this subsection (1)(f), registered tow truck operators  
22 must comply with chapter 19.60 RCW and any applicable local  
23 ordinance. The department and the Washington state patrol may adopt  
24 rules in order to implement and provide oversight for the  
25 transactions authorized under this subsection (1)(f).

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

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

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

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

34

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  
23 the vehicle, or other item of personal property registered or titled  
24 with the department, for the amount of the filing fee required by law  
25 for the impound hearing petition as well as reasonable damages for  
26 loss of the use of the vehicle during the time the same was impounded  
27 against 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

1 paid within fifteen days of notice in writing of its entry, the court  
2 shall award reasonable attorneys' fees and costs against the defendant  
3 in any action to enforce the judgment. Notice of entry of judgment  
4 may be made by registered or certified mail, and proof of mailing may  
5 be made by affidavit of the party mailing the notice. Notice of the  
6 entry of the judgment shall read essentially as follows:

7

8 TO: . . . . .

9

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

17

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

19

20 Signature . . . . .

21 Typed name and address

22 of party mailing notice

23

24 (4) Any impounded abandoned vehicle or item of personal property  
25 registered or titled with the department that is not redeemed within  
26 fifteen days of mailing of the notice of custody and sale as required  
27 by RCW 46.55.110(3) shall be sold at public auction in accordance with  
28 all the provisions and subject to all the conditions of RCW 46.55.130.  
29 A vehicle or item of personal property registered or titled with the  
30 department may be redeemed at any time before the start of the auction  
31 upon payment of the applicable towing and storage fees."

32

33 Renumber the remaining sections consecutively and correct any  
34 internal references accordingly.

34



1  
2 **ESHB 1625** S AMD  
3       By Senator Hasegawa  
4  
5       On page 1, beginning on line 2 of the title, insert "amending RCW  
5 46.55.120;"

EFFECT: Requires registered tow truck operators to accept personal property or other item of sufficient value as collateral for the amount owed to a tow truck operator. Upon receipt of the collateral, the registered tow truck operator must release the motor vehicle to the vehicle owner. The registered tow truck operator must comply with statutes governing pawnbrokers and any applicable local ordinance.

--- END ---