

SENATE BILL REPORT

SSB 5406

As of Third Reading

Title: An act relating to compensation for tow truck operators for keeping the public roadways clear.

Brief Description: Providing compensation for tow truck operators for keeping the public roadways clear.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Hawkins, Mullet, Brown, Dozier, Fortunato, Hobbs, Honeyford, Hunt, Rolfes, Schoesler, Short, Stanford, Warnick and Wilson, J.).

Brief History:

Committee Activity: Transportation: 2/15/21, 2/22/21 [DPS]; 1/25/22, 2/07/22 [DP2S].

Brief Summary of Second Substitute Bill

- Authorizes a registered tow truck operator, dispatched by law enforcement or other state or local agency, to bring a civil action to recover unpaid vehicle recovery, impound and storage charges from a person who was operating a motor vehicle on a public highway in an illegal or negligent manner.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Second Substitute Senate Bill No. 5406 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Lias, Chair; Saldaña, Vice Chair; King, Ranking Member; Cleveland, Das, Fortunato, Hawkins, Holy, Lovelett, Lovick, Nguyen, Nobles, Padden, Randall, Sheldon, Wilson, C. and Wilson, J.

Staff: Kelly Simpson (786-7403)

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

Background: Damages to the Highway or Public Property. Under current law, a person operating a vehicle or moving an object or conveyance on a public highway in an illegal or negligent manner is liable for any damage to a public highway, bridge, elevated structure, or public property that results. When the operator of the vehicle is not the owner of the vehicle, object, or conveyance, the owner and operator are jointly and severally liable for any such damage. The Department of Transportation or other state agency may recover the damages to the public highway, bridge, elevated structure, or public property in a civil action.

Public Impounds. Impounds, such as the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered tow truck operators (RTTOs). A law enforcement officer or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the RTTO before the operator may proceed with the impound. The costs of removal and storage of vehicles when directed by the Washington State Patrol must be paid by the owner or driver of the vehicle and is a lien upon the vehicle until paid, unless the removal is determined to be invalid.

When a vehicle is impounded, an RTTO must send an impound notice to the legal owner, based on information received from law enforcement. After a vehicle is held in impound for more than 120 hours it is considered abandoned, and an RTTO must file an abandoned vehicle report (AVR) with the Department of Licensing (DOL). In response to the AVR, DOL provides information to the RTTO regarding the owner of the vehicle, and the RTTO must send, by certified mail, a notice of custody and sale to the owner.

If the vehicle remains unclaimed, the RTTO must conduct a sale at public auction. Vehicles may be redeemed by their legal owners any time before the start of the auction upon payment of towing and storage charges.

Summary of Second Substitute Bill: A person who operates a vehicle on a public highway in an illegal or negligent manner is liable for vehicle recovery, impound, and storage charges for an RTTO dispatched by law enforcement or other state or local agency.

Costs for vehicle recovery, impound, and storage charges for any RTTO dispatched by law enforcement or other state or local agency, may be recovered in a civil action.

The amount recoverable in the civil action is the amount that has not been paid for the vehicle recovery, impound, and storage charges, limited by the amounts established in fee schedules filed with DOL.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute (Regular Session 2021): PRO: Here is an example of why we are seeking this bill. A year ago, we responded to a call dealing with a large truck that had lost its brakes and hit a building and a guardrail and landed in a creek. When we sought recovery for our work and costs, the insurance company denied our claim as we could not recover under the liability coverage and the comp/collision coverage had lapsed. We then turned to recover from the LLC that owned the truck and they did not have any assets and then it dissolved. We lost thousands of dollars. This is not about greed. This is about fair and honest work we have done and should be compensated for. We know we have to take the good with the bad, but we cannot be expected to always operate at a loss. We are currently the third-party claimants. We believe this bill would move us to second-party claimants and would help us have a remedy.

Liability insurance has always been a problem. We need teeth in the law or the insurance companies will not cover these costs.

Persons Testifying (Transportation): PRO: Senator Brad Hawkins, Prime Sponsor; Randy Houston, Towing and Recovery Association of Washington; Jackie Currie, Towing and Recovery Association of Washington; Emily Wade, Towing and Recovery Association of Washington.

Persons Signed In To Testify But Not Testifying (Transportation): No one.

Staff Summary of Public Testimony on Second Substitute (Regular Session 2022):

The committee recommended a different version of the bill than what was heard. PRO: This bill was brought by a constituent. Tow truck operators are called out to clear accidents and incurring a lot of costs that often go unrecovered. Costs run into the thousands of dollars. The bill provides a venue for recovering tow costs. Tow truck operators deserve to be reimbursed. Tow prices are regulated by law. Tow truck operators should be compensated like WSDOT is paid damages. This bill only applies to registered tow truck operators that are legally allowed to work with law enforcement direction to clear a scene. Insurance policies are not consistent with paying tow truck operators for their costs. Tow truck operators are counted on to clear highways and should be compensated.

Persons Testifying (Transportation): PRO: Senator Brad Hawkins, Prime Sponsor; Randy Houston, Randy's Towing, Okanogan and Ephrata & Wenatchee; Danny Martinez, Damar Towing; Kris Zachary, Burns Towing; Peter Lukevich, TRAW.

Persons Signed In To Testify But Not Testifying (Transportation): No one.