

HOUSE BILL REPORT

SB 5445

As Reported By House Committee On:
Transportation

Title: An act relating to procedures for handling and processing violations of RCW 46.55.105.

Brief Description: Clarifying responsibility for abandoned vehicles.

Sponsors: Senators Owen, Sellar and Winsley.

Brief History:

Committee Activity:

Transportation: 3/21/95, 3/30/95 [DPA].

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 25 members: Representatives K. Schmidt, Chairman; Benton, Vice Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Brown; Buck; Cairnes; Chandler; Chopp; Elliot; Hankins; Horn; Johnson; Koster; McMahan; Ogden; Robertson; Romero; D. Schmidt; Scott and Tokuda.

Staff: Jennifer Joly (786-7305).

Background: Under current law, failure to redeem an abandoned vehicle is a traffic infraction. The last registered owner of an abandoned vehicle is presumed responsible for the vehicle unless there has been a seller's report of sale filed with the Department of Licensing (DOL). In addition to monetary penalties, a person failing to redeem an abandoned vehicle is liable for costs incurred in removing, storing and disposing of the abandoned vehicle, less amounts realized at auction. A traffic infraction for failure to redeem an abandoned vehicle is classified as a moving violation.

Failure to respond to a notice of traffic infraction, or failure to appear at a requested hearing, with the exception of standing, stopping or parking violations, results in the suspension of all driving privileges by DOL.

Because failure to respond to a traffic infraction issued as the result of the failure to redeem an abandoned vehicle results in a suspension of the last registered owner's driver's license, the courts have been reluctant to report notices of failure to respond because of due process concerns. The DOL records do not currently cross-reference registered owner records and driver records, so the courts have had no way of ensuring that the proper driver's license will be suspended.

Summary of Amended Bill: Due process concerns are eliminated by removing the provision that suspends a license for failure to redeem an abandoned vehicle, and replacing it with the requirement that the issue be adjudicated prior to the issuance or renewal of a driver's license.

The courts' duties are clarified as to deficiencies remaining after disposal by specifying that, in addition to any other monetary penalty payable, the court cannot consider all penalties paid until restitution is made in the amount of the deficiency remaining after disposal of an unredeemed vehicle.

A traffic infraction for failure to redeem an impounded vehicle is declassified as a moving violation, but requires reporting to DOL as a traffic infraction.

In the case of failure to redeem an abandoned vehicle, upon complaint by a registered tow truck operator who incurs costs for removing, storing and disposing of an abandoned vehicle, a law enforcement officer from the agency directing the impound must attach to the notice of infraction: 1) a notice indicating the amount of costs incurred as a result of removing, storing and disposing of an abandoned vehicle, less any amount realized at auction; and 2) a statement that monetary penalties for the infraction are not considered paid until the traffic infraction penalty is paid and restitution is made in the amount of the deficiency remaining after disposal of the vehicle.

Amended Bill Compared to Original Bill: This bill applies only to impounds ordered by law enforcement. Registered tow truck operators are required to make the request to append the tow charges to the notice of infraction of the law enforcement agency that directed the impound.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Registered tow truck operators keep our highways clear of junk vehicles and hulks and deserve compensation for the costs of doing so.

During the 1993 session, a bill passed making one who failed to respond to a notice of traffic infraction subject to immediate license suspension. SB 5445 would prevent the practice of driver's license suspension for infractions issued for failure to redeem an abandoned vehicle. Instead, payment of restitution for towing and storage fees is required prior to license renewal. SB 5445 also changes how the paperwork is served on the owner. The Department of Licensing helped to draft the bill.

Testimony Against: Law enforcement should not be mandated to issue an infraction for failure to redeem an abandoned vehicle. It should be discretionary. The bill should be amended to limit its application to law enforcement-ordered impounds because the police have no records pertaining to private impounds that they have not ordered.

Testified: Stu Halsan, Washington Tow Truck Association (pro); Leo Poort, Seattle, Police Department (con); and Clark Holloway, Department of Licensing (neutral, with concerns).