

COPY

PEND OREILLE COUNTY

ORDINANCE NO. 2004-01

AUTHORIZING IMPOUNDMENT OF VEHICLES DRIVEN BY SUSPENDED  
OR REVOKED DRIVERS.

SECTION I: Pend Oreille County adopts the legislative findings of Washington Laws of 1998, Chapter 203, Section (1).

SECTION II: Impoundment of Vehicles Driven by Suspended/Revoked Drivers

Pursuant to the authority of RCW 46.55.113, whenever the driver of a vehicle is arrested for violation of RCW 46.61.502 (Driving Under the Influence), RCW 46.61.504 (Physical Control of Vehicle Under the Influence), RCW 46.20.342 (Driving while license suspended or revoked (DWLS/DWLR)) or 46.20.345 (Operation of vehicle under other license or permit prohibited while license suspended or revoked) the vehicle is subject to impoundment at the business location of a registered tow truck operator at the direction of the Pend Oreille County Sheriff or one of his deputies.

When an arrest is made for a violation of RCW 46.61.502, RCW 46.61.504, RCW 46.20.342 or RCW 46.20.345, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, the law enforcement officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this ordinance, RCW 46.55.113 or RCW 46.55.120(1) (a) (ii).

SECTION III: Holding Vehicles Impounded

(A) DWLS/DWLR First Degree or Second Degree. When a vehicle is impounded because the operator is in violation of RCW 46.20.342(1)(a) or (b) (DWLS/DWLR First or Second Degree), the vehicle will be held, at the written direction of the Pend Oreille County Sheriff or one of his deputies, in impound before it may be redeemed for:

1. Seventy-two (72) hours when the Department of Licensing's records show that the operator has no prior conviction of RCW 46.20.342(1)(a) or (b) or a similar local ordinance within the past five (5) years; and

2. Ten (10) days when the Department of Licensing's records show that the operator has been convicted once of RCW 46.20.342(1)(a) or (b) or a similar local ordinance within the past five (5) years; and

3. Thirty (30) days when the Department of Licensing's records show that the operator has been convicted two or more times of RCW 46.20.342(1)(a) or (b) or a similar local ordinance within the past five (5) years.

(B) DWLS/DWLR Third Degree. When a vehicle is impounded because the operator is in violation of RCW 46.20.342(1)(c) (DWLS/DWLR Third Degree), the vehicle will be held, at the written direction of the Pend Oreille County Sheriff or one of his deputies, in impound before it may be redeemed, as follows:

1. The Sheriff shall issue an immediate written order of release of the vehicle from impound upon compliance with the provisions of Section IV, Parts (A) and (B) when the Department of Licensing's records show that the operator has no prior convictions of RCW 46.20.342(1)(a), (b), or (c) or a similar local ordinance within the past five (5) years; and

2. Seventy-two (72) hours when the Department of Licensing's records show that the operator has one or more convictions of RCW 46.20.342(1)(a), (b) or (c) or a similar local ordinance within the past five (5) years.

(C) Driving Under the Influence and Physical Control of Vehicle Under the Influence. When a vehicle is impounded because the operator is in violation of RCW 46.61.502 (Driving Under the Influence) or RCW 46.61.504 (Physical Control of Vehicle Under the Influence), the vehicle will be held, at the written direction of the Pend Oreille County Sheriff or one of his deputies, in impound for 24 hours before it may be redeemed.

(D) Hardship Release. The Pend Oreille County Sheriff or one of his deputies may issue a written order to release the vehicle from impound before the expiration of the impound period on the basis of economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record OR the Pend Oreille County Sheriff or one of his deputies may issue a written order to release the vehicle from impound before the expiration of the impound period if the owner of the vehicle was not the driver AND

(1) If the vehicle was towed for violation of RCW 46.20.342 or RCW 46.20.345, the owner did not know that the driver's license was suspended or revoked

and the owner has not received a prior release under this ordinance or RCW 46.55.113(3) OR

- (2) If the vehicle was towed for a violation of RCW 46.61.502 or RCW 46.61.504, the owner did not know that the driver was Under the Influence at the time the vehicle was given to the driver and the owner has not received a prior release under this ordinance or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons set forth in SECTION III (D), an agency shall deny release in all other circumstances without discretion.

#### SECTION IV: Redemption of Impounded Vehicles

Vehicles impounded pursuant to Section II may be redeemed, after being held for the requisite number of days in impound under Section III, upon the following conditions:

- (A) The person redeeming the vehicle is an eligible person to redeem the vehicle under RCW 46.55.120(1)(a) and pays all towing, removal, and storage fees in commercially reasonable tender as provided in RCW 46.55.120(1)(b); and
- (B) When the vehicle was impounded because the operator was in violation of RCW 46.20.342 and the operator is the registered owner, such registered owner establishes with the Pend Oreille County Sheriff that all penalties, fines, or forfeitures owed by him or her for traffic violations have been paid in full; and
- (C) Issuance of a written order from the Pend Oreille County Sheriff or one of his deputies directing release of the impounded vehicle.

#### SECTION V: Contesting Impoundment or Towing and Storage Charges

- (A) Any person seeking to redeem a vehicle impounded under this chapter has a right pursuant to the provisions of RCW 46.55.120(2)(b) to a hearing in the Pend Oreille County District Court to contest the validity of the impoundment or the amount of the towing and storage charges.
- (B) The Pend Oreille County Sheriff or his designated impoundment authorizing deputy shall appear and represent the Sheriff at the impoundment validity hearing in the District Court. The Prosecuting Attorney is not required to represent the Sheriff at the hearing.

SECTION VI: Severability


If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provisions to other persons or circumstances is not affected.

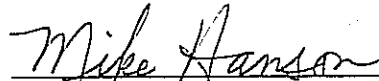
SECTION VII: Effective Date

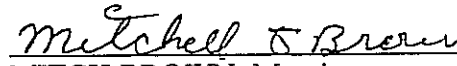
This Ordinance shall take effect on June 15, 2004.

PASSED by the Board of Commissioners of Pend Oreille County at a regular meeting thereof this 17<sup>th</sup> day of May, 2004.

BOARD OF COMMISSIONERS  
PEND OREILLE COUNTY

  
SAM NICHOLAS, Chairman

  
MIKE HANSON, Member

  
MITCH BROWN, Member

ATTEST:

  
CHRIS MYLAR, Clerk