
HOUSE BILL 2303

State of Washington 58th Legislature 2004 Regular Session

By Representatives O'Brien, Mielke, Upthegrove, Pearson, McCoy,
Lovick and Clements

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Committee on Transportation.

1 AN ACT Relating to regulating the immobilization of vehicles;
2 amending RCW 46.63.020; adding a new chapter to Title 46 RCW; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Approved immobilization device" means a device approved by the
9 Washington state patrol that is attached to the exterior of a vehicle
10 to prohibit the movement or removal of the vehicle from its location.

11 (2) "Licensee" means a registered vehicle immobilizer having
12 possession of a registration certificate issued by the department.

13 (3) "Parking charge" means a posted monetary fee charged to an
14 individual wishing to park a vehicle in a parking facility for a given
15 amount of time, including a posted surcharge that is of a reasonable
16 and customary amount resulting from nonpayment, insufficient payment,
17 overtime parking, or improper parking of a vehicle.

18 (4) "Public or private garage or parking lot" means a parking lot

1 or garage that is owned and operated by either a public or private
2 entity that charges a monetary fee to an individual wishing to park a
3 vehicle in the parking facility for a given amount of time.

4 (5) "Registered vehicle immobilizer" means a person registered and
5 licensed with the department to engage in the activity of immobilizing
6 vehicles.

7 (6) "Vehicle immobilizer" means a registered vehicle immobilizer
8 and an agent, employee, or contractor of the registered vehicle
9 immobilizer.

10 NEW SECTION. **Sec. 2.** REGISTRATION REQUIRED. A person may not
11 engage or offer to engage in the activity of immobilizing vehicles
12 without a current registration certificate from the department
13 authorizing the person to engage in those activities. A person
14 engaging in or offering to engage in the activity of immobilizing
15 vehicles without the registration certificate required by this chapter
16 is guilty of a gross misdemeanor.

17 NEW SECTION. **Sec. 3.** APPLICATION--CONTENTS, BOND, INSURANCE, FEE,
18 CERTIFICATE. (1) Application for licensing as a registered vehicle
19 immobilizer must be made on forms furnished by the department,
20 accompanied by an inspection certificate from the Washington state
21 patrol, signed by the applicant or an agent, and include the following
22 information:

23 (a) The name and address of the person, firm, partnership,
24 association, or corporation under whose name the business is to be
25 conducted;

26 (b) The names and addresses of all persons having an interest in
27 the business, or if the owner is a corporation, the names and addresses
28 of the officers of the corporation;

29 (c) The names and addresses of all employees who serve as vehicle
30 immobilizers;

31 (d) Proof of minimum insurance required by subsection (3) of this
32 section;

33 (e) Any other information the department may require; and

34 (f) A certificate of approval from the Washington state patrol
35 certifying that:

1 (i) The applicant has an established place of business and that
2 mail is received at the address shown on the application; and

3 (ii) Immobilization devices to be used meet standards established
4 by the Washington state patrol.

5 (2) Before issuing a registration certificate to an applicant, the
6 department shall require the applicant to file with the department a
7 surety bond in the amount of five thousand dollars running to the state
8 and executed by a surety company authorized to do business in this
9 state. The bond must be approved as to form by the attorney general
10 and conditioned that the registered vehicle immobilizer shall conduct
11 the business in conformity with this chapter and shall compensate any
12 person, company, or the state for failure to comply with this chapter
13 or the rules adopted under it, or for fraud, negligence, or
14 misrepresentation in the handling of immobilized vehicles. A person
15 injured by the registered vehicle immobilizer's failure to fully
16 perform duties imposed by this chapter and the rules adopted under it,
17 or an ordinance or resolution adopted by a city, town, or county is
18 entitled to recover actual damages, including reasonable attorneys'
19 fees against the surety and the registered vehicle immobilizer.
20 Successive recoveries against the bond must be permitted, but the
21 aggregate liability of the surety to all persons may not exceed the
22 amount of the bond. As a condition of authority to do business, the
23 registered vehicle immobilizer shall keep the bond in full force and
24 effect. Failure to maintain the penalty value of the bond or
25 cancellation of the bond by the surety automatically cancels the
26 registered vehicle immobilizer's registration.

27 (3) Before the department may issue a registration certificate to
28 an applicant, the applicant shall provide proof of minimum insurance
29 requirements of:

30 (a) One hundred thousand dollars for liability for bodily injury or
31 property damage per occurrence; and

32 (b) Fifty thousand dollars of legal liability per occurrence, to
33 protect against vehicle damage, including but not limited to fire and
34 theft, from the time a vehicle is immobilized until it is redeemed or
35 impounded.

36 Cancellation of or failure to maintain the insurance required by
37 (a) and (b) of this subsection automatically cancels the operator's
38 registration.

1 (4) The fee for each original registration and annual renewal is
2 one hundred dollars. The department shall forward the registration fee
3 to the state treasurer for deposit in the motor vehicle fund.

4 (5) The applicant must submit an inspection certificate from the
5 state patrol before the department may issue or renew a vehicle
6 immobilizer's registration certificate.

7 (6) Upon approval of the application, the department shall issue a
8 registration certificate to the registered vehicle immobilizer.

9 NEW SECTION. **Sec. 4.** IMMOBILIZATION DEVICES--ALLOWABLE USES,
10 AUTHORIZATION REQUIRED. (1) It is unlawful for a person to remove or
11 cause to be removed a part from a vehicle to immobilize the vehicle in
12 order to secure payment for a delinquent parking fee or charge, and it
13 is unlawful to restrict the movement of or immobilize a vehicle parked
14 or stored in a public or private garage or parking lot in any manner
15 except as provided for in this section.

16 (2) Vehicle immobilizers may place an approved immobilization
17 device upon a vehicle located in a public or private garage or parking
18 lot at the request of the legal owner or an employee or agent of the
19 legal owner of the garage or parking lot. Placement of the approved
20 immobilization device may occur only as an enforcement measure when
21 there are delinquent or unpaid parking fees or charges resulting from
22 the parking, keeping, or storing of a vehicle within the parking
23 facility.

24 (3) The legal owner or an employee or agent of the legal owner of
25 the garage or parking lot must provide a signed authorization for the
26 immobilization at the time and place of the immobilization to the
27 registered vehicle immobilizer before he or she may immobilize the
28 vehicle.

29 (4) The approved immobilization device may be attached only to the
30 exterior of a vehicle so as to prevent the removal of the vehicle but
31 without causing any damage to the vehicle.

32 NEW SECTION. **Sec. 5.** IMMOBILIZATION NOTICE REQUIREMENTS. (1)
33 When immobilizing a vehicle, registered vehicle immobilizers, or their
34 agents, employees, or contractors, must affix conspicuously to the
35 immobilized vehicle a written notice stating the name and address of

1 the person or business who immobilized the vehicle and the address and
2 telephone number of the person authorized and available to release the
3 vehicle.

4 (2) The person authorized to release the vehicle must be accessible
5 at all times at the address and telephone number indicated on the
6 written notice and must be able to release the vehicle within one hour
7 after the vehicle's owner, operator, or person entitled to its
8 possession requests its release.

9 (3) The immobilized vehicle must be released immediately after
10 tender of payment of the posted parking charges due and unpaid at the
11 time of the request for release, together with the posted
12 immobilization fee.

13 NEW SECTION. **Sec. 6.** IMMOBILIZATION DEVICE REMOVAL FEE. The fee
14 that a registered vehicle immobilizer may charge to remove an
15 immobilization device may not exceed one hundred dollars per removal.

16 NEW SECTION. **Sec. 7.** POSTING REQUIREMENTS. (1) No person may
17 immobilize or otherwise disturb an unauthorized vehicle standing or
18 parking in a public or private garage or parking lot unless a sign is
19 posted near each entrance and on the property in a location clearly
20 conspicuous and visible to all who park on such property that clearly
21 indicates:

22 (a) The times and circumstances in which a vehicle may be
23 immobilized as an unauthorized vehicle;

24 (b) The fee to remove the immobilization device; and

25 (c) The name, telephone number, and address of the person or
26 business who is the registered vehicle immobilizer.

27 (2) The department shall adopt rules relating to the size of the
28 sign required by subsection (1) of this section, its lettering,
29 placement, and the number of signs required.

30 NEW SECTION. **Sec. 8.** REDEEMING IMMOBILIZED PROPERTY. (1)
31 Vehicles that are immobilized by registered vehicle immobilizer under
32 this chapter may be redeemed only under the following circumstances:

33 (a) Only the legal owner, the registered owner, a person authorized
34 in writing by the registered owner or the vehicle's insurer, or a

1 person who is determined and verified by the vehicle immobilizer to
2 have the permission of the registered owner of the vehicle may redeem
3 an immobilized vehicle.

4 (b) A rental car business may immediately redeem a rental vehicle
5 it owns by payment of the costs of the removal fee provided for in
6 section 6 of this act.

7 (c) A motor vehicle dealer or lender with a perfected security
8 interest in the vehicle may redeem or lawfully repossess a vehicle
9 immediately by payment of the costs of the removal fee provided for in
10 section 6 of this act.

11 (2)(a) The vehicle immobilizer shall give to each person who seeks
12 to redeem an immobilized vehicle written notice of the right of
13 redemption and opportunity for a hearing, which notice must be
14 accompanied by a form to be used for requesting a hearing, the name of
15 the person or agency authorizing the immobilization, and a copy of the
16 immobilization invoice. The registered vehicle immobilizer shall
17 maintain a record evidenced by the redeeming person's signature that
18 the notification was provided.

19 (b) Any person seeking to redeem an immobilized vehicle under this
20 chapter has a right to a hearing in the district or municipal court for
21 the jurisdiction in which the vehicle was immobilized to contest the
22 validity of the immobilization or the amount of immobilization charges.
23 The district court has jurisdiction to determine the issues involving
24 all immobilizations including those authorized by the state or its
25 agents. The municipal court has jurisdiction to determine the issues
26 involving immobilizations authorized by agents of the municipality. A
27 request for a hearing must be made in writing on the form provided for
28 that purpose and must be received by the appropriate court within ten
29 days of the date the opportunity was provided for in (a) of this
30 subsection. At the time of the filing of the hearing request, the
31 petitioner shall pay to the court clerk a filing fee in the same amount
32 required for the filing of a suit in district court. If the hearing
33 request is not received by the court within the ten-day period, the
34 right to a hearing is waived and the registered owner is liable for any
35 immobilization charges permitted under this chapter. Upon receipt of
36 a timely hearing request, the court shall proceed to hear and determine
37 the validity of the immobilization.

1 (3)(a) The court, within five days after the request for a hearing,
2 shall notify the registered vehicle immobilizer, the person requesting
3 the hearing if not the owner, the registered and legal owners of the
4 vehicle or other item of personal property registered or titled with
5 the department, and the person or agency authorizing the immobilization
6 in writing of the hearing date and time.

7 (b) At the hearing, the person or persons requesting the hearing
8 may produce any relevant evidence to show that the immobilization fee
9 charged was not proper.

10 (c) At the conclusion of the hearing, the court shall determine
11 whether the immobilization was proper, whether the fee charged was in
12 compliance with the posted rate, and who is responsible for payment of
13 the fee. The court may not adjust fees or charges that are in
14 compliance with the posted or contracted rates.

15 (d) If the immobilization is found proper, the immobilization fee
16 as permitted under this chapter together with court costs will be
17 assessed against the person or persons requesting the hearing.

18 (e) If the immobilization is determined to be in violation of this
19 chapter, then the registered and legal owners of the vehicle or other
20 item of personal property registered or titled with the department will
21 bear no immobilization fee, and any security must be returned or
22 discharged as appropriate, and the person or agency who authorized the
23 immobilization is liable for any immobilization fee permitted under
24 this chapter. The court shall enter judgment in favor of the
25 registered and legal owners of the vehicle, or other item of personal
26 property registered or titled with the department, for the amount of
27 the filing fee required by law for the immobilization hearing petition
28 as well as reasonable damages for loss of the use of the vehicle during
29 the time it was immobilized, for not less than fifty dollars per day,
30 against the person or agency authorizing the immobilization. If a
31 judgment entered is not paid within fifteen days of notice in writing
32 of its entry, the court shall award reasonable attorneys' fees and
33 costs against the defendant in an action to enforce the judgment.
34 Notice of entry of judgment may be made by registered or certified
35 mail, and proof of mailing may be made by affidavit of the party
36 mailing the notice. Notice of the entry of the judgment must read
37 essentially as follows:

38 TO:

1 YOU ARE NOTIFIED THAT JUDGMENT was entered against you in the
2 Court located at in the sum of
3 \$., in an action entitled, Case No.
4 YOU ARE FURTHER NOTIFIED that attorneys' fees and
5 costs will be awarded against you under RCW if the
6 judgment is not paid within 15 days of the date of this notice.
7 DATED this day of, (year)

8 Signature

9 Typed name and address

10 of party mailing notice

11 NEW SECTION. **Sec. 9.** IMMOBILIZATION DEVICE STANDARDS. The
12 Washington state patrol may adopt and amend rules under the
13 Administrative Procedure Act, chapter 34.05 RCW, concerning the
14 standards and procedures for immobilization devices and their use.

15 NEW SECTION. **Sec. 10.** AVAILABILITY OF RECORDS AND EQUIPMENT FOR
16 AUDIT AND INSPECTION. Records and equipment of a registered vehicle
17 immobilizer must be available during normal business hours for audit or
18 inspection by the department of licensing, the Washington state patrol,
19 or any law enforcement agency having jurisdiction.

20 NEW SECTION. **Sec. 11.** COMPLAINTS, WHERE FORWARDED. (1) All law
21 enforcement agencies or local licensing agents that receive complaints
22 involving registered vehicle immobilizers shall forward the complaints,
23 along with any supporting documents including all results from local
24 investigations, to the department.

25 (2) Complaints involving deficiencies of equipment must be
26 forwarded to the Washington state patrol.

27 NEW SECTION. **Sec. 12.** PRESIDING OFFICER AT LICENSING HEARING.
28 The director or the chief of the state patrol may use a hearings
29 officer or administrative law judge for presiding over a hearing
30 regarding licensing under this chapter or rules adopted under it. All
31 hearings and orders by the director or the chief of the state patrol
32 made under this chapter are subject to chapter 34.05 RCW.

1 NEW SECTION. **Sec. 13.** RULES. The director shall adopt rules that
2 carry out the provisions and intent of this chapter.

3 NEW SECTION. **Sec. 14.** PENALTIES FOR CERTAIN ACTS OR OMISSIONS.
4 A registered vehicle immobilizer's license may be denied, suspended, or
5 revoked, or the licensee may be ordered to pay a monetary penalty of a
6 civil nature, not to exceed one thousand dollars per violation, or the
7 licensee may be subjected to any combination of license and monetary
8 penalty, whenever the director has reason to believe the licensee has
9 committed, or is at the time committing, a violation of this chapter or
10 rules adopted under it or any other statute or rule relating to this
11 chapter.

12 NEW SECTION. **Sec. 15.** REFUSAL TO ISSUE LICENSE, GROUNDS FOR. If
13 an application for a license to conduct business as a registered
14 vehicle immobilizer is filed by a person whose license has previously
15 been canceled for cause by the department, or if the department is of
16 the opinion that the application is not filed in good faith or that the
17 application is filed by some person as a subterfuge for the real person
18 in interest whose license has previously been canceled for cause, the
19 department, after a hearing, of which the applicant has been given
20 twenty days' notice in writing and at which the applicant may appear in
21 person or by counsel and present testimony, may refuse to issue such a
22 person a license to conduct business as a registered vehicle
23 immobilizer.

24 NEW SECTION. **Sec. 16.** CAPTIONS. Captions used in this chapter
25 are not part of the law.

26 **Sec. 17.** RCW 46.63.020 and 2003 c 33 s 4 are each amended to read
27 as follows:

28 Failure to perform any act required or the performance of any act
29 prohibited by this title or an equivalent administrative regulation or
30 local law, ordinance, regulation, or resolution relating to traffic
31 including parking, standing, stopping, and pedestrian offenses, is
32 designated as a traffic infraction and may not be classified as a
33 criminal offense, except for an offense contained in the following

1 provisions of this title or a violation of an equivalent administrative
2 regulation or local law, ordinance, regulation, or resolution:

3 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
4 vehicle while under the influence of intoxicating liquor or a
5 controlled substance;

6 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

7 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
8 while under the influence of intoxicating liquor or narcotics or
9 habit-forming drugs or in a manner endangering the person of another;

10 (4) RCW 46.10.130 relating to the operation of snowmobiles;

11 (5) Chapter 46.12 RCW relating to certificates of ownership and
12 registration and markings indicating that a vehicle has been destroyed
13 or declared a total loss;

14 (6) RCW 46.16.010 relating to initial registration of motor
15 vehicles;

16 (7) RCW 46.16.011 relating to permitting unauthorized persons to
17 drive;

18 (8) RCW 46.16.160 relating to vehicle trip permits;

19 (9) RCW 46.16.381(2) relating to knowingly providing false
20 information in conjunction with an application for a special placard or
21 license plate for disabled persons' parking;

22 (10) RCW 46.20.005 relating to driving without a valid driver's
23 license;

24 (11) RCW 46.20.091 relating to false statements regarding a
25 driver's license or instruction permit;

26 (12) RCW 46.20.0921 relating to the unlawful possession and use of
27 a driver's license;

28 (13) RCW 46.20.342 relating to driving with a suspended or revoked
29 license or status;

30 (14) RCW 46.20.345 relating to the operation of a motor vehicle
31 with a suspended or revoked license;

32 (15) RCW 46.20.410 relating to the violation of restrictions of an
33 occupational driver's license;

34 (16) RCW 46.20.740 relating to operation of a motor vehicle without
35 an ignition interlock device in violation of a license notation that
36 the device is required;

37 (17) RCW 46.20.750 relating to assisting another person to start a
38 vehicle equipped with an ignition interlock device;

1 (18) RCW 46.25.170 relating to commercial driver's licenses;
2 (19) Chapter 46.29 RCW relating to financial responsibility;
3 (20) RCW 46.30.040 relating to providing false evidence of
4 financial responsibility;
5 (21) RCW 46.37.435 relating to wrongful installation of
6 sunscreening material;
7 (22) RCW 46.37.--- (section 2, chapter 33, Laws of 2003) relating
8 to the sale, resale, distribution, or installation of a previously
9 deployed air bag;
10 (23) RCW 46.44.180 relating to operation of mobile home pilot
11 vehicles;
12 (24) RCW 46.48.175 relating to the transportation of dangerous
13 articles;
14 (25) RCW 46.52.010 relating to duty on striking an unattended car
15 or other property;
16 (26) RCW 46.52.020 relating to duty in case of injury to or death
17 of a person or damage to an attended vehicle;
18 (27) RCW 46.52.090 relating to reports by repairmen, storagemen,
19 and appraisers;
20 (28) RCW 46.52.130 relating to confidentiality of the driving
21 record to be furnished to an insurance company, an employer, and an
22 alcohol/drug assessment or treatment agency;
23 (29) RCW 46.55.020 relating to engaging in the activities of a
24 registered tow truck operator without a registration certificate;
25 (30) RCW 46.55.035 relating to prohibited practices by tow truck
26 operators;
27 (31) Section 2 of this act relating to immobilizing vehicles
28 without being a registered vehicle immobilizer;
29 (32) RCW 46.61.015 relating to obedience to police officers,
30 flaggers, or fire fighters;
31 ~~((+32+))~~ (33) RCW 46.61.020 relating to refusal to give information
32 to or cooperate with an officer;
33 ~~((+33+))~~ (34) RCW 46.61.022 relating to failure to stop and give
34 identification to an officer;
35 ~~((+34+))~~ (35) RCW 46.61.024 relating to attempting to elude
36 pursuing police vehicles;
37 ~~((+35+))~~ (36) RCW 46.61.500 relating to reckless driving;

1 ~~((36))~~ (37) RCW 46.61.502 and 46.61.504 relating to persons under
2 the influence of intoxicating liquor or drugs;
3 ~~((37))~~ (38) RCW 46.61.503 relating to a person under age twenty-
4 one driving a motor vehicle after consuming alcohol;
5 ~~((38))~~ (39) RCW 46.61.520 relating to vehicular homicide by motor
6 vehicle;
7 ~~((39))~~ (40) RCW 46.61.522 relating to vehicular assault;
8 ~~((40))~~ (41) RCW 46.61.5249 relating to first degree negligent
9 driving;
10 ~~((41))~~ (42) RCW 46.61.527(4) relating to reckless endangerment of
11 roadway workers;
12 ~~((42))~~ (43) RCW 46.61.530 relating to racing of vehicles on
13 highways;
14 ~~((43))~~ (44) RCW 46.61.685 relating to leaving children in an
15 unattended vehicle with the motor running;
16 ~~((44))~~ (45) RCW 46.61.740 relating to theft of motor vehicle
17 fuel;
18 ~~((45))~~ (46) RCW 46.64.010 relating to unlawful cancellation of or
19 attempt to cancel a traffic citation;
20 ~~((46))~~ (47) RCW 46.64.048 relating to attempting, aiding,
21 abetting, coercing, and committing crimes;
22 ~~((47))~~ (48) Chapter 46.65 RCW relating to habitual traffic
23 offenders;
24 ~~((48))~~ (49) RCW 46.68.010 relating to false statements made to
25 obtain a refund;
26 ~~((49))~~ (50) Chapter 46.70 RCW relating to unfair motor vehicle
27 business practices, except where that chapter provides for the
28 assessment of monetary penalties of a civil nature;
29 ~~((50))~~ (51) Chapter 46.72 RCW relating to the transportation of
30 passengers in for hire vehicles;
31 ~~((51))~~ (52) RCW 46.72A.060 relating to limousine carrier
32 insurance;
33 ~~((52))~~ (53) RCW 46.72A.070 relating to operation of a limousine
34 without a vehicle certificate;
35 ~~((53))~~ (54) RCW 46.72A.080 relating to false advertising by a
36 limousine carrier;
37 ~~((54))~~ (55) Chapter 46.80 RCW relating to motor vehicle wreckers;

1 (~~(55)~~) (56) Chapter 46.82 RCW relating to driver's training
2 schools;

3 (~~(56)~~) (57) RCW 46.87.260 relating to alteration or forgery of a
4 cab card, letter of authority, or other temporary authority issued
5 under chapter 46.87 RCW;

6 (~~(57)~~) (58) RCW 46.87.290 relating to operation of an
7 unregistered or unlicensed vehicle under chapter 46.87 RCW.

8 NEW SECTION. **Sec. 18.** Sections 1 through 16 of this act
9 constitute a new chapter in Title 46 RCW.

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