
Commerce & Labor Committee

SSB 5672

Brief Description: Regulating commercial parking businesses.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Jacobsen, Esser, Poulsen, Benson and Swecker).

Brief Summary of Substitute Bill

- Prohibits a parking charge unless there is a conspicuously posted sign on the parking lot indicating the times and circumstances in which a parking charge will be charged and provides for fees and penalties in the event of any violations.
- Defines what constitutes a conspicuous sign for commercial parking lots, and incorporates by reference the posting requirements of the Department of Licensing for impounding vehicles.
- Creates a separate burden of proof for a person who is not the registered owner of the vehicle but is contesting unauthorized parking fees, and allows the award of statutory costs and attorney fees to the prevailing party in contested parking actions.

Hearing Date: 3/17/05

Staff: Rebekah Ward (786-7106).

Background:

Local jurisdictions have authority to regulate off-street parking by ordinance, and may generally choose to do so through a parking commission, a municipal operation, or a contract with a private entity. Private businesses may operate commercial parking facilities.

In July of 2003, a federal court in a class-action law suit ruled that a collection agent for several unstaffed parking lot operators did not have authority to charge a collection fee in addition to the principal amount owed on parking tickets issued by a commercial parking lot operator.

Summary of Bill:

A commercial parking business is defined as the ownership, lease, operation, or management of a commercial parking lot with a purpose of parking motor vehicles for a fee. Parking fees may be charged for monthly parking, reserved parking, parking for a given amount of time, or a specific event, fees for unauthorized parking, late fees, and collection fees.

Posting Requirements

Charging a parking fee is prohibited unless the commercial parking business posts a sign conspicuously stating the times and circumstances in which a fee will be charged, the amount of the charge, or a schedule of different rates or different schedules, and the name, address, and telephone number of the commercial parking business. The sign must be posted in such a manner as to be clearly visible at all times, including after dark.

The Department of Licensing's posting requirements for the impoundment of vehicle is also adopted by reference, and impoundment of an unauthorized parked vehicle is prohibited unless a sign is posted near the entrance of the property in a clearly conspicuous and visible location to all who park on the property indicating the times a vehicle may be impounded, and the contact information where the vehicle can be redeemed.

A commercial parking business need not post the fee sign if the commercial parking business:

- has an agreement for the parking services between the commercial parking business and the customer; and
- gives the customer the required information in written form when they enter the parking lot; or
- for event parking, an attendant or signage gives the customer the required information upon entry into the lot.

Impoundment

Impoundment of an unauthorized parked vehicle is not allowed unless:

- the unauthorized parking constitutes a traffic hazard or obstruction;
- a customer of the business requests removal because the unauthorized car is occupying the customers reserved space;
- the business has twice notified the registered owner of the parked car, and has either collected or attempted to collect the unauthorized parking fee, and has at least in one notice notified the customer that the vehicle is subject to impoundment; and
- the impoundment is immobilization or impound-in-place.

Additionally, certain posting requirements must also be met in order for a commercial parking business to utilize impoundment for unauthorized parked cars.

Charges for Unauthorized Parking

A customer whose parking is unauthorized is liable to the commercial parking business for a reasonable parking charge if notice of the charge is given to the customer. Where a customer fails to pay within fifteen days after notice is given, the registered owner of the vehicle is liable to the commercial parking business for the reasonable fee. Additionally, charges may include a late fee up to a maximum of \$25, any collection agency fees, and/or statutory costs and reasonable attorney fees that are incurred if court action is taken.

Notice of Parking Charges

Reasonable parking charges may not exceed the posted price or \$50. If a fee other than the posted fee will be charged, or if a late fee or collection fee is to be charged, then the amount of the charge must be stated in a sign conspicuously posted on the parking lot. In addition, written notice of a violation must be either affixed to the windshield of the car in violation, mailed via first class mail postage prepaid, to the registered owner of the car in violation, or delivered in another commercially reasonable medium to the registered owner. The notice must describe how the

reasonable fee was calculated, the date(s) of the unauthorized parking, the license number of the vehicle, and the name and address of the commercial parking business. The notice must be mailed within 90 days of the unauthorized parking or within 90 days of the bill's effective date, whichever is later.

Where a collection fee is assessed, the commercial parking business must provide notice to the registered owner of the vehicle of the possibility of assignment of the debt to a collection agency at least fifteen days prior to the assignment. A fee of up to \$100 or 50% of the debt over \$100 is presumed reasonable.

A parking business may give the registered owner of the unauthorized parked vehicle more than fifteen days prior to assessing a late or collection fee or from discounting the parking charges if they are paid within a certain amount of time.

Presumption of Liability for Parking Charges

A registered owner is presumed liable for his or her vehicle in a commercial parking lot unless the owner can prove by preponderance of the evidence that the person who parked the vehicle in the commercial parking lot was unauthorized to do so. Notice provided to the registered owner of the vehicle will be presumed to have been provided to any party responsible for the parking charges associated with the vehicle.

Additionally, there is a preponderance of the evidence standard created for contesting unauthorized parking fees for persons other than the registered owner of the vehicle, and the burden is placed on the person contesting the charges.

A court can award statutory costs and attorney fees to a prevailing party in a contested parking fee action.

Nothing precludes a claim being taken to small claims court.

Other

These provisions apply to all parking charges incurred on or after the bill's effective date.

Rules Authority: The bill does not address the rule making powers of an agency.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.