

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1130

63rd Legislature
2013 Regular Session

Passed by the House April 25, 2013
Yeas 95 Nays 2

Speaker of the House of Representatives

Passed by the Senate April 24, 2013
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1130** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1130

AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Hurst and Dahlquist)

READ FIRST TIME 02/18/13.

1 AN ACT Relating to the redemption of impounded vehicles; and
2 amending RCW 46.55.120.

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

4 **Sec. 1.** RCW 46.55.120 and 2009 c 387 s 3 are each amended to read
5 as follows:

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

11 ~~((a) Only)~~ (i) The legal owner((r));

12 (ii) The registered owner((r));

13 (iii) A person authorized in writing by the registered owner ((~~or~~
14 the vehicle's insurer, r));

15 (iv) The vehicle's insurer or a vendor working on behalf of the
16 vehicle's insurer;

17 (v) A third-party insurer that has a duty to repair or replace the
18 vehicle, has obtained consent from the registered owner or the owner's
19 agent to move the vehicle, and has documented that consent in the

1 insurer's claim file, or a vendor working on behalf of a third-party
2 insurer that has received such consent; provided, however, that at all
3 times the registered owner must be granted access to and may reclaim
4 possession of the vehicle. For the purposes of this subsection,
5 "owner's agent" means the legal owner of the vehicle, a driver in
6 possession of the vehicle with the registered owner's permission, or an
7 adult member of the registered owner's family;

8 (vi) A person who is determined and verified by the operator to
9 have the permission of the registered owner of the vehicle or other
10 item of personal property registered or titled with the department(~~(~~
11 ~~or one)~~); or

12 (vii) A person who has purchased a vehicle or item of personal
13 property registered or titled with the department from the registered
14 owner who produces proof of ownership or written authorization and
15 signs a receipt therefor(~~(, may redeem an impounded vehicle or items of~~
16 ~~personal property registered or titled with the department)~~).

17 (b) In addition, a vehicle impounded because the operator is in
18 violation of RCW 46.20.342(1)(c) shall not be released until a person
19 eligible to redeem it under (a) of this subsection (~~((1)(a))~~) satisfies
20 the requirements of (~~((e))~~) (f) of this subsection, including paying
21 all towing, removal, and storage fees, notwithstanding the fact that
22 the hold was ordered by a government agency. If the department's
23 records show that the operator has been convicted of a violation of RCW
24 46.20.342 or a similar local ordinance within the past five years, the
25 vehicle may be held for up to thirty days at the written direction of
26 the agency ordering the vehicle impounded. A vehicle impounded because
27 the operator is arrested for a violation of RCW 46.20.342 may be
28 released only pursuant to a written order from the agency that ordered
29 the vehicle impounded or from the court having jurisdiction. An agency
30 shall issue a written order to release pursuant to a provision of an
31 applicable state agency rule or local ordinance authorizing release on
32 the basis of the following:

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

36 (ii) The owner of the vehicle was not the driver, the owner did not
37 know that the driver's license was suspended or revoked, and the owner

1 has not received a prior release under this subsection or RCW
2 46.55.113(3).

3 In order to avoid discriminatory application, other than for the
4 reasons for release set forth in ~~((a))~~ (b)(i) and (ii) of this
5 subsection, an agency shall, under a provision of an applicable state
6 agency rule or local ordinance, deny release in all other circumstances
7 without discretion.

8 If a vehicle is impounded because the operator is in violation of
9 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
10 days at the written direction of the agency ordering the vehicle
11 impounded. However, if the department's records show that the operator
12 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
13 similar local ordinance within the past five years, the vehicle may be
14 held at the written direction of the agency ordering the vehicle
15 impounded for up to sixty days, and for up to ninety days if the
16 operator has two or more such prior offenses. If a vehicle is
17 impounded because the operator is arrested for a violation of RCW
18 46.20.342, the vehicle may not be released until a person eligible to
19 redeem it under (a) of this subsection ~~((1)(a))~~ satisfies the
20 requirements of ~~((e))~~ (f) of this subsection, including paying all
21 towing, removal, and storage fees, notwithstanding the fact that the
22 hold was ordered by a government agency.

23 ~~((b))~~ (c) If the vehicle is directed to be held for a suspended
24 license impound, a person who desires to redeem the vehicle at the end
25 of the period of impound shall within five days of the impound at the
26 request of the tow truck operator pay a security deposit to the tow
27 truck operator of not more than one-half of the applicable impound
28 storage rate for each day of the proposed suspended license impound.
29 The tow truck operator shall credit this amount against the final bill
30 for removal, towing, and storage upon redemption. The tow truck
31 operator may accept other sufficient security in lieu of the security
32 deposit. If the person desiring to redeem the vehicle does not pay the
33 security deposit or provide other security acceptable to the tow truck
34 operator, the tow truck operator may process and sell at auction the
35 vehicle as an abandoned vehicle within the normal time limits set out
36 in RCW 46.55.130(1). The security deposit required by this section may
37 be paid and must be accepted at any time up to twenty-four hours before
38 the beginning of the auction to sell the vehicle as abandoned. The

1 registered owner is not eligible to purchase the vehicle at the
2 auction, and the tow truck operator shall sell the vehicle to the
3 highest bidder who is not the registered owner.

4 ~~((e))~~ (d) Notwithstanding ~~((b))~~ (c) of this subsection, a
5 rental car business may immediately redeem a rental vehicle it owns by
6 payment of the costs of removal, towing, and storage, whereupon the
7 vehicle will not be held for a suspended license impound.

8 ~~((d))~~ (e) Notwithstanding ~~((b))~~ (c) of this subsection, a motor
9 vehicle dealer or lender with a perfected security interest in the
10 vehicle may redeem or lawfully repossess a vehicle immediately by
11 payment of the costs of removal, towing, and storage, whereupon the
12 vehicle will not be held for a suspended license impound. A motor
13 vehicle dealer or lender with a perfected security interest in the
14 vehicle may not knowingly and intentionally engage in collusion with a
15 registered owner to repossess and then return or resell a vehicle to
16 the registered owner in an attempt to avoid a suspended license
17 impound. However, this provision does not preclude a vehicle dealer or
18 a lender with a perfected security interest in the vehicle from
19 repossessing the vehicle and then selling, leasing, or otherwise
20 disposing of it in accordance with chapter 62A.9A RCW, including
21 providing redemption rights to the debtor under RCW 62A.9A-623. If the
22 debtor is the registered owner of the vehicle, the debtor's right to
23 redeem the vehicle under chapter 62A.9A RCW is conditioned upon the
24 debtor obtaining and providing proof from the impounding authority or
25 court having jurisdiction that any fines, penalties, and forfeitures
26 owed by the registered owner, as a result of the suspended license
27 impound, have been paid, and proof of the payment must be tendered to
28 the vehicle dealer or lender at the time the debtor tenders all other
29 obligations required to redeem the vehicle. Vehicle dealers or lenders
30 are not liable for damages if they rely in good faith on an order from
31 the impounding agency or a court in releasing a vehicle held under a
32 suspended license impound.

33 ~~((e))~~ (f) The vehicle or other item of personal property
34 registered or titled with the department shall be released upon the
35 presentation to any person having custody of the vehicle of
36 commercially reasonable tender sufficient to cover the costs of towing,
37 storage, or other services rendered during the course of towing,
38 removing, impounding, or storing any such vehicle, with credit being

1 given for the amount of any security deposit paid under (~~(b)~~) (c) of
2 this subsection. In addition, if a vehicle is impounded because the
3 operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and
4 was being operated by the registered owner when it was impounded under
5 local ordinance or agency rule, it must not be released to any person
6 until the registered owner establishes with the agency that ordered the
7 vehicle impounded or the court having jurisdiction that any penalties,
8 fines, or forfeitures owed by him or her have been satisfied.
9 Registered tow truck operators are not liable for damages if they rely
10 in good faith on an order from the impounding agency or a court in
11 releasing a vehicle held under a suspended license impound.
12 Commercially reasonable tender shall include, without limitation, cash,
13 major bank credit cards issued by financial institutions, or personal
14 checks drawn on Washington state branches of financial institutions if
15 accompanied by two pieces of valid identification, one of which may be
16 required by the operator to have a photograph. If the towing firm
17 cannot determine through the customer's bank or a check verification
18 service that the presented check would be paid by the bank or
19 guaranteed by the service, the towing firm may refuse to accept the
20 check. Any person who stops payment on a personal check or credit
21 card, or does not make restitution within ten days from the date a
22 check becomes insufficient due to lack of funds, to a towing firm that
23 has provided a service pursuant to this section or in any other manner
24 defrauds the towing firm in connection with services rendered pursuant
25 to this section shall be liable for damages in the amount of twice the
26 towing and storage fees, plus costs and reasonable attorney's fees.

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

36 (b) Any person seeking to redeem an impounded vehicle under this
37 section has a right to a hearing in the district or municipal court for
38 the jurisdiction in which the vehicle was impounded to contest the

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

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

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

30 (c) At the conclusion of the hearing, the court shall determine
31 whether the impoundment was proper, whether the towing or storage fees
32 charged were in compliance with the posted rates, and who is
33 responsible for payment of the fees. The court may not adjust fees or
34 charges that are in compliance with the posted or contracted rates.

35 (d) If the impoundment is found proper, the impoundment, towing,
36 and storage fees as permitted under this chapter together with court
37 costs shall be assessed against the person or persons requesting the

1 hearing, unless the operator did not have a signed and valid
2 impoundment authorization from a private property owner or an
3 authorized agent.

4 (e) If the impoundment is determined to be in violation of this
5 chapter, then the registered and legal owners of the vehicle or other
6 item of personal property registered or titled with the department
7 shall bear no impoundment, towing, or storage fees, and any security
8 shall be returned or discharged as appropriate, and the person or
9 agency who authorized the impoundment shall be liable for any towing,
10 storage, or other impoundment fees permitted under this chapter. The
11 court shall enter judgment in favor of the registered tow truck
12 operator against the person or agency authorizing the impound for the
13 impoundment, towing, and storage fees paid. In addition, the court
14 shall enter judgment in favor of the registered and legal owners of the
15 vehicle, or other item of personal property registered or titled with
16 the department, for the amount of the filing fee required by law for
17 the impound hearing petition as well as reasonable damages for loss of
18 the use of the vehicle during the time the same was impounded against
19 the person or agency authorizing the impound. However, if an
20 impoundment arising from an alleged violation of RCW 46.20.342 or
21 46.20.345 is determined to be in violation of this chapter, then the
22 law enforcement officer directing the impoundment and the government
23 employing the officer are not liable for damages if the officer relied
24 in good faith and without gross negligence on the records of the
25 department in ascertaining that the operator of the vehicle had a
26 suspended or revoked driver's license. If any judgment entered is not
27 paid within fifteen days of notice in writing of its entry, the court
28 shall award reasonable attorneys' fees and costs against the defendant
29 in any action to enforce the judgment. Notice of entry of judgment may
30 be made by registered or certified mail, and proof of mailing may be
31 made by affidavit of the party mailing the notice. Notice of the entry
32 of the judgment shall read essentially as follows:

33 TO:
34 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
35 Court located at in the sum of
36 \$., in an action entitled, Case No.
37 YOU ARE FURTHER NOTIFIED that attorneys fees and costs

1 will be awarded against you under RCW . . . if the judgment is
2 not paid within 15 days of the date of this notice.

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

4 Signature

5 Typed name and address
6 of party mailing notice

7 (4) Any impounded abandoned vehicle or item of personal property
8 registered or titled with the department that is not redeemed within
9 fifteen days of mailing of the notice of custody and sale as required
10 by RCW 46.55.110(3) shall be sold at public auction in accordance with
11 all the provisions and subject to all the conditions of RCW 46.55.130.
12 A vehicle or item of personal property registered or titled with the
13 department may be redeemed at any time before the start of the auction
14 upon payment of the applicable towing and storage fees.

--- END ---