
ENGROSSED SUBSTITUTE HOUSE BILL 2565

State of Washington

61st Legislature

2010 Regular Session

By House Judiciary (originally sponsored by Representatives Ericksen, Simpson, Smith, Van De Wege, Sells, Orwall, Goodman, Morrell, and Moeller)

READ FIRST TIME 02/02/10.

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; reenacting and amending RCW
5 46.55.113; adding new sections to chapter 46.55 RCW; and creating a new
6 section.

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

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

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

11 (a) Despite every effort, the problem of driving or controlling a
12 vehicle while under the influence of alcohol or drugs remains a great
13 threat to the lives and safety of citizens. Over five hundred people
14 are killed by traffic accidents in Washington each year and impaired
15 vehicle operators account for almost forty-five percent, or over two
16 hundred deaths per year. That is, impairment is the leading cause of
17 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 operator from accessing
15 the vehicle for a specified time. In addition, vehicle impoundment
16 provides an appropriate measure of accountability for registered owners
17 who allow impaired operators 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 operator
34 with reasonable grounds to believe the operator of the vehicle was
35 driving while under the influence of alcohol or drugs, or was in
36 physical control of a vehicle while under the influence of alcohol or
37 drugs.

1 NEW SECTION. **Sec. 3.** (1) When an operator 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 the vehicle must be impounded. With
4 the exception of the twelve-hour hold mandated under this section, the
5 procedures for notice, redemption, storage, auction, and sale shall
6 remain the same as for other impounded vehicles under this chapter.

7 (2)(a) When an operator of a vehicle is arrested for a violation of
8 RCW 46.61.502 or 46.61.504 and the operator is a registered owner of
9 the vehicle, the impounded vehicle may not be redeemed within a
10 twelve-hour period following the time the impounded vehicle arrives at
11 the registered tow truck operator's storage facility as noted in the
12 registered tow truck operator's master log, unless there are two or
13 more registered owners. If there are two or more registered owners of
14 the impounded vehicle, a registered owner who is not the operator of
15 the vehicle may redeem the impounded vehicle after it arrives at the
16 registered tow truck operator's storage facility as noted in the
17 registered tow truck operator's master log.

18 (b) When an operator of a vehicle is arrested for a violation of
19 RCW 46.61.502 or 46.61.504 and the operator is a registered owner of
20 the vehicle, the police officer directing the impound shall notify the
21 operator that the impounded vehicle may not be redeemed within a
22 twelve-hour period following the time the impounded vehicle arrives at
23 the registered tow truck operator's storage facility as noted in the
24 registered tow truck operator's master log, unless there are two or
25 more registered owners. If there are two or more registered owners of
26 the impounded vehicle, the police officer directing the impound shall
27 notify the operator that the impounded vehicle may be redeemed by a
28 registered owner who is not the operator of the vehicle after the
29 impounded vehicle arrives at the registered tow truck operator's
30 storage facility as noted in the registered tow truck operator's master
31 log.

32 (c) A registered tow truck operator that releases an impounded
33 vehicle pursuant to the requirements stated in this subsection is not
34 liable for injuries or damages sustained by the operator or third
35 parties that may result from the operator's intoxicated state.

36 (3)(a) When an operator of a vehicle is arrested for a violation of
37 RCW 46.61.502 or 46.61.504 and the operator is not a registered owner
38 of the vehicle, the impounded vehicle may be redeemed by a registered

1 owner after the impounded vehicle arrives at the registered tow truck
2 operator's storage facility as noted in the registered tow truck
3 operator's master log.

4 (b) When an operator of a vehicle is arrested for a violation of
5 RCW 46.61.502 or 46.61.504 and the operator is not a registered owner
6 of the vehicle, the police officer directing the impound shall notify
7 the operator that the impounded vehicle may be redeemed by a registered
8 owner after the impounded vehicle arrives at the registered tow truck
9 operator's storage facility as noted in the registered tow truck
10 operator's master log.

11 (c) A registered tow truck operator that releases an impounded
12 vehicle pursuant to the requirements stated in this subsection is not
13 liable for injuries or damages sustained by the operator or third
14 parties that may result from the operator's intoxicated state.

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

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

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

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

34 (a) Whenever a police officer finds a vehicle standing upon the
35 roadway in violation of any of the provisions of RCW 46.61.560, the

1 officer may provide for the removal of the vehicle or require the
2 driver or other person in charge of the vehicle to move the vehicle to
3 a position off the roadway;

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

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

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

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

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

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

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

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

35 (3) When an arrest is made for a violation of RCW 46.20.342, if the
36 vehicle is a commercial vehicle and the driver of the vehicle is not
37 the owner of the vehicle, before the summary impoundment directed under
38 subsection (1) of this section, the police officer shall attempt in a

1 reasonable and timely manner to contact the owner of the vehicle and
2 may release the vehicle to the owner if the owner is reasonably
3 available, as long as the owner was not in the vehicle at the time of
4 the stop and arrest and the owner has not received a prior release
5 under this subsection or RCW 46.55.120(1)(a)(ii).

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

10 NEW SECTION. **Sec. 6.** Sections 2 through 4 of this act are each
11 added to chapter 46.55 RCW.

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