

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2817

Chapter 201, Laws of 2008

60th Legislature
2008 Regular Session

VEHICLES AND VESSELS--CONTAMINATED

EFFECTIVE DATE: 06/12/08

Passed by the House March 10, 2008
Yeas 94 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 27, 2008, 4:14 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2817** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 28, 2008

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2817

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Transportation (originally sponsored by Representatives Campbell, Green, Morrell, Hudgins, and McCune)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to contaminated motor vehicles, vehicles, and
2 vessels; amending RCW 64.44.050; adding a new section to chapter 64.44
3 RCW; adding a new section to chapter 46.55 RCW; and creating a new
4 section.

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

6 **Sec. 1.** RCW 64.44.050 and 2006 c 339 s 205 are each amended to
7 read as follows:

8 (1) An owner of contaminated property who desires to have the
9 property decontaminated, demolished, or disposed of shall use the
10 services of an authorized contractor unless otherwise authorized by the
11 local health officer. The contractor and property owner shall prepare
12 and submit a written work plan for decontamination, demolition, or
13 disposal to the local health officer. The local health officer may
14 charge a reasonable fee for review of the work plan. If the work plan
15 is approved and the decontamination, demolition, or disposal is
16 completed and the property is retested according to the plan and
17 properly documented, then the health officer shall allow reuse of the
18 property. A release for reuse document shall be recorded in the real
19 property records indicating the property has been decontaminated,

1 demolished, or disposed of in accordance with rules of the state
2 department of health. The property owner is responsible for: (a) The
3 costs of any property testing which may be required to demonstrate the
4 presence or absence of hazardous chemicals; and (b) the costs of the
5 property's decontamination, demolition, and disposal expenses, as well
6 as costs incurred by the local health officer resulting from the
7 enforcement of this chapter.

8 (2)(a) In a case where the contaminated property is a motor vehicle
9 as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or
10 a vessel as defined in RCW 88.02.010, and the local health officer has
11 issued an order declaring the property unfit and prohibiting its use,
12 the city or county in which the property is located shall take action
13 to prohibit use, occupancy, or removal, and shall require demolition,
14 disposal, or decontamination of the property. The city, county, or
15 local law enforcement agency may impound the vehicle or vessel to
16 enforce this chapter.

17 (b) The property owner shall have the property demolished, disposed
18 of, or decontaminated by an authorized contractor, or under a written
19 work plan approved by the local health officer, within thirty days of
20 receiving the order declaring the property unfit and prohibited from
21 use. After all procedures granting the right of notice and the
22 opportunity to appeal in RCW 64.44.030 have been exhausted, if the
23 property owner has not demolished, disposed of, or decontaminated the
24 property using an authorized contractor, or under a written work plan
25 approved by the local health officer within thirty days, then the local
26 health officer or the local law enforcement agency may demolish,
27 dispose of, or decontaminate the property. The property owner is
28 responsible for the costs of the property's demolition, disposal, or
29 decontamination, as well as all costs incurred by the local health
30 officer or the local law enforcement agency resulting from the
31 enforcement of this chapter, except as otherwise provided under this
32 subsection.

33 (c) The legal owner of a motor vehicle as defined in RCW 46.04.320,
34 a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW
35 88.02.010 whose sole basis of ownership is a bona fide security
36 interest is responsible for costs under this subsection if the legal
37 owner had knowledge of or consented to any act or omission that caused
38 contamination of the vehicle or vessel.

1 (d) If the vehicle or vessel has been stolen and the property owner
2 neither had knowledge of nor consented to any act or omission that
3 contributed to the theft and subsequent contamination of the vehicle or
4 vessel, the owner is not responsible for costs under this subsection.
5 However, if the registered owner is insured, the registered owner
6 shall, within fifteen calendar days of receiving an order declaring the
7 property unfit and prohibiting its use, submit a claim to his or her
8 insurer for reimbursement of costs of the property's demolition,
9 disposal, or decontamination, as well as all costs incurred by the
10 local health officer or the local law enforcement agency resulting from
11 the enforcement of this chapter, and shall provide proof of claim to
12 the local health officer or the local law enforcement agency.

13 (e) If the property owner has not acted to demolish, dispose of, or
14 decontaminate as set forth in this subsection regardless of
15 responsibility for costs, and the local health officer or local law
16 enforcement agency has taken responsibility for demolition, disposal,
17 or decontamination, including all associated costs, then all rights,
18 title, and interest in the property shall be deemed forfeited to the
19 local health jurisdiction or the local law enforcement agency.

20 (f) This subsection may not be construed to limit the authority of
21 a city, county, local law enforcement agency, or local health officer
22 to take action under this chapter to require the owner of the real
23 property upon which the contaminated vehicle or vessel is located to
24 comply with the requirements of this chapter, including provisions for
25 the right of notice and opportunity to appeal as provided in RCW
26 64.44.030.

27 (3) Except as provided in subsection (2) of this section, the local
28 health officer has thirty days from the issuance of an order declaring
29 a property unfit and prohibiting its use to establish a reasonable
30 timeline for decontamination. The department of health shall establish
31 the factors to be considered by the local health officer in
32 establishing the appropriate amount of time.

33 The local health officer shall notify the property owner of the
34 proposed time frame by United States mail to the last known address.
35 Notice shall be postmarked no later than the thirtieth day from the
36 issuance of the order. The property owner may request a modification
37 of the time frame by submitting a letter identifying the circumstances

1 which justify such an extension to the local health officer within
2 thirty-five days of the date of the postmark on the notification
3 regardless of when received.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.44 RCW
5 to read as follows:

6 (1) The Washington state department of licensing shall take action
7 to place notification on the title of any motor vehicle as defined in
8 RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as
9 defined in RCW 88.02.010, that the vehicle or vessel has been declared
10 unfit and prohibited from use by order of the local health officer
11 under this chapter. When satisfactory decontamination has been
12 completed and the contaminated property has been retested according to
13 the written work plan approved by the local health officer, a release
14 for reuse document shall be issued by the local health officer, and the
15 department of licensing shall place notification on the title of that
16 vehicle or vessel as having been decontaminated and released for reuse.

17 (2)(a) A person is guilty of a gross misdemeanor if he or she
18 advertises for sale or sells a motor vehicle as defined in RCW
19 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as
20 defined in RCW 88.02.010, that has been declared unfit and prohibited
21 from use by the local health officer under this chapter when:

22 (i) The person has knowledge that the local health officer has
23 issued an order declaring the vehicle or vessel unfit and prohibiting
24 its use; or

25 (ii) A notification has been placed on the title under subsection
26 (1) of this section that the vehicle or vessel has been declared unfit
27 and prohibited from use.

28 (b) A person may advertise or sell a vehicle or vessel when a
29 release for reuse document has been issued by the local health officer
30 under this chapter or a notification has been placed on the title under
31 subsection (1) of this section that the vehicle or vessel has been
32 decontaminated and released for reuse.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.55 RCW
34 to read as follows:

35 An impound under RCW 64.44.050 shall not be considered an impound
36 under this chapter. A tow operator who contracts with a law

1 enforcement agency for transporting a vehicle impounded under RCW
2 64.44.050 shall only remove the vehicle to a secure public facility,
3 and is not required to store or dispose of the vehicle. The vehicle
4 shall remain in the care, custody, and control of the law enforcement
5 agency to be demolished, disposed of, or decontaminated as provided
6 under RCW 64.44.050. The law enforcement agency shall pay for all
7 costs incurred as a result of the towing if the vehicle owner does not
8 pay within thirty days. The law enforcement agency may seek
9 reimbursement from the owner.

10 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this
11 act, referencing this act by bill or chapter number, is not provided by
12 June 30, 2008, in the omnibus transportation appropriations act, this
13 act is null and void.

Passed by the House March 10, 2008.

Passed by the Senate March 7, 2008.

Approved by the Governor March 27, 2008.

Filed in Office of Secretary of State March 28, 2008.