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**SUBSTITUTE HOUSE BILL 1479**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Transportation Policy & Budget (originally sponsored by Representatives Zellinsky and Quall)

Read first time 02/03/98. Referred to Committee on .

1 AN ACT Relating to procedures after vehicle impoundment; amending  
2 RCW 46.12.095, 46.12.101, 46.55.010, 46.55.100, 46.55.105, 46.55.110,  
3 46.55.120, and 46.55.130; and adding a new section to chapter 46.12  
4 RCW.

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

6 **Sec. 1.** RCW 46.12.095 and 1969 ex.s. c 170 s 16 are each amended  
7 to read as follows:

8 A security interest in a vehicle other than one held as inventory  
9 by a manufacturer or a dealer and for which a certificate of ownership  
10 is required is perfected only by compliance with the requirements of  
11 section 3 of this act under the circumstances provided for therein or  
12 by compliance with the requirements of this section:

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

17 (2) It is perfected as of the time of its creation: (a) If the  
18 papers and fee referred to in (~~(the preceding)~~) subsection (1) of this  
19 section are received by this department within (~~(eight department~~

1 business)) twenty calendar days ((exclusive)) of the day on which the  
2 security agreement was created; or (b) if the secured party's name and  
3 address appear on the outstanding certificate of ownership; otherwise,  
4 as of the date on which the department has received the papers and fee  
5 required in subsection (1) of this section.

6 (3) If a vehicle is subject to a security interest when brought  
7 into this state, perfection of the security interest is determined by  
8 the law of the jurisdiction where the vehicle was when the security  
9 interest was attached, subject to the following:

10 (a) If the security interest was perfected under the law of the  
11 jurisdiction where the vehicle was when the security interest was  
12 attached, the following rules apply:

13 (b) If the name of the secured party is shown on the existing  
14 certificate of ownership issued by that jurisdiction, the security  
15 interest continues perfected in this state. The name of the secured  
16 party shall be shown on the certificate of ownership issued for the  
17 vehicle by this state. The security interest continues perfected in  
18 this state upon the issuance of such ownership certificate.

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

23 **Sec. 2.** RCW 46.12.101 and 1991 c 339 s 19 are each amended to read  
24 as follows:

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

27 (1) If an owner transfers his or her interest in a vehicle, other  
28 than by the creation, deletion, or change of a security interest, the  
29 owner shall, at the time of the delivery of the vehicle, execute an  
30 assignment to the transferee and provide an odometer disclosure  
31 statement under RCW 46.12.124 on the certificate of ownership or as the  
32 department otherwise prescribes, and cause the certificate and  
33 assignment to be transmitted to the transferee. (~~Within five days,~~  
34 ~~excluding Saturdays, Sundays, and state and federal holidays,~~) The  
35 owner shall notify the department or its agents or subagents, in  
36 writing, on the appropriate form, of the date of the sale or transfer,  
37 the name and address of the owner and of the transferee, the  
38 transferee's driver's license number if available, and such description

1 of the vehicle, including the vehicle identification number, the  
2 license plate number, or both, as may be required in the appropriate  
3 form provided or approved for that purpose by the department. The  
4 report of sale will be deemed properly filed if all information  
5 required in this section is provided on the form and includes a  
6 department-authorized notation that the document was received by the  
7 department, its agents, or subagents on or before the fifth day after  
8 the sale of the vehicle, excluding Saturdays, Sundays, and state and  
9 federal holidays. Agents and subagents shall immediately  
10 electronically transmit the seller's report of sale to the department.  
11 Reports of sale processed and recorded by the department's agents or  
12 subagents may be subject to fees as specified in RCW 46.01.140 (4)(a)  
13 or (5)(b).

14 (2) The requirements of subsection (1) of this section to provide  
15 an odometer disclosure statement apply to the transfer of vehicles held  
16 for lease when transferred to a lessee and then to the lessor at the  
17 end of the leasehold and to vehicles held in a fleet when transferred  
18 to a purchaser.

19 (3) Except as provided in RCW (~~46.12.120~~) 46.70.122 the  
20 transferee shall within fifteen days after delivery to the transferee  
21 of the vehicle, execute the application for a new certificate of  
22 ownership in the same space provided therefor on the certificate or as  
23 the department prescribes, and cause the certificates and application  
24 to be transmitted to the department.

25 (4) Upon request of the owner or transferee, a secured party in  
26 possession of the certificate of ownership shall, unless the transfer  
27 was a breach of its security agreement, either deliver the certificate  
28 to the transferee for transmission to the department or, when the  
29 secured party receives the owner's assignment from the transferee, it  
30 shall transmit the transferee's application for a new certificate, the  
31 existing certificate, and the required fee to the department.  
32 Compliance with this section does not affect the rights of the secured  
33 party.

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

38 (6) If the purchaser or transferee fails or neglects to make  
39 application to transfer the certificate of ownership and license

1 registration within fifteen days after the date of delivery of the  
2 vehicle, he or she shall on making application for transfer be assessed  
3 a twenty-five dollar penalty on the sixteenth day and two dollars  
4 additional for each day thereafter, but not to exceed one hundred  
5 dollars. The director may by rule establish conditions under which the  
6 penalty will not be assessed when an application for transfer is  
7 delayed for reasons beyond the control of the purchaser. Conditions  
8 for not assessing the penalty may be established for but not limited to  
9 delays caused by:

- 10 (a) The department requesting additional supporting documents;
- 11 (b) Extended hospitalization or illness of the purchaser;
- 12 (c) Failure of a legal owner to release his or her interest;
- 13 (d) Failure, negligence, or nonperformance of the department,  
14 auditor, or subagent.

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

18 (7) Upon receipt of an application for reissue or replacement of a  
19 certificate of ownership and transfer of license registration,  
20 accompanied by the endorsed certificate of ownership or other  
21 documentary evidence as is deemed necessary, the department shall, if  
22 the application is in order and if all provisions relating to the  
23 certificate of ownership and license registration have been complied  
24 with, issue new certificates of title and license registration as in  
25 the case of an original issue and shall transmit the fees together with  
26 an itemized detailed report to the state treasurer, to be deposited in  
27 the motor vehicle fund.

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

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.12 RCW  
32 to read as follows:

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

1 (2) A transitional ownership record is only acceptable as an  
2 ownership record for vehicles currently stored on the department's  
3 computer system and if the certificate of ownership or other authorized  
4 proof of ownership for the motor vehicle:

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

8 (b) To the best of the knowledge of the selling dealer or new  
9 security interest holder, the certificate of ownership will not be  
10 received for submission to the department within twenty calendar days  
11 of the date of sale of the vehicle, or if no sale is involved, within  
12 twenty calendar days of the date the security agreement or contract is  
13 executed.

14 (3) A person shall submit the transitional ownership record to the  
15 department or to any of its agents or subagents. Agents and subagents  
16 shall immediately electronically transmit the transitional ownership  
17 records to the department. A transitional ownership document processed  
18 and recorded by an agent or subagent may be subject to fees as  
19 specified in RCW 46.01.140(4)(a) or (5)(b).

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

22 (a) The date of sale;

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

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

25 (d) If there are multiple security interest holders, the priorities  
26 of interest if the security interest holders do not jointly hold a  
27 single security interest;

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

30 (f) The name of the selling dealer or security interest holder who  
31 is submitting the transitional ownership record; and

32 (g) The transferee's driver's license number, if available.

33 (5) The report of sale form prescribed or approved by the  
34 department under RCW 46.12.101 may be used by a vehicle dealer as the  
35 transitional ownership record.

36 (6) Notwithstanding RCW 46.12.095 (1) and (2), compliance with the  
37 requirements of this section shall result in perfection of a security  
38 interest in the vehicle as of the time the security interest was  
39 created. Upon receipt of the certificate of ownership for the vehicle,

1 or upon receipt of written confirmation that only an electronic record  
2 of ownership exists or that the certificate of ownership has been lost  
3 or destroyed, the selling dealer or new security interest holder shall  
4 promptly submit the same to the department together with an application  
5 for a new certificate of ownership containing the name and address of  
6 the secured party and tender the required fee as provided in RCW  
7 46.12.095(1).

8 **Sec. 4.** RCW 46.55.010 and 1994 c 176 s 1 are each amended to read  
9 as follows:

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

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

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

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

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

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

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

29 (a) Is three years old or older;

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

33 (c) Is apparently inoperable;

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

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

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

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

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

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

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

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

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

21 Subject to removal after:

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

36 **Sec. 5.** RCW 46.55.100 and 1995 c 360 s 5 are each amended to read  
37 as follows:

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

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

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

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

36 (5) If the operator sends an abandoned vehicle report to the  
37 department and the department finds no owner information, an operator  
38 may proceed with an inspection of the vehicle and any other items of



1 personal property registered or titled with the department to determine  
2 whether owner identification is within the vehicle.

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

10 **Sec. 6.** RCW 46.55.105 and 1995 c 219 s 4 are each amended to read  
11 as follows:

12 (1) The abandonment of any vehicle creates a prima facie  
13 presumption that the last registered owner of record is responsible for  
14 the abandonment and is liable for costs incurred in removing, storing,  
15 and disposing of the abandoned vehicle, less amounts realized at  
16 auction.

17 (2) If an unauthorized vehicle is found abandoned under subsection  
18 (1) of this section and removed at the direction of law enforcement,  
19 the last registered owner of record is guilty of a traffic infraction,  
20 unless the vehicle is redeemed as provided in RCW 46.55.120. In  
21 addition to any other monetary penalty payable under chapter 46.63 RCW,  
22 the court shall not consider all monetary penalties as having been paid  
23 until the court is satisfied that the person found to have committed  
24 the infraction has made restitution in the amount of the deficiency  
25 remaining after disposal of the vehicle under RCW 46.55.140.

26 (3) A vehicle theft report filed with a law enforcement agency  
27 relieves the last registered owner of liability under subsection (2) of  
28 this section for failure to redeem the vehicle. However, the last  
29 registered owner remains liable for the costs incurred in removing,  
30 storing, and disposing of the abandoned vehicle under subsection (1) of  
31 this section. Nothing in this section limits in any way the registered  
32 owner's rights in a civil action or as restitution in a criminal action  
33 against a person responsible for the theft of the vehicle.

34 (4) Properly filing a report of sale or transfer regarding the  
35 vehicle involved in accordance with RCW 46.12.101(1) ((or a vehicle  
36 theft report filed with a law enforcement agency)) relieves the last  
37 registered owner of liability under subsections (1) and (2) of this  
38 section. If the date of sale as indicated on the report of sale is on

1 or before the date of impoundment, the buyer identified on the latest  
2 properly filed report of sale with the department is assumed liable for  
3 the costs incurred in removing, storing, and disposing of the abandoned  
4 vehicle, less amounts realized at auction. If the date of sale is  
5 after the date of impoundment, the previous registered owner is assumed  
6 to be liable for such costs. A licensed vehicle dealer is not liable  
7 under subsections (1) and (2) of this section if the dealer, as  
8 transferee or assignee of the last registered owner of the vehicle  
9 involved, has complied with the requirements of RCW 46.70.122 upon  
10 selling or otherwise disposing of the vehicle, or if the dealer has  
11 timely filed a transitional ownership record or report of sale under  
12 section 3 of this act. As provided for in RCW 46.55.140, the person to  
13 whom the licensed vehicle dealer has sold or transferred the vehicle to  
14 is assumed liable for the costs incurred in removing, storing, and  
15 disposing of the abandoned vehicle, less amounts realized at auction.

16 ~~((+4))~~ (5) For the purposes of reporting notices of traffic  
17 infraction to the department under RCW 46.20.270 and 46.52.100, and for  
18 purposes of reporting notices of failure to appear, respond, or comply  
19 regarding a notice of traffic infraction to the department under RCW  
20 46.63.070(5), a traffic infraction under subsection (2) of this section  
21 is not considered to be a standing, stopping, or parking violation.

22 ~~((+5))~~ (6) A notice of infraction for a violation of this section  
23 may be filed with a court of limited jurisdiction organized under Title  
24 3, 35, or 35A RCW, or with a violations bureau subject to the court's  
25 jurisdiction.

26 **Sec. 7.** RCW 46.55.110 and 1995 c 360 s 6 are each amended to read  
27 as follows:

28 (1) When an unauthorized vehicle is impounded, the impounding  
29 towing operator shall notify the legal and registered owners of the  
30 impoundment of the unauthorized vehicle and the owners of any other  
31 items of personal property registered or titled with the department.  
32 The notification shall be sent by first-class mail within twenty-four  
33 hours after the impoundment to the last known registered and legal  
34 owners of the vehicle, and the owners of any other items of personal  
35 property registered or titled with the department, as provided by the  
36 law enforcement agency, and shall inform the owners of the identity of  
37 the person or agency authorizing the impound. The notification shall  
38 include the name of the impounding tow firm, its address, and telephone

1 number. The notice shall also include the location, time of the  
2 impound, and by whose authority the vehicle was impounded. The notice  
3 shall also include the written notice of the right of redemption and  
4 opportunity for a hearing to contest the validity of the impoundment  
5 pursuant to RCW 46.55.120.

6 (2) In the case of an abandoned vehicle, or other item of personal  
7 property registered or titled with the department, within twenty-four  
8 hours after receiving information on the owners from the department  
9 through the abandoned vehicle report, the tow truck operator shall send  
10 by certified mail, with return receipt requested, a notice of custody  
11 and sale to the legal and registered owners.

12 (3) If the date on which a notice required by subsection (2) of  
13 this section is to be mailed falls upon a Saturday, Sunday, or a postal  
14 holiday, the notice may be mailed on the next day that is neither a  
15 Saturday, Sunday, nor a postal holiday.

16 (4) No notices need be sent to the legal or registered owners of an  
17 impounded vehicle or other item of personal property registered or  
18 titled with the department, if the vehicle or personal property has  
19 been redeemed.

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

22 (1) Vehicles or other items of personal property registered or  
23 titled with the department that are impounded by registered tow truck  
24 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be  
25 redeemed only under the following circumstances:

26 (a) Only the legal owner, the registered owner, a person authorized  
27 in writing by the registered owner or the vehicle's insurer, a person  
28 who is determined and verified by the operator to have the permission  
29 of the registered owner of the vehicle or other item of personal  
30 property registered or titled with the department, or one who has  
31 purchased a vehicle or item of personal property registered or titled  
32 with the department from the registered owner who produces proof of  
33 ownership or written authorization and signs a receipt therefor, may  
34 redeem an impounded vehicle or items of personal property registered or  
35 titled with the department.

36 (b) The vehicle or other item of personal property registered or  
37 titled with the department shall be released upon the presentation to  
38 any person having custody of the vehicle of commercially reasonable

1 tender sufficient to cover the costs of towing, storage, or other  
2 services rendered during the course of towing, removing, impounding, or  
3 storing any such vehicle. Commercially reasonable tender shall  
4 include, without limitation, cash, major bank credit cards, or personal  
5 checks 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~~)) appropriate  
37 court within ten days of the date the opportunity was provided for in  
38 subsection (2)(a) of this section. At the time of the filing of the  
39 hearing request, the petitioner shall pay to the court clerk a filing

1 fee in the same amount required for the filing of a suit in district  
2 court. If the hearing request is not received by the ((~~district~~))  
3 court within the ten-day period, the right to a hearing is waived and  
4 the registered owner is liable for any towing, storage, or other  
5 impoundment charges permitted under this chapter. Upon receipt of a  
6 timely hearing request, the ((~~district~~)) court shall proceed to hear  
7 and determine the validity of the impoundment.

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

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

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

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

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

1 impoundment, towing, and storage fees paid. In addition, the court  
2 shall enter judgment in favor of the registered and legal owners of the  
3 vehicle, or other item of personal property registered or titled with  
4 the department, for the amount of the filing fee required by law for  
5 the impound hearing petition as well as reasonable damages for loss of  
6 the use of the vehicle during the time the same was impounded, for not  
7 less than fifty dollars per day, against the person or agency  
8 authorizing the impound. If any judgment entered is not paid within  
9 fifteen days of notice in writing of its entry, the court shall award  
10 reasonable attorneys' fees and costs against the defendant in any  
11 action to enforce the judgment. Notice of entry of judgment may be  
12 made by registered or certified mail, and proof of mailing may be made  
13 by affidavit of the party mailing the notice. Notice of the entry of  
14 the judgment shall read essentially as follows:

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

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

34 **Sec. 9.** RCW 46.55.130 and 1989 c 111 s 12 are each amended to read  
35 as follows:

36 (1) If, after the expiration of fifteen days from the date of  
37 mailing of notice of custody and sale required in RCW 46.55.110(2) to

1 the registered and legal owners, the vehicle remains unclaimed and has  
2 not been listed as a stolen vehicle, then the registered tow truck  
3 operator having custody of the vehicle shall conduct a sale of the  
4 vehicle at public auction after having first published a notice of the  
5 date, place, and time of the auction in a newspaper of general  
6 circulation in the county in which the vehicle is located not less than  
7 three days and no more than ten days before the date of the auction.  
8 The notice shall contain a description of the vehicle including the  
9 make, model, year, and license number and a notification that a three-  
10 hour public viewing period will be available before the auction. The  
11 auction shall be held during daylight hours of a normal business day or  
12 a Saturday.

13 (2) The following procedures are required in any public auction of  
14 such abandoned vehicles:

15 (a) The auction shall be held in such a manner that all persons  
16 present are given an equal time and opportunity to bid;

17 (b) All bidders must be present at the time of auction unless they  
18 have submitted to the registered tow truck operator, who may or may not  
19 choose to use the preauction bid method, a written bid on a specific  
20 vehicle. Written bids may be submitted up to five days before the  
21 auction and shall clearly state which vehicle is being bid upon, the  
22 amount of the bid, and who is submitting the bid;

23 (c) The open bid process, including all written bids, shall be used  
24 so that everyone knows the dollar value that must be exceeded;

25 (d) The highest two bids received shall be recorded in written form  
26 and shall include the name, address, and telephone number of each such  
27 bidder;

28 (e) In case the high bidder defaults, the next bidder has the right  
29 to purchase the vehicle for the amount of his or her bid;

30 (f) The successful bidder shall apply for title within fifteen  
31 days;

32 (g) The registered tow truck operator shall post a copy of the  
33 auction procedure at the bidding site. If the bidding site is  
34 different from the licensed office location, the operator shall post a  
35 clearly visible sign at the office location that describes in detail  
36 where the auction will be held. At the bidding site a copy of the  
37 newspaper advertisement that lists the vehicles for sale shall be  
38 posted;

1 (h) All surplus moneys derived from the auction after satisfaction  
2 of the registered tow truck operator's lien shall be remitted within  
3 thirty days to the department for deposit in the state motor vehicle  
4 fund. A report identifying the vehicles resulting in any surplus shall  
5 accompany the remitted funds. If the director subsequently receives a  
6 valid claim from the registered vehicle owner of record as determined  
7 by the department within one year from the date of the auction, the  
8 surplus moneys shall be remitted to such owner;

9 (i) If an operator receives no bid, or if the operator is the  
10 successful bidder at auction, the operator shall, within (~~thirty~~)  
11 forty-five days sell the vehicle to a licensed vehicle wrecker, hulk  
12 hauler, or scrap processor by use of the abandoned vehicle report-  
13 affidavit of sale, or the operator shall apply for title to the  
14 vehicle.

15 (3) In no case may an operator hold a vehicle for longer than  
16 ninety days without holding an auction on the vehicle, except for  
17 vehicles that are under a police or judicial hold.

18 (4)(a) In no case may the accumulation of storage charges exceed  
19 fifteen days from the date of receipt of the information by the  
20 operator from the department as provided by RCW 46.55.110(2).

21 (b) The failure of the registered tow truck operator to comply with  
22 the time limits provided in this chapter limits the accumulation of  
23 storage charges to five days except where delay is unavoidable.  
24 Providing incorrect or incomplete identifying information to the  
25 department in the abandoned vehicle report shall be considered a  
26 failure to comply with these time limits if correct information is  
27 available.

--- END ---