

2 SSB 5135 - S AMD - 588  
3 By Senator Roach

4

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

7 "NEW SECTION. **Sec. 1.** The legislature finds that the license to  
8 drive a motor vehicle on the public highways is suspended or revoked in  
9 order to protect public safety following a driver's failure to comply  
10 with the laws of this state. Over six hundred persons are killed in  
11 traffic accidents in Washington annually, and more than eighty-four  
12 thousand persons are injured. It is estimated that of the three  
13 million four hundred thousand drivers' licenses issued to citizens of  
14 Washington, more than two hundred sixty thousand are suspended or  
15 revoked at any given time. Suspended drivers are more likely to be  
16 involved in causing traffic accidents, including fatal accidents, than  
17 properly licensed drivers, and pose a serious threat to the lives and  
18 property of Washington residents. Statistics show that suspended  
19 drivers are three times more likely to kill or seriously injure others  
20 in the commission of traffic felony offenses than are validly licensed  
21 drivers. In addition to not having a driver's license, most such  
22 drivers also lack required liability insurance, increasing the  
23 financial burden upon other citizens through uninsured losses and  
24 higher insurance costs for validly licensed drivers. Because of the  
25 threat posed by suspended drivers, all registered owners of motor  
26 vehicles in Washington have a duty to not allow their vehicles to be  
27 driven by a suspended driver.

28 Despite the existence of criminal penalties for driving with a  
29 suspended or revoked license, an estimated seventy-five percent of  
30 these drivers continue to drive anyway. Existing sanctions are not  
31 sufficient to deter or prevent persons with a suspended or revoked  
32 license from driving. It is common for suspended drivers to resume  
33 driving immediately after being stopped, cited, and released by a  
34 police officer and to continue to drive while a criminal prosecution  
35 for suspended driving is pending. More than half of all suspended  
36 drivers charged with the crime of driving while suspended or revoked

1 fail to appear for court hearings. Vehicle impoundment will provide an  
2 immediate consequence which will increase deterrence and reduce  
3 unlawful driving by preventing a suspended driver access to that  
4 vehicle. Vehicle impoundment will also provide an appropriate measure  
5 of accountability for registered owners who permit suspended drivers to  
6 drive their vehicles. Impoundment of vehicles driven by suspended  
7 drivers has been shown to reduce future driving while suspended or  
8 revoked offenses for up to two years afterwards, and the recidivism  
9 rate for drivers whose cars were not impounded was one hundred percent  
10 higher than for drivers whose cars were impounded. In order to  
11 adequately protect public safety and to enforce the state's driver  
12 licensing laws, it is necessary to authorize the impoundment of any  
13 vehicle when it is found to be operated by a driver with a suspended or  
14 revoked license, and to provide in certain circumstances for the  
15 forfeiture of such vehicles where the owner continues to drive despite  
16 having been previously convicted of the crime of driving with a  
17 suspended or revoked license in violation of RCW 46.20.342 and  
18 46.20.420.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20 RCW  
20 to read as follows:

21 (1) Notwithstanding RCW 46.55.113, whenever a motor vehicle is  
22 found to be operated by a person with a suspended or revoked driver's  
23 license in violation of RCW 46.20.342 or 46.20.420, the vehicle is  
24 subject to impoundment, pursuant to applicable local ordinance, at the  
25 direction of a law enforcement officer.

26 (2) If a vehicle is impounded under this section because the  
27 operator is in violation of RCW 46.20.342(1)(c), the vehicle shall not  
28 be released until a person eligible to redeem it under RCW  
29 46.55.120(1)(a) satisfies the requirements of RCW 46.55.120(1)(b),  
30 including paying all towing, removal, and storage fees, notwithstanding  
31 the fact that the hold was ordered by a government agency. However, if  
32 the department's records show that the operator has been convicted of  
33 a violation of RCW 46.20.342 or a similar local ordinance within the  
34 past five years, the vehicle may be held for up to fifteen days at the  
35 written direction of the agency ordering the vehicle impounded.

36 (3) If a vehicle is impounded under this section because the  
37 operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle  
38 may be held for up to fifteen days and must not be released until a

1 person eligible to redeem it under RCW 46.55.120(1)(a) satisfies the  
2 requirements of RCW 46.55.120(1)(b), including paying all towing,  
3 removal, and storage fees, notwithstanding the fact that the hold was  
4 ordered by a government agency. However, if the department's records  
5 show that the operator has been convicted of a violation of RCW  
6 46.20.342(1) (a) or (b) or a similar local ordinance within the past  
7 five years and the operator has a financial interest in the vehicle,  
8 the vehicle is subject to forfeiture. If the vehicle is forfeited,  
9 then the forfeiting agency shall pay all the impoundment, towing, and  
10 storage fees for the vehicle and shall be entitled to recover those  
11 fees from the operator of the forfeited vehicle, including any  
12 attorneys' fees, costs of collection, and interest at the statutory  
13 rate for judgment interest from the date of payment by the forfeiting  
14 agency of such fees.

15 (4) A forfeiture proceeding is commenced by the law enforcement  
16 agency causing notice of the intended forfeiture of the seized vehicle  
17 to be served not less than ten days after seizure on the registered tow  
18 truck operator which impounded the vehicle, the owner of the vehicle  
19 seized, the person in charge of the vehicle when it was seized, and any  
20 person having a known right or interest in the vehicle, including a  
21 community property interest. The notice may be served by any method  
22 authorized by law or court rule, including, but not limited to, service  
23 by certified mail with return receipt requested. Service by mail is  
24 complete upon mailing. Notice in the case of a vehicle subject to a  
25 security interest that has been perfected on a certificate of title  
26 must be made by service upon the secured party or the secured party's  
27 assignee at the address shown on the financing statement or the  
28 certificate of title. Once the registered tow truck operator which  
29 impounded the vehicle receives notice, the vehicle must not be released  
30 except upon written order of the chief law enforcement officer of the  
31 agency directing the impoundment or his or her designee, an  
32 administrative law judge, or a court.

33 (5) The remaining procedures for forfeiting the vehicle are the  
34 same as set forth in RCW 46.61.5058 (5) through (14).

35 (6) Notwithstanding RCW 46.52.120(2), in any hearing under RCW  
36 46.55.120 to contest the validity of the impoundment or under this  
37 section to contest the validity of the forfeiture, an abstract of the  
38 person's driving record may be admitted as and is prima facie evidence  
39 of the status of the person's driving privilege and that the person was

1 convicted of each offense shown by the abstract. In addition, a  
2 certified vehicle registration of the vehicle sought to be forfeited  
3 shall be admissible without further evidentiary foundation.

4 (7) No determination of facts made by a person conducting a hearing  
5 under this section or RCW 46.55.120 shall have any collateral estoppel  
6 effect on a subsequent criminal prosecution and shall not preclude  
7 litigation of those same facts in a subsequent criminal prosecution.

8 **Sec. 3.** RCW 46.55.113 and 1997 c 66 s 7 are each amended to read  
9 as follows:

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

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

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

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

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

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

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

37 (7) Upon determining that a person is operating a motor vehicle  
38 without a valid driver's license in violation of RCW 46.20.005 or with

1 a license that has been expired for ninety days or more(~~(, or with a~~  
2 ~~suspended or revoked license in violation of RCW 46.20.342 or~~  
3 ~~46.20.420)~~).

4 Nothing in this section may derogate from the powers of police  
5 officers under the common law. For the purposes of this section, a  
6 place of safety may include the business location of a registered tow  
7 truck operator.

8 **Sec. 4.** RCW 46.55.120 and 1996 c 89 s 2 are each amended to read  
9 as follows:

10 (1) Vehicles or other items of personal property registered or  
11 titled with the department that are impounded by registered tow truck  
12 operators pursuant to RCW 46.55.080, 46.55.085, (~~or~~) 46.55.113, or  
13 section 2 of this act may be redeemed only under the following  
14 circumstances:

15 (a) Only the legal owner, the registered owner, a person authorized  
16 in writing by the registered owner or the vehicle's insurer, a person  
17 who is determined and verified by the operator to have the permission  
18 of the registered owner of the vehicle or other item of personal  
19 property registered or titled with the department, or one who has  
20 purchased a vehicle or item of personal property registered or titled  
21 with the department from the registered owner who produces proof of  
22 ownership or written authorization and signs a receipt therefor, may  
23 redeem an impounded vehicle or items of personal property registered or  
24 titled with the department. In addition, a person redeeming a vehicle  
25 impounded under section 2 of this act must prior to redemption  
26 establish with the agency that ordered the vehicle impounded that he or  
27 she has a valid driver's license and is in compliance with RCW  
28 46.30.020. A vehicle impounded under section 2 of this act can only be  
29 released pursuant to a written order from the agency that ordered the  
30 vehicle impounded.

31 (b) The vehicle or other item of personal property registered or  
32 titled with the department shall be released upon the presentation to  
33 any person having custody of the vehicle of commercially reasonable  
34 tender sufficient to cover the costs of towing, storage, or other  
35 services rendered during the course of towing, removing, impounding, or  
36 storing any such vehicle. In addition, if a vehicle is impounded under  
37 section 2 of this act and was being operated by the registered owner  
38 when it was impounded, it must not be released to any person until the

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

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

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

1 the right to a hearing is waived and the registered owner is liable for  
2 any towing, storage, or other impoundment charges permitted under this  
3 chapter. Upon receipt of a timely hearing request, the district or  
4 municipal court shall proceed to hear and determine the validity of the  
5 impoundment.

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

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

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

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

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

1 shall enter judgment in favor of the registered and legal owners of the  
2 vehicle, or other item of personal property registered or titled with  
3 the department, for reasonable damages for loss of the use of the  
4 vehicle during the time the same was impounded, for not less than fifty  
5 dollars per day, against the person or agency authorizing the impound.  
6 However, if an impoundment under section 2 of this act is determined to  
7 be in violation of this chapter, then the law enforcement officer  
8 directing the impoundment and the local government employing the  
9 officer are not liable for damages if the officer relied in good faith  
10 and without gross negligence on the records of the department in  
11 ascertaining that the operator of the vehicle had a suspended or  
12 revoked driver's license. If any judgment entered is not paid within  
13 fifteen days of notice in writing of its entry, the court shall award  
14 reasonable attorneys' fees and costs against the defendant in any  
15 action to enforce the judgment. Notice of entry of judgment may be  
16 made by registered or certified mail, and proof of mailing may be made  
17 by affidavit of the party mailing the notice. Notice of the entry of  
18 the judgment shall read essentially as follows:

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

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

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

3        In any administrative or judicial proceeding involving a forfeiture  
4 of a vehicle under section 2 of this act, the chief law enforcement  
5 officer or court shall provide for the protection of a bona fide  
6 community property interest in the vehicle of a person other than the  
7 person whose operation of the vehicle with a suspended or revoked  
8 license led to the forfeiture.

9        **Sec. 6.**    RCW 46.55.010 and 1994 c 176 s 1 are each amended to read  
10 as follows:

11        The definitions set forth in this section apply throughout this  
12 chapter:

13        (1) "Abandoned vehicle" means a vehicle that a registered tow truck  
14 operator has impounded and held in the operator's possession for  
15 (~~ninety-six~~) one hundred twenty consecutive hours.

16        (2) "Abandoned vehicle report" means the document prescribed by the  
17 state that the towing operator forwards to the department after a  
18 vehicle has become abandoned.

19        (3) "Impound" means to take and hold a vehicle in legal custody.  
20 There are two types of impounds«public and private.

21        (a) "Public impound" means that the vehicle has been impounded at  
22 the direction of a law enforcement officer or by a public official  
23 having jurisdiction over the public property upon which the vehicle was  
24 located.

25        (b) "Private impound" means that the vehicle has been impounded at  
26 the direction of a person having control or possession of the private  
27 property upon which the vehicle was located.

28        (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as  
29 meeting at least three of the following requirements:

30        (a) Is three years old or older;

31        (b) Is extensively damaged, such damage including but not limited  
32 to any of the following: A broken window or windshield, or missing  
33 wheels, tires, motor, or transmission;

34        (c) Is apparently inoperable;

35        (d) Has an approximate fair market value equal only to the  
36 approximate value of the scrap in it.

1 (5) "Master log" means the document or an electronic facsimile  
2 prescribed by the department and the Washington state patrol in which  
3 an operator records transactions involving impounded vehicles.

4 (6) "Registered tow truck operator" or "operator" means any person  
5 who engages in the impounding, transporting, or storage of unauthorized  
6 vehicles or the disposal of abandoned vehicles.

7 (7) "Residential property" means property that has no more than  
8 four living units located on it.

9 (8) "Tow truck" means a motor vehicle that is equipped for and used  
10 in the business of towing vehicles with equipment as approved by the  
11 state patrol.

12 (9) "Tow truck number" means the number issued by the department to  
13 tow trucks used by a registered tow truck operator in the state of  
14 Washington.

15 (10) "Tow truck permit" means the permit issued annually by the  
16 department that has the classification of service the tow truck may  
17 provide stamped upon it.

18 (11) "Tow truck service" means the transporting upon the public  
19 streets and highways of this state of vehicles, together with personal  
20 effects and cargo, by a tow truck of a registered operator.

21 (12) "Unauthorized vehicle" means a vehicle that is subject to  
22 impoundment after being left unattended in one of the following public  
23 or private locations for the indicated period of time:

24 Subject to removal after:

- 25 (a) Public locations:
  - 26 (i) Constituting an accident or a traffic hazard as  
27 defined in RCW 46.55.113 . . . . . Immediately
  - 28 (ii) On a highway and tagged as described in RCW  
29 46.55.085 . . . . . 24 hours
  - 30 (iii) In a publicly owned or controlled parking facility,  
31 properly posted under RCW  
32 46.55.070 . . . . . Immediately
- 33 (b) Private locations:
  - 34 (i) On residential property . . . . . Immediately
  - 35 (ii) On private, nonresidential property, properly  
36 posted under RCW 46.55.070 . . . . . Immediately
  - 37 (iii) On private, nonresidential property,  
38 not posted . . . . . 24 hours

1       **Sec. 7.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read  
2 as follows:

3       (1) At the time of impoundment the registered tow truck operator  
4 providing the towing service shall give immediate notification, by  
5 telephone or radio, to a law enforcement agency having jurisdiction who  
6 shall maintain a log of such reports. A law enforcement agency, or a  
7 private communication center acting on behalf of a law enforcement  
8 agency, shall within six to twelve hours of the impoundment, provide to  
9 a requesting operator the name and address of the legal and registered  
10 owners of the vehicle, and the registered owner of any personal  
11 property registered or titled with the department that is attached to  
12 or contained in or on the impounded vehicle, the vehicle identification  
13 number, and any other necessary, pertinent information. The initial  
14 notice of impoundment shall be followed by a written or electronic  
15 facsimile notice within twenty-four hours. In the case of a vehicle  
16 from another state, time requirements of this subsection do not apply  
17 until the requesting law enforcement agency in this state receives the  
18 information.

19       (2) The operator shall immediately send an abandoned vehicle report  
20 to the department for any vehicle, and for any items of personal  
21 property registered or titled with the department, that are in the  
22 operator's possession after the (~~ninety-six~~) one hundred twenty hour  
23 abandonment period. Such report need not be sent when the impoundment  
24 is pursuant to a writ, court order, or police hold. The owner  
25 notification and abandonment process shall be initiated by the  
26 registered tow truck operator immediately following notification by a  
27 court or law enforcement officer that the writ, court order, or police  
28 hold is no longer in effect.

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

32       (4) Within (~~fifteen~~) fourteen days of the sale of an abandoned  
33 vehicle at public auction, the towing operator shall send a copy of the  
34 abandoned vehicle report showing the disposition of the abandoned  
35 vehicle and any other items of personal property registered or titled  
36 with the department to the crime information center of the Washington  
37 state patrol.

38       (5) If the operator sends an abandoned vehicle report to the  
39 department and the department finds no owner information, an operator

1 may proceed with an inspection of the vehicle and any other items of  
2 personal property registered or titled with the department to determine  
3 whether owner identification is within the vehicle.

4 (6) If the operator finds no owner identification, the operator  
5 shall immediately notify the appropriate law enforcement agency, which  
6 shall search the vehicle and any other items of personal property  
7 registered or titled with the department for the vehicle identification  
8 number or other appropriate identification numbers and check the  
9 necessary records to determine the vehicle's or other property's  
10 owners.

11 **Sec. 8.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended  
12 to read as follows:

13 A security interest in a vehicle other than one held as inventory  
14 by a manufacturer or a dealer and for which a certificate of ownership  
15 is required is perfected only by compliance with the requirements of  
16 section 10 of this act under the circumstances provided for therein or  
17 by compliance with the requirements of this section:

18 (1) A security interest is perfected (~~(only)~~) by the department's  
19 receipt of: (a) The existing certificate, if any, and (b) an  
20 application for a certificate of ownership containing the name and  
21 address of the secured party, and (c) tender of the required fee.

22 (2) It is perfected as of the time of its creation: (a) If the  
23 papers and fee referred to in (~~the preceding~~) subsection (1) of this  
24 section are received by this department within (~~eight department~~  
25 business)) twenty calendar days (~~(exclusive)~~) of the day on which the  
26 security agreement was created; or (b) if the secured party's name and  
27 address appear on the outstanding certificate of ownership; otherwise,  
28 as of the date on which the department has received the papers and fee  
29 required in subsection (1) of this section.

30 (3) If a vehicle is subject to a security interest when brought  
31 into this state, perfection of the security interest is determined by  
32 the law of the jurisdiction where the vehicle was when the security  
33 interest was attached, subject to the following:

34 (a) If the security interest was perfected under the law of the  
35 jurisdiction where the vehicle was when the security interest was  
36 attached, the following rules apply:

37 (b) If the name of the secured party is shown on the existing  
38 certificate of ownership issued by that jurisdiction, the security

1 interest continues perfected in this state. The name of the secured  
2 party shall be shown on the certificate of ownership issued for the  
3 vehicle by this state. The security interest continues perfected in  
4 this state upon the issuance of such ownership certificate.

5 (c) If the security interest was not perfected under the law of the  
6 jurisdiction where the vehicle was when the security interest was  
7 attached, it may be perfected in this state; in that case, perfection  
8 dates from the time of perfection in this state.

9 **Sec. 9.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to read  
10 as follows:

11 A transfer of ownership in a motor vehicle is perfected by  
12 compliance with the requirements of this section.

13 (1) If an owner transfers his or her interest in a vehicle, other  
14 than by the creation, deletion, or change of a security interest, the  
15 owner shall, at the time of the delivery of the vehicle, execute an  
16 assignment to the transferee and provide an odometer disclosure  
17 statement under RCW 46.12.124 on the certificate of ownership or as the  
18 department otherwise prescribes, and cause the certificate and  
19 assignment to be transmitted to the transferee. (~~Within five days,~~  
20 ~~excluding Saturdays, Sundays, and state and federal holidays,~~) The  
21 owner shall notify the department or its agents or subagents, in  
22 writing, on the appropriate form, of the date of the sale or transfer,  
23 the name and address of the owner and of the transferee, the  
24 transferee's driver's license number, if available, and such  
25 description of the vehicle, including the vehicle identification  
26 number, the license plate number, or both, as may be required in the  
27 appropriate form provided for that purpose by the department. The  
28 report of sale is deemed properly filed if all required information is  
29 provided on the form and includes a department authorized notation that  
30 the document was received by the department or its agents or subagents  
31 on or before the fifth day following the date of sale of the vehicle,  
32 excluding Saturdays, Sundays, and state and federal holidays. Any  
33 report of sale processed and recorded by the department's agents or  
34 subagents may be subject to fees as specified in RCW 46.01.140 (4)(a)  
35 or (5)(b).

36 (2) The requirements of subsection (1) of this section to provide  
37 an odometer disclosure statement apply to the transfer of vehicles held  
38 for lease when transferred to a lessee and then to the lessor at the

1 end of the leasehold and to vehicles held in a fleet when transferred  
2 to a purchaser.

3 (3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the  
4 transferee shall within fifteen days after delivery to the transferee  
5 of the vehicle, execute the application for a new certificate of  
6 ownership in the same space provided therefor on the certificate or as  
7 the department prescribes, and cause the certificates and application  
8 to be transmitted to the department.

9 (4) Upon request of the owner or transferee, a secured party in  
10 possession of the certificate of ownership shall, unless the transfer  
11 was a breach of its security agreement, either deliver the certificate  
12 to the transferee for transmission to the department or, when the  
13 secured party receives the owner's assignment from the transferee, it  
14 shall transmit the transferee's application for a new certificate, the  
15 existing certificate, and the required fee to the department.  
16 Compliance with this section does not affect the rights of the secured  
17 party.

18 (5) If a security interest is reserved or created at the time of  
19 the transfer, the certificate of ownership shall be retained by or  
20 delivered to the person who becomes the secured party, and the parties  
21 shall comply with the provisions of RCW 46.12.170.

22 (6) If the purchaser or transferee fails or neglects to make  
23 application to transfer the certificate of ownership and license  
24 registration within fifteen days after the date of delivery of the  
25 vehicle, he or she shall on making application for transfer be assessed  
26 a twenty-five dollar penalty on the sixteenth day and two dollars  
27 additional for each day thereafter, but not to exceed one hundred  
28 dollars. The director may by rule establish conditions under which the  
29 penalty will not be assessed when an application for transfer is  
30 delayed for reasons beyond the control of the purchaser. Conditions  
31 for not assessing the penalty may be established for but not limited to  
32 delays caused by:

- 33 (a) The department requesting additional supporting documents;
- 34 (b) Extended hospitalization or illness of the purchaser;
- 35 (c) Failure of a legal owner to release his or her interest;
- 36 (d) Failure, negligence, or nonperformance of the department,  
37 auditor, or subagent.

1 Failure or neglect to make application to transfer the certificate  
2 of ownership and license registration within forty-five days after the  
3 date of delivery of the vehicle is a misdemeanor.

4 (7) Upon receipt of an application for reissue or replacement of a  
5 certificate of ownership and transfer of license registration,  
6 accompanied by the endorsed certificate of ownership or other  
7 documentary evidence as is deemed necessary, the department shall, if  
8 the application is in order and if all provisions relating to the  
9 certificate of ownership and license registration have been complied  
10 with, issue new certificates of title and license registration as in  
11 the case of an original issue and shall transmit the fees together with  
12 an itemized detailed report to the state treasurer, to be deposited in  
13 the motor vehicle fund.

14 (8) Once each quarter the department shall report to the department  
15 of revenue a list of those vehicles for which a seller's report has  
16 been received but no transfer of title has taken place.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 46.12 RCW  
18 to read as follows:

19 (1) The purpose of a transitional ownership record is to enable a  
20 security interest in a motor vehicle to be perfected in a timely manner  
21 when the certificate of ownership is not available at the time the  
22 security interest is created, and to provide for timely notification to  
23 security interest holders under chapter 46.55 RCW.

24 (2) A transitional ownership record is acceptable as an ownership  
25 record only if the certificate of ownership for the motor vehicle:

26 (a) Is not in the possession of the selling vehicle dealer or new  
27 security interest holder at the time the transitional ownership record  
28 is submitted to the department; and

29 (b) To the best of the knowledge of the selling dealer or new  
30 security interest holder, the certificate of ownership will not be  
31 received for submission to the department within twenty calendar days  
32 of the date of sale of the vehicle, or if no sale is involved, within  
33 twenty calendar days of the date the security agreement or contract is  
34 executed.

35 (3) A person shall submit the transitional ownership record to the  
36 department or to any of its authorized subagents or auditors, and pay  
37 a filing fee of five dollars. The fee shall be paid at the time of

1 submission of the record unless the department by rule establishes an  
2 alternative payment method.

3 (4) "Transitional ownership record" means a record containing all  
4 of the following information:

5 (a) The date of sale, or if no sale is involved, the date the  
6 contract or security agreement creating the security interest being  
7 perfected was signed;

8 (b) The name and address of each owner of the vehicle;

9 (c) The name and address of each security interest holder;

10 (d) If there are multiple security interest holders, the priorities  
11 of interest if the security interest holders do not jointly hold a  
12 single security interest;

13 (e) The vehicle identification number, the license plate number, if  
14 any, the year, make, and model of the vehicle; and

15 (f) The name of the selling dealer or security interest holder who  
16 is submitting the transitional ownership record.

17 (5) The report of sale form prescribed by the department under RCW  
18 46.12.101 may be utilized by a vehicle dealer as the transitional  
19 ownership record.

20 (6) Notwithstanding the provisions of RCW 46.12.095 (1) and (2),  
21 compliance with the requirements of this section shall result in  
22 perfection of a security interest in the vehicle as of the time the  
23 security interest was created. Upon receipt of the certificate of  
24 ownership for the vehicle, or upon receipt of written confirmation that  
25 only an electronic record of ownership exists or that the certificate  
26 of ownership has been lost or destroyed, the selling dealer or new  
27 security interest holder shall promptly submit the same to the  
28 department together with an application for a new certificate of  
29 ownership containing the name and address of the secured party and  
30 tender the required fee as provided in RCW 46.12.095(1).

31 (7) The department shall adopt rules in accordance with chapter  
32 34.05 RCW to develop the form for the transitional ownership record.

33 NEW SECTION. **Sec. 11.** RCW 46.20.344 and 1965 ex.s. c 121 s 45 are  
34 each repealed."

1 **SSB 5135** - S AMD - 588

2 By Senator Roach

3

4 On page 1, line 2 of the title, after "license;" strike the  
5 remainder of the title and insert "amending RCW 46.55.113, 46.55.120,  
6 46.55.010, 46.55.100, 46.12.095, and 46.12.101; adding a new section to  
7 chapter 46.20 RCW; adding a new section to chapter 46.55 RCW; adding a  
8 new section to chapter 46.12 RCW; creating a new section; and repealing  
9 RCW 46.20.344."

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