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SECOND SUBSTITUTE SENATE BILL 5000

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State of Washington

62nd Legislature

2011 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon, and Kilmer)

READ FIRST TIME 02/23/11.

1 AN ACT Relating to mandating a twelve-hour impound hold on motor  
2 vehicles used by persons arrested for driving under the influence of  
3 alcohol or drugs or being in physical control of a vehicle while under  
4 the influence of alcohol or drugs; amending RCW 46.55.113; reenacting  
5 and amending RCW 46.55.113; adding new sections to chapter 46.55 RCW;  
6 creating a new section; providing an effective date; and providing an  
7 expiration date.

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

9 NEW SECTION. **Sec. 1.** This act shall be known and cited as  
10 Hailey's Law.

11 NEW SECTION. **Sec. 2.** (1) The legislature finds that:

12 (a) Despite every effort, the problem of driving or controlling a  
13 vehicle while under the influence of alcohol or drugs remains a great  
14 threat to the lives and safety of citizens. Over five hundred people  
15 are killed by traffic accidents in Washington each year and impaired  
16 vehicle drivers account for almost forty-five percent, or over two  
17 hundred deaths per year. That is, impairment is the leading cause of  
18 traffic deaths in this state;

1 (b) Over thirty-nine thousand people are arrested each year in  
2 Washington for driving or controlling a vehicle while under the  
3 influence of alcohol or drugs. Persons arrested for driving or  
4 controlling a vehicle while under the influence of alcohol or drugs may  
5 still be impaired after they are cited and released and could return to  
6 drive or control a vehicle. If the vehicle was impounded, there is  
7 nothing to stop the impaired person from going to the tow truck  
8 operator's storage facility and redeeming the vehicle while still  
9 impaired;

10 (c) More can be done to deter those arrested for driving or  
11 controlling a vehicle while under the influence of alcohol or drugs.  
12 Approximately one-third of those arrested for operating a vehicle under  
13 the influence are repeat offenders. Vehicle impoundment effectively  
14 increases deterrence and prevents an impaired driver from accessing the  
15 vehicle for a specified time. In addition, vehicle impoundment  
16 provides an appropriate measure of accountability for registered owners  
17 who allow impaired drivers to drive or control their vehicles, but it  
18 also allows the registered owners to redeem their vehicles once  
19 impounded. Any inconvenience on a registered owner is outweighed by  
20 the need to protect the public;

21 (d) In order to protect public safety and to enforce the state's  
22 laws, it is reasonable and necessary to mandatorily impound the vehicle  
23 operated by a person who has been arrested for driving or controlling  
24 a vehicle while under the influence of alcohol or drugs.

25 (2) The legislature intends by this act:

26 (a) To change the primary reason for impounding the vehicle  
27 operated by a person arrested for driving or controlling a vehicle  
28 under the influence of alcohol or drugs. The purpose of impoundment  
29 under this act is to protect the public from a person operating a  
30 vehicle while still impaired, rather than to prevent a potential  
31 traffic obstruction; and

32 (b) To require that officers have no discretion as to whether or  
33 not to order an impound after they have arrested a vehicle driver with  
34 reasonable grounds to believe the driver of the vehicle was driving  
35 while under the influence of alcohol or drugs, or was in physical  
36 control of a vehicle while under the influence of alcohol or drugs.

1        NEW SECTION.    **Sec. 3.**    (1)(a) When a driver of a vehicle is  
2 arrested for a violation of RCW 46.61.502 or 46.61.504, the vehicle is  
3 subject to summary impoundment and except for a commercial vehicle  
4 under subsection (3)(c) of this section, the vehicle must be impounded.  
5 With the exception of the twelve-hour hold mandated under this section,  
6 the procedures for notice, redemption, storage, auction, and sale shall  
7 remain the same as for other impounded vehicles under this chapter.

8        (b) If the police officer directing that a vehicle be impounded  
9 under this section has:

10        (i) Waited thirty minutes after a registered tow truck operator has  
11 been dispatched and the tow truck responding has not arrived, or

12        (ii) If the police officer is presented with exigent circumstances  
13 such as being called to another incident or due to limited available  
14 resources being required to return to patrol,  
15 the police officer may place the completed impound order and inventory  
16 inside the vehicle and secure the vehicle by closing the windows and  
17 locking the doors before leaving.

18        (c) If a police officer directing that a vehicle be impounded under  
19 this section has secured the vehicle and left it pursuant to (b) of  
20 this subsection, the police officer and the government or agency  
21 employing the police officer shall not be liable for any damages to or  
22 theft of the vehicle or its contents that occur between the time the  
23 officer leaves and the time that the registered tow truck operator  
24 takes custody of the vehicle, or for the actions of any person who  
25 takes or removes the vehicle before the registered tow truck operator  
26 arrives.

27        (2)(a) When a driver of a vehicle is arrested for a violation of  
28 RCW 46.61.502 or 46.61.504 and the driver is a registered owner of the  
29 vehicle, the impounded vehicle may not be redeemed within a twelve-hour  
30 period following the time the impounded vehicle arrives at the  
31 registered tow truck operator's storage facility as noted in the  
32 registered tow truck operator's master log, unless there are two or  
33 more registered owners of the vehicle or there is a legal owner of the  
34 vehicle that is not the driver of the vehicle. A registered owner who  
35 is not the driver of the vehicle or a legal owner who is not the driver  
36 of the vehicle may redeem the impounded vehicle after it arrives at the  
37 registered tow truck operator's storage facility as noted in the  
38 registered tow truck operator's master log.

1 (b) When a driver of a vehicle is arrested for a violation of RCW  
2 46.61.502 or 46.61.504 and the driver is a registered owner of the  
3 vehicle, the police officer directing the impound shall notify the  
4 driver that the impounded vehicle may not be redeemed within a  
5 twelve-hour period following the time the impounded vehicle arrives at  
6 the registered tow truck operator's storage facility as noted in the  
7 registered tow truck operator's master log, unless there are two or  
8 more registered owners or there is a legal owner who is not the driver  
9 of the vehicle. The police officer directing the impound shall notify  
10 the driver that the impounded vehicle may be redeemed by either a  
11 registered owner or legal owner, who is not the driver of the vehicle,  
12 after the impounded vehicle arrives at the registered tow truck  
13 operator's storage facility as noted in the registered tow truck  
14 operator's master log.

15 (3)(a) When a driver of a vehicle is arrested for a violation of  
16 RCW 46.61.502 or 46.61.504 and the driver is not a registered owner of  
17 the vehicle, the impounded vehicle may be redeemed by a registered  
18 owner or legal owner, who is not the driver of the vehicle, after the  
19 impounded vehicle arrives at the registered tow truck operator's  
20 storage facility as noted in the registered tow truck operator's master  
21 log.

22 (b) When a driver of a vehicle is arrested for a violation of RCW  
23 46.61.502 or 46.61.504 and the driver is not a registered owner of the  
24 vehicle, the police officer directing the impound shall notify the  
25 driver that the impounded vehicle may be redeemed by a registered owner  
26 or legal owner, who is not the driver of the vehicle, after the  
27 impounded vehicle arrives at the registered tow truck operator's  
28 storage facility as noted in the registered tow truck operator's master  
29 log.

30 (c) If the vehicle is a commercial vehicle or farm transport  
31 vehicle and the driver of the vehicle is not the owner of the vehicle,  
32 before the summary impoundment directed under subsection (1) of this  
33 section, the police officer shall attempt in a reasonable and timely  
34 manner to contact the owner of the vehicle and may release the vehicle  
35 to the owner if the owner is reasonably available, as long as the owner  
36 was not in the vehicle at the time of the stop and arrest.

37 (d) The registered tow truck operator shall notify the agency that

1 ordered that the vehicle be impounded when the vehicle arrives at the  
2 registered tow truck operator's storage facility and has been entered  
3 into the master log starting the twelve-hour period.

4 (4) A registered tow truck operator that releases an impounded  
5 vehicle pursuant to the requirements stated in this section is not  
6 liable for injuries or damages sustained by the operator of the vehicle  
7 or sustained by third parties that may result from the vehicle driver's  
8 intoxicated state.

9 (5) For purposes of this section "farm transport vehicle" means a  
10 motor vehicle owned by a farmer and that is being actively used in the  
11 transportation of the farmer's or another farmer's farm, orchard,  
12 aquatic farm, or dairy products, including livestock and plant or  
13 animal wastes, from point of production to market or disposal, or  
14 supplies or commodities to be used on the farm, orchard, aquatic farm,  
15 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms  
16 (16,001 pounds) or more.

17 NEW SECTION. **Sec. 4.** If an impoundment arising from an alleged  
18 violation of RCW 46.61.502 or 46.61.504 is determined to be in  
19 violation of this chapter, then the police officer directing the  
20 impoundment and the government employing the officer are not liable for  
21 damages for loss of use of the vehicle if the officer had reasonable  
22 suspicion to believe that the driver of the vehicle was driving while  
23 under the influence of intoxicating liquor or any drug, or was in  
24 physical control of a vehicle while under the influence of intoxicating  
25 liquor or any drug.

26 **Sec. 5.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are  
27 each amended to read as follows:

28 (1) Whenever the driver of a vehicle is arrested for a violation of  
29 RCW ((~~46.61.502, 46.61.504,~~)) 46.20.342((~~7~~)) or 46.20.345, the vehicle  
30 is subject to summary impoundment, pursuant to the terms and conditions  
31 of an applicable local ordinance or state agency rule at the direction  
32 of a law enforcement officer.

33 (2) In addition, a police officer may take custody of a vehicle, at  
34 his or her discretion, and provide for its prompt removal to a place of  
35 safety under any of the following circumstances:

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

6 (b) Whenever a police officer finds a vehicle unattended upon a  
7 highway where the vehicle constitutes an obstruction to traffic or  
8 jeopardizes public safety;

9 (c) Whenever a police officer finds an unattended vehicle at the  
10 scene of an accident or when the driver of a vehicle involved in an  
11 accident is physically or mentally incapable of deciding upon steps to  
12 be taken to protect his or her property;

13 (d) Whenever the driver of a vehicle is arrested and taken into  
14 custody by a police officer;

15 (e) Whenever a police officer discovers a vehicle that the officer  
16 determines to be a stolen vehicle;

17 (f) Whenever a vehicle without a special license plate, placard, or  
18 decal indicating that the vehicle is being used to transport a person  
19 with disabilities under RCW 46.16.381 is parked in a stall or space  
20 clearly and conspicuously marked under RCW 46.61.581 which space is  
21 provided on private property without charge or on public property;

22 (g) Upon determining that a person is operating a motor vehicle  
23 without a valid and, if required, a specially endorsed driver's license  
24 or with a license that has been expired for ninety days or more;

25 (h) When a vehicle is illegally occupying a truck, commercial  
26 loading zone, restricted parking zone, bus, loading, hooded-meter,  
27 taxi, street construction or maintenance, or other similar zone where,  
28 by order of the director of transportation or chiefs of police or fire  
29 or their designees, parking is limited to designated classes of  
30 vehicles or is prohibited during certain hours, on designated days or  
31 at all times, if the zone has been established with signage for at  
32 least twenty-four hours and where the vehicle is interfering with the  
33 proper and intended use of the zone. Signage must give notice to the  
34 public that a vehicle will be removed if illegally parked in the zone;

35 (i) When a vehicle with an expired registration of more than  
36 forty-five days is parked on a public street.

37 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
38 vehicle is a commercial vehicle or farm transport vehicle and the

1 driver of the vehicle is not the owner of the vehicle, before the  
2 summary impoundment directed under subsection (1) of this section, the  
3 police officer shall attempt in a reasonable and timely manner to  
4 contact the owner of the vehicle and may release the vehicle to the  
5 owner if the owner is reasonably available, as long as the owner was  
6 not in the vehicle at the time of the stop and arrest and the owner has  
7 not received a prior release under this subsection or RCW  
8 46.55.120(1)(a)(ii).

9 (4) Nothing in this section may derogate from the powers of police  
10 officers under the common law. For the purposes of this section, a  
11 place of safety may include the business location of a registered tow  
12 truck operator.

13 (5) For purposes of this section "farm transport vehicle" means a  
14 motor vehicle owned by a farmer and that is being actively used in the  
15 transportation of the farmer's or another farmer's farm, orchard,  
16 aquatic farm, or dairy products, including livestock and plant or  
17 animal wastes, from point of production to market or disposal, or  
18 supplies or commodities to be used on the farm, orchard, aquatic farm,  
19 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms  
20 (16,001 pounds) or more.

21 **Sec. 6.** RCW 46.55.113 and 2010 c 161 s 1120 are each amended to  
22 read as follows:

23 (1) Whenever the driver of a vehicle is arrested for a violation of  
24 RCW (~~46.61.502, 46.61.504,~~) 46.20.342(~~(7)~~) or 46.20.345, the vehicle  
25 is subject to summary impoundment, pursuant to the terms and conditions  
26 of an applicable local ordinance or state agency rule at the direction  
27 of a law enforcement officer.

28 (2) In addition, a police officer may take custody of a vehicle, at  
29 his or her discretion, and provide for its prompt removal to a place of  
30 safety under any of the following circumstances:

31 (a) Whenever a police officer finds a vehicle standing upon the  
32 roadway in violation of any of the provisions of RCW 46.61.560, the  
33 officer may provide for the removal of the vehicle or require the  
34 driver or other person in charge of the vehicle to move the vehicle to  
35 a position off the roadway;

36 (b) Whenever a police officer finds a vehicle unattended upon a

1 highway where the vehicle constitutes an obstruction to traffic or  
2 jeopardizes public safety;

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

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

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

11 (f) Whenever a vehicle without a special license plate, placard, or  
12 decal indicating that the vehicle is being used to transport a person  
13 with disabilities under RCW 46.19.010 is parked in a stall or space  
14 clearly and conspicuously marked under RCW 46.61.581 which space is  
15 provided on private property without charge or on public property;

16 (g) Upon determining that a person is operating a motor vehicle  
17 without a valid and, if required, a specially endorsed driver's license  
18 or with a license that has been expired for ninety days or more;

19 (h) When a vehicle is illegally occupying a truck, commercial  
20 loading zone, restricted parking zone, bus, loading, hooded-meter,  
21 taxi, street construction or maintenance, or other similar zone where,  
22 by order of the director of transportation or chiefs of police or fire  
23 or their designees, parking is limited to designated classes of  
24 vehicles or is prohibited during certain hours, on designated days or  
25 at all times, if the zone has been established with signage for at  
26 least twenty-four hours and where the vehicle is interfering with the  
27 proper and intended use of the zone. Signage must give notice to the  
28 public that a vehicle will be removed if illegally parked in the zone;

29 (i) When a vehicle with an expired registration of more than  
30 forty-five days is parked on a public street.

31 (3) When an arrest is made for a violation of RCW 46.20.342, if the  
32 vehicle is a commercial vehicle or farm transport vehicle and the  
33 driver of the vehicle is not the owner of the vehicle, before the  
34 summary impoundment directed under subsection (1) of this section, the  
35 police officer shall attempt in a reasonable and timely manner to  
36 contact the owner of the vehicle and may release the vehicle to the  
37 owner if the owner is reasonably available, as long as the owner was



1 not in the vehicle at the time of the stop and arrest and the owner has  
2 not received a prior release under this subsection or RCW  
3 46.55.120(1)(a)(ii).

4 (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 (5) For purposes of this section "farm transport vehicle" means a  
9 motor vehicle owned by a farmer and that is being actively used in the  
10 transportation of the farmer's or another farmer's farm, orchard,  
11 aquatic farm, or dairy products, including livestock and plant or  
12 animal wastes, from point of production to market or disposal, or  
13 supplies or commodities to be used on the farm, orchard, aquatic farm,  
14 or dairy, and that has a gross vehicle weight rating of 7,258 kilograms  
15 (16,001 pounds) or more.

16 NEW SECTION. Sec. 7. Sections 2 through 4 of this act are each  
17 added to chapter 46.55 RCW.

18 NEW SECTION. Sec. 8. Section 6 of this act takes effect July 1,  
19 2011.

20 NEW SECTION. Sec. 9. Section 5 of this act expires July 1, 2011.

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