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**SENATE BILL 5442**

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**State of Washington**                      **53rd Legislature**                      **1993 Regular Session**

**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18            An appointment may be rescinded by the state patrol upon evidence  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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