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**SENATE BILL 5406**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Hawkins, Mullet, Brown, Dozier, Fortunato, Hobbs, Honeyford, Hunt, Rolfes, Schoesler, Short, Stanford, Warnick, and Wilson, J.

AN ACT Relating to compensation for tow truck operators for keeping the public roadways clear; amending RCW 46.44.110; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the strategic response to the COVID-19 pandemic requires that the public roadways of the state remain clear of vehicle accidents and other barriers used by first responders and the public to transport patients to emergent and ongoing health care facilities and lifesaving treatment.

(2) The legislature further finds that first responders, state agencies, and registered tow truck operators are critical to keeping our public roadways clear of barriers. To fulfill this responsibility, law enforcement and other government agencies rely upon registered tow truck operators responding to the scene of a blocked roadway to assist the responsible government agency with clearing the roadway including impound or recovery of the vehicles that have caused the roadway to be blocked. Registered tow truck operators are relied upon by law enforcement and other state agencies to quickly respond when called to reopen critical roadways for the welfare of the public. All parties should be compensated for their work in keeping the public roadways of the state clear because unsafe conditions can inhibit access to lifesaving treatment during the COVID-19 pandemic.

(3) Currently registered tow truck operators are not being compensated for a significant number of the accidents that they respond to on behalf of law enforcement and state agencies. It is imperative that tow truck operators know that they will be compensated for the services they provide when they respond to a state agency call for assistance or they will not remain able to assist the state in the future.

(4) The legislature finds that those persons who operate a motor vehicle in an illegal or negligent manner and who cause damage to a public roadway should be responsible for the cost of these services provided by state agencies and registered tow truck operators. Otherwise, registered tow truck operators will cease responding to these road closures if they remain uncompensated by insurance companies, commercial truck operators, and other operators of vehicles who refuse to pay for services after the completion of a vehicle recovery or impound.

**Sec.**  RCW 46.44.110 and 2009 c 393 s 1 are each amended to read as follows:

(1) Any person operating any vehicle or moving any object or conveyance upon any public highway in this state or upon any bridge or elevated structure that is a part of any such public highway is liable for all damages that the public highway, bridge, elevated structure, or other state property may sustain, as well as payment for vehicle recovery, impound, and storage charges to any registered tow truck operator dispatched by law enforcement or other agency, as a result of any illegal operation of the vehicle or the moving of any such object or conveyance or as a result of the operation or moving of any vehicle, object, or conveyance weighing in excess of the legal weight limits allowed by law.

(2) This section applies to any person operating any vehicle or moving any object or contrivance in any illegal or negligent manner or without a special permit as provided by law for vehicles, objects, or contrivances that are overweight, overwidth, overheight, or overlength. Any person operating any vehicle is liable for any damage to any public highway, bridge, elevated structure, or other state property sustained, as well as payment for vehicle recovery, impound, and storage charges to any registered tow truck operator dispatched by law enforcement or other agency, as the result of any negligent operation thereof. When the operator is not the owner of the vehicle, object, or contrivance but is operating or moving it with the express or implied permission of the owner, the owner and the operator are jointly and severally liable for any such damage.

(3) Such damage to any state highway, structure, or other state property may be recovered in a civil action instituted in the name of the state of Washington by the department of transportation or other affected state agency or by a registered tow truck operator. Any measure of ((~~damage~~)) damages determined by the department of transportation to its highway, bridge, elevated structure, or other property, as well as payment for vehicle recovery, impound, and storage charges to any registered tow truck operator dispatched by law enforcement or other agency, under this section is prima facie the amount of damage caused thereby and is presumed to be the amount recoverable in any civil action therefor. The damages available under this section include the incident response costs, including traffic control, incurred by the department of transportation or a registered tow truck operator.

**--- END ---**