

HOUSE BILL REPORT

HB 2372

As Reported by House Committee On:
Transportation

Title: An act relating to tow trucks.

Brief Description: Concerning fees and rates for tow truck services and vehicle storage.

Sponsors: Representatives Pollet, Kenney, Reykdal, Dickerson, Jinkins, Wylie, Hasegawa, Pettigrew, Billig, Pedersen, Ryu, Fitzgibbon, Darneille, Blake, Finn, Eddy and Kagi.

Brief History:

Committee Activity:

Transportation: 1/23/12, 2/1/12 [DPS].

Brief Summary of Substitute Bill

- Establishes maximum rates for private impounds conducted by registered tow truck operators using certain classes of tow trucks.
- Requires owners, officers, and employees of all registered tow truck businesses to receive criminal background checks in the same manner as those operators authorized to perform impounds for the Washington State Patrol.
- Preempts regulation of private property vehicle impound rates by local governments.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Clibborn, Chair; Billig, Vice Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Angel, Asay, Eddy, Finn, Fitzgibbon, Hansen, Jinkins, Johnson, Klippert, Ladenburg, Moeller, Morris, Moscoso, Reykdal, Ryu, Takko, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 7 members: Representatives Hargrove, Assistant Ranking Minority Member; Kristiansen, McCune, Overstreet, Rivers, Rodne and Shea.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alison Hellberg (786-7152).

Background:

State law regulates tow truck operators (operators) who impound vehicles from private or public property and/or tow for law enforcement agencies. Impounds, i.e., the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered operators. If on public property, the impound is at the direction of a law enforcement officer; if the vehicle is on private property, the impound is at the direction of the property owner or his agent.

Operators are issued a tow truck permit by the Department of Licensing (Department), following payment of a \$100 per company and a \$50 per truck fee, plus an inspection by the Washington State Patrol (WSP). Operators must also file a surety bond of \$5,000 with the Department and meet certain minimum insurance requirements. An operator is required to file a fee schedule with the Department. An operator may not charge a fee that exceeds those filed with the Department.

In order for an operator to provide towing services for the WSP, an application must be approved and a letter of appointment issued by the WSP. As part of the application process, the WSP requires compliance with standards for equipment, performance, pricing, and practices. These standards are only binding on those towing operators appointed by the WSP for the purpose of performing towing services at the request of the WSP. Current rules establish requirements related to criminal background checks for owners, officers, and employees of operators. The WSP also sets maximum rates for towing services for WSP-originated calls.

State law also requires the WSP to classify tow trucks in rule. The WSP has established requirements for class A, class B, class B-2, class C, class D, class E, class S, and class S-1 tow trucks. The classes are based on size, equipment, and capabilities of the tow truck.

Summary of Substitute Bill:

Legislative findings are made that it is important for the public to know what the charges and fees will be for the private impound of cars and other vehicles parked on private property, and that those charges should be uniform and reasonable throughout the state.

All owners and officers of registered tow truck operator businesses and all employees who serve as tow truck drivers must meet the criminal background requirements in the same manner as those operators authorized to perform public impounds for the WSP. An operator must notify the WSP and the Department of any changes in ownership or corporate officers. In addition, the operator must notify the WSP of any employees hired as tow truck drivers within three days of hiring.

Maximum rates for private impounds performed by operators using class A, class D, or class E tow trucks are established:

- The towing hourly rate may not exceed 150 percent of the rate established for class A tow trucks for WSP-originated calls.
- The daily storage rate may not exceed 150 percent of the rate established for WSP-originated calls.
- The after-hours release fee may not exceed 100 percent of the rate established for WSP-originated calls.

The maximum rate requirements apply to all operators whether or not they hold letters of appointment from the WSP to respond to WSP-originated calls. These requirements do not apply to other classes of tow trucks than those specified and do not apply to law enforcement impounds or private voluntary towing. Additionally the requirements do not apply to the recovery of a vehicle unless the vehicle is parked and upright, has all its wheels and tires attached, does not have a broken axle, and has not been involved in an accident at the location from which it is being impounded.

The state preempts the entire field of private property vehicle impound rate regulation within the boundaries of the state. Local laws and ordinances that are inconsistent with, are more restrictive than, or exceed the requirements of state law may not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such a city, town, county, or municipality.

Substitute Bill Compared to Original Bill:

All provisions of the bill are deleted.

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Maximum rates for private impounds performed by operators using class A, class D, or class E tow trucks are established:

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Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 2, 2012.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a classic case of market failure. During an impound, the consumer has no control and the sky is the limit in terms of how much an operator may charge. An operator must file rates with the Department, but there is no limit on those rates. People from all over the state have reported towing rates of \$500 or even \$650 an hour. Insurance adjusters have identified the lack of disclosure on prices and instances where insurance companies find rates unreasonable and make the consumer pay. The \$250 limit in the bill is reasonable. Many operators are responsible and not greedy. This bill should not punish them. The Consumer Protection Act provision should make it self-regulating once fees are set.

There are numerous examples of predatory operators all over the state. The lack of a maximum rate is a loophole that operators are exploiting. The activities of operators put the property owners at risk because the property owner is responsible for the towing charges if they are thrown out by a court because the operator did not follow the law. While people should not park illegally, the towing charges should not be used as a punishment. Only a government should enforce the law through fines, not third parties.

High towing rates are concerns for those who live paycheck to paycheck or the unemployed. Those are the people who cannot afford gas and have to coast into parking lots because they run out of gas. If their car gets towed, they cannot afford to pay the charges and their cars are held hostage. Cars are a necessity for most people and many cannot get to work without them. This is not to say that operators should not make a profit, but there should be a limit.

(Opposed) No one likes to be towed unless they are being rescued. Operators do a service to the public by removing cars from streets and private property. The case in Seattle is a case of one bad actor. The Department is currently investigating the case. This operator is registered, but only does private tows.

The bill has serious technical flaws and is poor policy. It does not take into consideration the large variation of tow trucks, types of tows, and does not distinguish between public and private tows. The \$250 cap is unreasonable. It does not take into account weather conditions or anything else. It punishes all operators because of a few bad actors.

Persons Testifying: (In support) Representative Pollet, prime sponsor; Ellen O'Neill-Stephens; Chris Swanicke; and Daniel Wagoner.

(Opposed) Stu Halsan, Towing and Recovery Association; and Al Runte, Ibsen Towing.

Persons Signed In To Testify But Not Testifying: None.