

# SENATE BILL REPORT

## SHB 2483

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As Passed Senate, March 4, 2020

**Title:** An act relating to vehicle impoundment and redemption following arrest for driving or being in physical control of a vehicle while under the influence of alcohol or drugs.

**Brief Description:** Clarifying vehicle impoundment and redemption following arrest for driving or being in physical control of a vehicle while under the influence of alcohol or drugs.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives Van Werven, Goodman and Ormsby).

**Brief History:** Passed House: 2/18/20, 96-0.

**Committee Activity:** Law & Justice: 2/25/20, 2/27/20 [DP].

**Floor Activity:**

Passed Senate: 3/04/20, 47-0.

### Brief Summary of First Substitute Bill

- Repeals state law mandating impoundment of a vehicle where the driver is arrested for impaired driving.
- Provides a law enforcement officer discretion to impound a vehicle where the driver is arrested for impaired driving.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

**Staff:** Tim Ford (786-7423)

**Background:** Under state law, law enforcement officers are required to impound a vehicle any time they arrest its driver for driving under the influence. This impound is mandatory, regardless of whether the vehicle is safely off the roadway or whether another person is able to safely drive it away.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Washington Supreme Court (Court) in the case of *State v. Villela* found that mandatory impoundment violated Article I, section 7 of the state Constitution which provides that "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." The authority of law required by Article I, section 7 is a valid warrant unless the search or seizure falls within a valid exception. A warrantless search or seizure is presumed to violate the constitution however the Court has recognized valid warrantless exceptions. A vehicle may be impounded on probable cause that it contains evidence of a crime. A vehicle may be impounded when there is reasonable and proper justification, but the officer must consider all reasonable alternatives to impounding the vehicle.

The Court held that an impound is lawful under Article I, section 7 "only if, in the judgment of the impounding officer, it is reasonable under the circumstances and there are no reasonable alternatives." The Court concluded that absent probable cause, a car may be impounded only after individualized consideration of reasonable alternatives.

**Summary of First Substitute Bill:** Impoundment of a vehicle is discretionary whenever a driver is arrested for driving under the influence of intoxicating liquor or drug, or is in physical control of the vehicle while under the influence. When an officer exercises discretion to impound a vehicle and the driver is the owner, the impounded vehicle may not be redeemed within a 12 hour period unless there are two or more registered owners or there is a legal owner that is not the driver. If the vehicle is a commercial or farm transport vehicle and the driver is not the owner, the police officer must timely attempt to contact the owner and release the vehicle to the owner. This must be attempted prior to determining that no reasonable alternatives to impound exist and directing impoundment.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This is the most consequential pieces of legislation this session. This originated in Whatcom County where an intoxicated person was arrested but not booked into jail due to overcrowding. The intoxicated person took a taxi back to her car and drove drunk and crashed into a constituent. This bill gives discretion to a law enforcement officer to impound a vehicle if there are no reasonable alternatives for the safety of the public. This bill will save lives.

Since the court handed down its ruling, the City of Seattle did not impound a vehicle and booked and released the individual arrested for driving under the influence. The individual went back to their vehicle and while still intoxicated crashed into a telephone pole. This bill is necessary to protect the public safety.

**Persons Testifying:** PRO: Representative Luanne Van Werven, Prime Sponsor; James McMahan, Washington Association of Sheriffs & Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** No one.