

SB 5121 - S AMD 30

By Senators Carrell, Fraser

ADOPTED 02/22/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.55.010 and 2005 c 88 s 2 are each amended to read
4 as follows:

5 The definitions (~~(set forth)~~) in this section apply throughout this
6 chapter unless the context clearly requires otherwise:

7 (1) "Abandoned vehicle" means a vehicle that a registered tow truck
8 operator has impounded and held in the operator's possession for one
9 hundred twenty consecutive hours.

10 (2) "Immobilize" means the use of a locking wheel boot that, when
11 attached to the wheel of a vehicle, prevents the vehicle from moving
12 without damage to the tire to which the locking wheel boot is attached.

13 (3) "Abandoned vehicle report" means the document prescribed by the
14 state that the towing operator forwards to the department after a
15 vehicle has become abandoned.

16 (4) "Impound" means to take and hold a vehicle in legal custody.
17 There are two types of impounds--public and private.

18 (a) "Public impound" means that the vehicle has been impounded at
19 the direction of a law enforcement officer or by a public official
20 having jurisdiction over the public property upon which the vehicle was
21 located.

22 (b) "Private impound" means that the vehicle has been impounded at
23 the direction of a person having control or possession of the private
24 property upon which the vehicle was located.

25 (5) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as
26 meeting at least three of the following requirements:

27 (a) Is three years old or older;

28 (b) Is extensively damaged, such damage including but not limited
29 to any of the following: A broken window or windshield, or missing
30 wheels, tires, motor, or transmission;

- 1 (c) Is apparently inoperable;
- 2 (d) Has an approximate fair market value equal only to the
- 3 approximate value of the scrap in it.
- 4 (6) "Master log" means the document or an electronic facsimile
- 5 prescribed by the department and the Washington state patrol in which
- 6 an operator records transactions involving impounded vehicles.
- 7 (7) "Registered tow truck operator" or "operator" means any person
- 8 who engages in the impounding, transporting, or storage of unauthorized
- 9 vehicles or the disposal of abandoned vehicles.
- 10 (8) "Residential property" means property that has no more than
- 11 four living units located on it.
- 12 (9) "Suspended license impound" means an impound ordered under RCW
- 13 46.55.113 because the operator was arrested for a violation of RCW
- 14 46.20.342 or 46.20.345.
- 15 (10) "Tow truck" means a motor vehicle that is equipped for and
- 16 used in the business of towing vehicles with equipment as approved by
- 17 the state patrol.
- 18 (11) "Tow truck number" means the number issued by the department
- 19 to tow trucks used by a registered tow truck operator in the state of
- 20 Washington.
- 21 (12) "Tow truck permit" means the permit issued annually by the
- 22 department that has the classification of service the tow truck may
- 23 provide stamped upon it.
- 24 (13) "Tow truck service" means the transporting upon the public
- 25 streets and highways of this state of vehicles, together with personal
- 26 effects and cargo, by a tow truck of a registered operator.
- 27 (14) "Unauthorized vehicle" means a vehicle that is subject to
- 28 impoundment after being left unattended in one of the following public
- 29 or private locations for the indicated period of time:

Subject to removal after:

- 30
- 31 (a) Public locations:
- 32 (i) Constituting an accident or a traffic hazard as
- 33 defined in RCW 46.55.113 Immediately
- 34 (ii) On a highway and tagged as described in RCW
- 35 46.55.085 24 hours

- 1 (iii) In a publicly owned or controlled parking
- 2 facility, properly posted under RCW
- 3 46.55.070 Immediately
- 4 (b) Private locations:
- 5 (i) On residential property Immediately
- 6 (ii) On private, nonresidential property,
- 7 properly posted under RCW
- 8 46.55.070 Immediately
- 9 (iii) On private, nonresidential property,
- 10 not posted 24 hours

11 (15) "Collector vehicle" has the same meaning as provided in RCW
12 46.04.126.

13 **Sec. 2.** RCW 46.55.240 and 2010 c 161 s 1122 and 2010 c 8 s 9064
14 are each reenacted and amended to read as follows:

15 (1) A city, town, or county that adopts an ordinance or resolution
16 concerning unauthorized, abandoned, or impounded vehicles shall include
17 the applicable provisions of this chapter.

18 (a) A city, town, or county may, by ordinance, authorize other
19 impound situations that may arise locally upon the public right-of-way
20 or other publicly owned or controlled property.

21 (b) A city, town, or county ordinance shall contain language that
22 establishes a written form of authorization to impound, which may
23 include a law enforcement notice of infraction or citation, clearly
24 denoting the agency's authorization to impound.

25 (c) A city, town, or county may, by ordinance, provide for release
26 of an impounded vehicle by means of a promissory note in lieu of
27 immediate payment, if at the time of redemption the legal or registered
28 owner requests a hearing on the validity of the impoundment. If the
29 municipal ordinance directs the release of an impounded vehicle before
30 the payment of the impoundment charges, the municipality is responsible
31 for the payment of those charges to the registered tow truck operator
32 within thirty days of the hearing date.

33 (d) The hearing specified in RCW 46.55.120(2) and in this section
34 may be conducted by an administrative hearings officer instead of in
35 the district court. A decision made by an administrative hearing
36 officer may be appealed to the district court for final judgment.

1 (2)(a) A city, town, or county may adopt an ordinance, consistent
2 with this subsection (2), establishing procedures for the abatement and
3 removal as public nuisances of junk vehicles or parts thereof from
4 private property. Costs of removal may be assessed against the
5 registered owner of the vehicle if the identity of the owner can be
6 determined, unless the owner in the transfer of ownership of the
7 vehicle has complied with RCW 46.12.650, or the costs may be assessed
8 against the owner of the property on which the vehicle is stored. A
9 city, town, or county may also provide for the payment to the tow truck
10 operator or wrecker as a part of a neighborhood revitalization program.

11 (b) Prior to removing a junk vehicle, a city, town, or county must
12 provide the property owner at least thirty days to produce evidence
13 establishing that the vehicle:

14 (i) Is one of three or fewer collector vehicles that are being
15 actively restored or are being used to supply parts for a collector
16 vehicle that is being actively restored; and

17 (ii) Is not visible from the street or other public or private
18 property.

19 (c) If the property owner establishes the elements in (b) of this
20 subsection by a preponderance of the evidence, the vehicle may not be
21 removed as a junk vehicle under this section. To establish the
22 elements in (b) of this subsection, the property owner may, without
23 limitation, present:

24 (i) Evidence of active, recent restoration work on the vehicle,
25 including receipts or other pertinent evidence;

26 (ii) Evidence that the property owner has a valid current
27 registration or certificate of title for the vehicle; or

28 (iii) Evidence that the vehicle has a collector vehicle license
29 plate under RCW 46.18.220 or a horseless carriage license plate under
30 RCW 46.18.255.

31 (d) This subsection (2) does not prohibit a city, town, or county
32 from enacting, enforcing, or maintaining an ordinance, development
33 regulation, zoning regulation, or official control, policy, or
34 administrative practice to otherwise regulate restoration of collector
35 vehicles.

36 (3) Ordinances pertaining to public nuisances shall contain:

37 (a) A provision requiring notice to the last registered owner of

1 record and the property owner of record that a hearing may be requested
2 and that if no hearing is requested, the vehicle will be removed;

3 (b) A provision requiring that if a request for a hearing is
4 received, a notice giving the time, location, and date of the hearing
5 on the question of abatement and removal of the vehicle or part thereof
6 as a public nuisance shall be mailed, by certified mail, with a five-
7 day return receipt requested, to the owner of the land as shown on the
8 last equalized assessment roll and to the last registered and legal
9 owner of record unless the vehicle is in such condition that
10 identification numbers are not available to determine ownership;

11 (c) A provision that the ordinance shall not apply to:

12 (i) A vehicle or part thereof that is completely enclosed within a
13 building in a lawful manner where it is not visible from the street or
14 other public or private property ((~~or~~));

15 (ii) A collector vehicle that is one of three or fewer collector
16 vehicles that are being actively restored or are being used to supply
17 parts for a collector vehicle that is being actively restored, and is
18 not visible from the street or other public or private property; or

19 (iii) A vehicle or part thereof that is stored or parked in a
20 lawful manner on private property in connection with the business of a
21 licensed dismantler or licensed vehicle dealer and is fenced according
22 to RCW 46.80.130;

23 (d) A provision that the owner of the land on which the vehicle is
24 located may appear in person at the hearing or present a written
25 statement in time for consideration at the hearing, and (i) deny
26 responsibility for the presence of the vehicle on the land, with his or
27 her reasons for the denial(~~(-)~~), or (ii) provide evidence that the
28 vehicle is a collector vehicle that is one of three or fewer collector
29 vehicles that are being actively restored or are being used to supply
30 parts for a collector vehicle that is being actively restored, and is
31 not visible from the street or other public or private property;

32 (e) A provision that if it is determined at the hearing under (d)
33 of this subsection that the vehicle was placed on the land without the
34 consent of the landowner and that he or she has not subsequently
35 acquiesced in its presence, then the local agency shall not assess
36 costs of administration or removal of the vehicle against the property
37 upon which the vehicle is located or otherwise attempt to collect the
38 cost from the owner;

1 (~~(e)~~) (f) A provision that after notice has been given of the
2 intent of the city, town, or county to dispose of the vehicle and after
3 a hearing, if requested, has been held, the vehicle or part thereof
4 shall be removed at the request of a law enforcement officer with
5 notice to the Washington state patrol and the department of licensing
6 that the vehicle has been wrecked. The city, town, or county may
7 operate such a disposal site when its governing body determines that
8 commercial channels of disposition are not available or are inadequate,
9 and it may make final disposition of such vehicles or parts, or may
10 transfer such vehicle or parts to another governmental body provided
11 such disposal shall be only as scrap.

12 (4) A registered disposer under contract to a city or county for
13 the impounding of vehicles shall comply with any administrative
14 regulations adopted by the city or county on the handling and disposing
15 of vehicles."

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16 On page 1, line 1 of the title, after "Relating to" strike the
17 remainder of the title and insert "restoration of collector vehicles;
18 amending RCW 46.55.010; and reenacting and amending RCW 46.55.240."

EFFECT: Provides that prior to removing a junk vehicle, a city, town, or county must provide the property owner at least 30 days to establish that the vehicle is one of three or fewer collector vehicles (defined as vehicles at least 30 years old) being actively restored or being used to supply parts for a collector vehicle being actively restored, and is not visible from other public or private property. If the property owner establishes these elements, the vehicle may not be removed as a junk vehicle. The property owner may, without limitation, present evidence: Of active, recent restoration work; of a valid current registration or certificate of title; or that the vehicle has a collector vehicle or horseless carriage license plate. Cities,

towns, and counties are not prohibited from otherwise regulating restoration of collector vehicles.

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