

SENATE BILL REPORT

SB 5780

As Reported by Senate Committee On:
Transportation, February 24, 2009

Title: An act relating to establishing chapter 46.55 RCW as the exclusive remedy for any claims resulting from the impoundment of a motor vehicle.

Brief Description: Establishing chapter 46.55 RCW as the exclusive remedy for any claims resulting from the impoundment of a motor vehicle.

Sponsors: Senators Tom and Brandland; by request of Washington State Patrol.

Brief History:

Committee Activity: Transportation: 2/17/09, 2/24/09 [DPS, w/oRec].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5780 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker, Ranking Minority Member; Becker, Berkey, Delvin, Eide, Jarrett, Kastama, Kilmer, King, Ranker and Sheldon.

Minority Report: That it be referred without recommendation.

Signed by Senator Kauffman.

Staff: Dory Nicpon (786-7321)

Background: Current law authorizes law enforcement officers to impound motor vehicles under certain circumstances. A statutorily prescribed procedure allows owners to redeem impounded vehicles. In the event that a court determines that the impound was improper, current statutes allow owners to recover impound, towing and storage fees, as well as damages for loss of use of the vehicle.

If a vehicle owner neither promptly redeems an impounded vehicle, nor requests an impound hearing, then the vehicle may be sold at auction. Surplus proceeds from the auction of the vehicle are deposited in the motor vehicle fund, and may be claimed by the former vehicle owner for up to one year.

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.

In *Potter v. Washington State Patrol* (2008), the Washington Supreme Court held that the remedies prescribed in the vehicle impoundment statute are not the exclusive remedy for an owner whose vehicle is unlawfully impounded. In such a case, the owner may bring a civil action for the tort of conversion against the impounding government agency. Typically, damages in a conversion case are the fair market value of the property at the time and place of conversion.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The Legislature clarifies its intent that the statutorily prescribed remedies included in the vehicle impound statute are the exclusive remedy for any claim that is based on whether an impoundment by a law enforcement officer or governmental agency violates the vehicle impound statute.

Any civil cause of action based on whether an impoundment by a law enforcement officer or governmental agency violates the vehicle impound statute is abolished.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Substitute as Passed Committee): Further clarification is added that, in the case of an unlawful impound, the act only abolishes civil actions for damages not currently provided under RCW 46.55.120.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee:
PRO: Current process allows people to redeem their impounded vehicles promptly, and provides an opportunity to challenge the propriety of the impound. Civil actions will expose the state to unnecessary greater liability when the current statute provides ample remedy for an individual whose vehicle is impounded.

Persons Testifying: PRO: Captain Jeff DeVere, Washington State Patrol.