

SENATE BILL REPORT

SB 5668

As Reported by Senate Committee On:
Ways & Means, February 25, 2019

Title: An act relating to moneys received at auctions conducted by registered tow truck operators.

Brief Description: Concerning moneys received at auctions conducted by registered tow truck operators. [**Revised for 1st Substitute:** Concerning taxation of abandoned vehicles sold at auctions conducted by registered tow truck operators.]

Sponsors: Senators Takko, Warnick and Fortunato.

Brief History:

Committee Activity: Ways & Means: 2/21/19, 2/25/19 [DPS, DNP].

Brief Summary of First Substitute Bill

- Exempts from sales tax the sale of abandoned vehicles by a registered tow truck operator, until January 1, 2030.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5668 be substituted therefor, and the substitute bill do pass.

Signed by Senators Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Bailey, Becker, Billig, Carlyle, Hunt, Keiser, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Minority Report: Do not pass.

Signed by Senator Hasegawa.

Staff: Alia Kennedy (786-7405)

Background: Abandoned Vehicles Sold at Public Auction. Impounds, or 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). When a vehicle is impounded, an

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.

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.

RTTOs collect towing and storage charges on abandoned vehicles via a lien against the sale of the vehicle at auction. If the vehicle sale proceeds are less than the lien, the remaining charges owed to the RTTO are sent to a collection agency for recovery of the deficient claim.

Sales and Use Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes applies to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

Tax Preference Performance Review. All new tax preference legislation is required to include a tax preference performance statement, unless the legislation is explicitly exempt from tax preference performance requirements. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. An automatic ten-year expiration date applies to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

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

Summary of Bill (First Substitute): The term "sale" does not include:

- an abandoned vehicle sold by an RTTO to a successful bidder at public auction; or,
- if there is no successful bidder, to a licensed vehicle wrecker, hulk hauler, or scrap processor.

The exemption does not apply to use taxes that may be imposed on an abandoned vehicle by any consumer or any other applicable taxes imposed on automobile towing and storage services provided by an RTTO.

The exemption under this act expires January 1, 2030, and is subject to tax preference performance review requirements.

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: PRO: This is a double taxation issue. Registered tow truck operators are not auto dealers and should not be subject to the same tax liability as auto dealers since they do not receive the same types of benefits. Towing operators do not retain the amounts generated from selling the vehicle beyond the amount of the lien for service fees, such as towing and storage. Any amount from the sale of an abandoned vehicle in excess of the lien is turned over to the Department of Licensing. The sale of an abandoned vehicle is a single transaction for the purpose of closing a lien. Tow truck operators have been following an excise tax advisory since 1984 that has recently been revised by the Department of Revenue.

Persons Testifying: PRO: Paul Bressi, Nisqually Towing; Kris Zachary, Burns Towing; Emily Wade, Day and Nite Towing, Jim's Northgate Towing, Big D Towing; Sean McNamee, Chappelles Towing LLC, Speeds Towing of Vancouver; Jackie Currie, Former President of Towing and Recovery Association of Washington; Rich Steele.

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