
SENATE BILL 5442

State of Washington

53rd Legislature

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By Senators Vognild, Sellar, Skratek and von Reichbauer

Read first time 01/28/93. Referred to Committee on Transportation.

1 AN ACT Relating to tow trucks; and amending RCW 46.55.115,
2 46.55.120, and 81.80.040.

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

4 **Sec. 1.** RCW 46.55.115 and 1987 c 330 s 744 are each amended to
5 read as follows:

6 The Washington state patrol, under its authority to remove vehicles
7 from the highway, may remove the vehicles directly, through towing
8 operators appointed by the state patrol and called on a rotational or
9 other basis, through contracts with towing operators, or by a
10 combination of these methods. When removal is to be accomplished
11 through a towing operator on a noncontractual basis, the state patrol
12 may appoint any towing operator for this purpose upon the application
13 of the operator. Each appointment shall be contingent upon the
14 submission of an application to the state patrol and the making of
15 subsequent reports in such form and frequency and compliance with such
16 standards of equipment, performance, pricing, and practices as may be
17 required by rule of the state patrol.

18 An appointment may be rescinded by the state patrol upon evidence
19 that the appointed towing operator is not complying with the laws or

1 rules relating to the removal and storage of vehicles from the highway.
2 The state patrol may not rescind an appointment merely because a
3 registered tow truck operator negotiates a different rate for
4 voluntary, owner-requested towing than for involuntary towing under
5 this chapter. The costs of removal and storage of vehicles under this
6 section shall be paid by the owner or driver of the vehicle and shall
7 be a lien upon the vehicle until paid, unless the removal is determined
8 to be invalid.

9 Rules promulgated under this section shall be binding only upon
10 those towing operators appointed by the state patrol for the purpose of
11 performing towing services at the request of the Washington state
12 patrol. Any person aggrieved by a decision of the state patrol made
13 under this section may appeal the decision under chapter 34.05 RCW.

14 **Sec. 2.** RCW 46.55.120 and 1989 c 111 s 11 are each amended to read
15 as follows:

16 (1) Vehicles impounded by registered tow truck operators pursuant
17 to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under
18 the following circumstances:

19 (a) Only the legal owner, the registered owner, a person authorized
20 in writing by the registered owner or the vehicle's insurer, a person
21 who is determined and verified by the operator to have the permission
22 of the registered owner of the vehicle, or one who has purchased a
23 vehicle from the registered owner who produces proof of ownership or
24 written authorization and signs a receipt therefor, may redeem an
25 impounded vehicle.

26 (b) The vehicle shall be released upon the presentation to any
27 person having custody of the vehicle of commercially reasonable tender
28 sufficient to cover the costs of towing, storage, or other services
29 rendered during the course of towing, removing, impounding, or storing
30 any such vehicle. Commercially reasonable tender shall include,
31 without limitation, cash, major bank credit cards, or personal checks
32 drawn on in-state banks if accompanied by two pieces of valid
33 identification, one of which may be required by the operator to have a
34 photograph. If the towing firm can determine through the customer's
35 bank or a check verification service that the presented check would not
36 be paid by the bank or guaranteed by the service, the towing firm may
37 refuse to accept the check. Any person who stops payment on a personal
38 check or credit card, or does not make restitution within ten days from

1 the date a check becomes insufficient due to lack of funds, to a towing
2 firm that has provided a service pursuant to this section or in any
3 other manner defrauds the towing firm in connection with services
4 rendered pursuant to this section shall be liable for damages in the
5 amount of twice the towing and storage fees, plus costs and reasonable
6 attorney's fees.

7 (2)(a) The registered tow truck operator shall give to each person
8 who seeks to redeem an impounded vehicle written notice of the right of
9 redemption and opportunity for a hearing, which notice shall be
10 accompanied by a form to be used for requesting a hearing, the name of
11 the person or agency authorizing the impound, and a copy of the towing
12 and storage invoice. The registered tow truck operator shall maintain
13 a record evidenced by the redeeming person's signature that such
14 notification was provided.

15 (b) Any person seeking to redeem an impounded vehicle under this
16 section has a right to a hearing in the district court for the
17 jurisdiction in which the vehicle was impounded to contest the validity
18 of the impoundment or the amount of towing and storage charges. The
19 district court has jurisdiction to determine the issues involving all
20 impoundments including those authorized by the state or its agents.
21 Any request for a hearing shall be made in writing on the form provided
22 for that purpose and must be received by the district court within ten
23 days of the date the opportunity was provided for in subsection (2)(a)
24 of this section. If the hearing request is not received by the
25 district court within the ten-day period, the right to a hearing is
26 waived and the registered owner is liable for any towing, storage, or
27 other impoundment charges permitted under this chapter. Upon receipt
28 of a timely hearing request, the district court shall proceed to hear
29 and determine the validity of the impoundment.

30 (3)(a) The district court, within five days after the request for
31 a hearing, shall notify the registered tow truck operator, the person
32 requesting the hearing if not the owner, the registered and legal
33 owners of the vehicle, and the person or agency authorizing the impound
34 in writing of the hearing date and time.

35 (b) At the hearing, the person or persons requesting the hearing
36 may produce any relevant evidence to show that the impoundment, towing,
37 or storage fees charged were not proper.

38 (c) At the conclusion of the hearing, the district court shall
39 determine whether the impoundment was proper, whether the towing or

1 storage fees charged were in compliance with the posted rates, and who
2 is responsible for payment of the fees. The court may not adjust fees
3 or charges that are in compliance with the posted or contracted rates.

4 (d) If the impoundment is found proper, the impoundment, towing,
5 and storage fees as permitted under this chapter together with court
6 costs shall be assessed against the person or persons requesting the
7 hearing, unless the operator did not have a signed and valid
8 impoundment authorization from a private property owner or an
9 authorized agent.

10 (e) If the impoundment is determined to be in violation of this
11 chapter, then the registered and legal owners of the vehicle shall bear
12 no impoundment, towing, or storage fees, and any ((bond or other))
13 security shall be returned or discharged as appropriate, and the person
14 or agency who authorized the impoundment shall be liable for any
15 towing, storage, or other impoundment fees permitted under this
16 chapter. The court shall enter judgment in favor of the registered tow
17 truck operator against the person or agency authorizing the impound for
18 the impoundment, towing, and storage fees paid. In addition, the court
19 shall enter judgment in favor of the registered and legal owners of the
20 vehicle for reasonable damages for loss of the use of the vehicle
21 during the time the same was impounded, for not less than fifty dollars
22 per day, against the person or agency authorizing the impound. If any
23 judgment entered is not paid within fifteen days of notice in writing
24 of its entry, the court shall award reasonable attorneys' fees and
25 costs against the defendant in any action to enforce the judgment.
26 Notice of entry of judgment may be made by registered or certified
27 mail, and proof of mailing may be made by affidavit of the party
28 mailing the notice. Notice of the entry of the judgment shall read
29 essentially as follows:

30 TO:
31 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
32 Court located at in the sum of
33 \$., in an action entitled, Case No.
34 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
35 will be awarded against you under RCW . . . if the judgment is
36 not paid within 15 days of the date of this notice.
37 DATED this day of, 19. . .

1 Signature

2 Typed name and address
3 of party mailing notice

4 (4) Any impounded abandoned vehicle not redeemed within fifteen
5 days of mailing of the notice of custody and sale as required by RCW
6 46.55.110(2) shall be sold at public auction in accordance with all the
7 provisions and subject to all the conditions of RCW 46.55.130. A
8 vehicle may be redeemed at any time before the start of the auction
9 upon payment of towing and storage fees.

10 **Sec. 3.** RCW 81.80.040 and 1984 c 171 s 1 are each amended to read
11 as follows:

12 The provisions of this chapter, except where specifically otherwise
13 provided, and except the provisions providing for licenses, shall not
14 apply to:

15 (1) Motor vehicles when operated in transportation exclusively
16 within the corporate limits of any city or town of less than ten
17 thousand population unless contiguous to a city or town of ten thousand
18 population or over, nor between contiguous cities or towns both or all
19 of which are less than ten thousand population;

20 (2) Motor vehicles when operated in transportation wholly within
21 the corporate limits of cities or towns of ten thousand or more but
22 less than thirty thousand population, or between such cities or towns
23 when contiguous, as to which the commission, after investigation and
24 the issuance of an order thereon, has determined that no substantial
25 public interest exists which requires that such transportation be
26 subject to regulation under this chapter;

27 (3) Motor vehicles when transporting exclusively the United States
28 mail or in the transportation of newspapers or periodicals;

29 (4) Motor vehicles owned and operated by the United States, the
30 state of Washington, or any county, city, town, or municipality
31 therein, or by any department of them, or either of them;

32 (5) Motor vehicles specially constructed for towing not more than
33 two disabled, unauthorized, or repossessed motor vehicles or wrecking
34 and not otherwise used in transporting goods for compensation. For the
35 purposes of this subsection, a vehicle is considered to be repossessed
36 only from the time of its actual repossession through the end of its
37 initial tow;

1 (6) Motor vehicles normally owned and operated by farmers in the
2 transportation of their own farm, orchard, or dairy products, including
3 livestock and plant or animal wastes, from point of production to
4 market, or in the infrequent or seasonal transportation by one farmer
5 for another farmer, if their farms are located within twenty miles of
6 each other, of products of the farm, orchard, or dairy, including
7 livestock and plant or animal wastes, or of supplies or commodities to
8 be used on the farm, orchard, or dairy;

9 (7) Motor vehicles when transporting exclusively water in
10 connection with construction projects only;

11 (8) Motor vehicles of less than 8,000 pounds gross vehicle weight
12 when transporting exclusively legal documents, pleadings, process,
13 correspondence, depositions, briefs, medical records, photographs,
14 books or papers, cash or checks, when moving shipments of the documents
15 described at the direction of an attorney as part of providing legal
16 services.

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