

# HOUSE BILL REPORT

## SSB 5406

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**As Reported by House Committee On:**  
Transportation

**Title:** An act relating to compensation for tow truck operators for keeping the public roadways clear.

**Brief Description:** Providing compensation for tow truck operators for keeping the public roadways clear.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Hawkins, Mullet, Brown, Dozier, Fortunato, Hobbs, Honeyford, Hunt, Rolfes, Schoesler, Short, Stanford, Warnick and Wilson, J.).

**Brief History:**

**Committee Activity:**

Transportation: 3/11/21, 4/2/21 [DPA].

**Brief Summary of Substitute Bill**  
**(As Amended By Committee)**

- Makes persons who operate a vehicle on a public highway in an illegal or negligent manner liable for vehicle recovery, impound, and storage charges of a registered tow truck operator (RTTO) dispatched by law enforcement or other agency.
- Authorizes an RTTO to bring a civil action to recover such unpaid charges, limited to the amounts established in fee schedules filed with the Department of Licensing.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended. Signed by 27 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking

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Minority Member; Volz, Assistant Ranking Minority Member; Berry, Chapman, Dent, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Lovick, McCaslin, Orcutt, Paul, Riccelli, Slatter, Sutherland, Taylor, Valdez, Walsh and Wicks.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Ramos, 2nd Vice Chair; Ramel.

**Staff:** Christine Thomas (786-7142).

**Background:**

*Damages to the Highway or Public Property.* A person operating a vehicle or moving an object or conveyance on a public highway in an illegal or negligent manner is liable for any damage to a public highway, bridge, elevated structure, or public property that results from the illegal operation of the vehicle. When the operator of the vehicle is not the owner of the vehicle, object, or conveyance, the owner and operator are jointly and severally liable for any such damage. The Washington State Department of Transportation or other affected state agencies may recover the damages to the public highway, bridge, elevated structure, or public property in a civil action. Damages may include incident response costs including traffic control.

*Public Impounds.* In Washington, only registered tow truck operators (RTTOs) may take and hold a vehicle in legal custody without the consent of the owner, known as an impound. A law enforcement officer or public official requesting a public impound must provide a signed authorization for the impound at the time and place of the impound to the RTTO before the operator may proceed with the impound. The costs of removal and storage of vehicles when directed by the Washington State Patrol (WSP) must be paid by the owner or driver of the vehicle and a lien is placed upon the vehicle until paid, unless the removal is determined to be invalid.

When a vehicle is impounded, an 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, the DOL provides information to the RTTO regarding the owner of the vehicle, and the RTTO must send a notice of custody and sale, by certified mail, 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.

*Fee Schedules.* An RTTO must register a fee schedule with the DOL. All filed fees must be adequate to cover the costs of service provided and no fees may exceed those filed with the DOL. At least 10 days before the effective date of any changes in the fee schedule, the

RTTOs must file the revised fee schedule with the DOL. The WSP contracts with the RTTOs to perform private impounds at the WSP's direction. Maximum towing hourly rates and maximum daily storage rates of WSP-originated calls may not exceed 135 percent of the respective rates in the fee schedule filed with the DOL.

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**Summary of Amended Bill:**

A person who operates a vehicle on a public highway in an illegal or negligent manner is, in addition to other damages, also liable for vehicle recovery, impound, and storage charges of an RTTO dispatched by law enforcement or other state or local agency.

Costs for vehicle recovery, impound, and storage charges for any RTTO dispatched by law enforcement or other state or local agency may be recovered by the RTTO in a civil action. The recoverable damages in the civil action is the unpaid amount for the vehicle recovery, impound, and storage charges. Damages are limited to the maximum towing hourly rates, maximum daily storage rates, and maximum after-hours release fees of private impounds performed at the WSP's direction.

**Amended Bill Compared to Substitute Bill:**

In the amended bill, damages are limited to the maximum towing hourly rates, maximum daily storage rates, and maximum after-hours release fees of private impounds performed at the WSP's direction, and do not include incident response and traffic control costs.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Registered tow truck operators are doing a public service by clearing public roads at the request of the WSP and other law enforcement agencies. Often, the RTTOs are asked to clear large accidents on public highways that require the RTTOs to incur costs to clear debris and manage traffic. The owners of the vehicles do not pay the RTTOs and if the owner carries liability insurance only, the insurance companies will not pay the RTTOs. This bill puts the RTTOs on first rights of claim and is a long overdue fix for the RTTOs to seek compensation for services they are contractually obligated to provide for law enforcement agencies.

The RTTOs currently have no right to a damage claim, but often are most damaged because they are not compensated by insurance for removing vehicles. This is for the benefit of the insurance consumer. Owners are very concerned to find out that insurance will not help them out at all. The proposed amendment allows the RTTOs to be compensated at the regulated rate.

(Opposed) None.

(Other) The agreed language in the proposed amendment, which limits damages to the regulated rates, provides clarity and sideboards to the amounts that the RTTOs can seek in damages. With the amendment, the insurance industry has no concern with the bill moving forward.

**Persons Testifying:** (In support) Senator Hawkins, prime sponsor; Randy Houston, Randy's Towing; Jackie Currie; and Emily Wade, Towing and Recovery Association of Washington.

(Other) Kenton Brine, Northwest Insurance Council.

**Persons Signed In To Testify But Not Testifying:** None.