Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Judiciary Committee

HB 1795

Title: An act relating to establishing chapter 46.55 RCW as the exclusive remedy for any claims resulting from the impoundment of a motor vehicle.

Brief Description: Establishing chapter 46.55 RCW as the exclusive remedy for any claims resulting from the impoundment of a motor vehicle.

Sponsors: Representatives Liias, Roach, Rodne, Goodman and Sullivan; by request of Washington State Patrol.

Brief Summary of Bill

- Establishes Chapter 46.55 Revised Code of Washington as the exclusive remedy for claims based on impoundment at the direction of a law enforcement officer or governmental agency.

- Abolishes any civil cause of action for damages based on impoundment at the direction of a law enforcement officer or governmental agency.

Hearing Date: 2/16/09

Staff: Courtney Barnes (786-7194)

Background:

Chapter 46.55 Revised Code of Washington (RCW) establishes procedures for towing and impoundment, including the remedies available to a vehicle owner who wants to challenge the validity of an impoundment. Under this chapter, vehicle owners who have their vehicle impounded may redeem their vehicle by paying all applicable towing and storage fees. If the vehicle was improperly impounded, the owner can avoid paying the towing and storage fees by requesting a hearing and prevailing.

Challenges to State-Ordered Impoundments

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

For state-ordered impoundments, the impoundment hearing is held at the local district court. The person requesting the the hearing may produce evidence to prove the impropriety of the impoundment. The court has the authority to determine whether the impoundment was proper, whether the towing or storage fees were in compliance with the posted rates, and who is responsible for the payment of the fees. If the court determines the impoundment was proper, the party requesting the hearing is liable for all fees and costs associated with the impoundment. Generally, if the impoundment was improper the agency authorizing the impoundment is liable for all fees, costs, and reasonable damages for the loss of use of the vehicle during the impound period.

A vehicle owner waives the right to an impound hearing unless he or she requests the hearing within 10 days of the towing company giving notice to the owner of the opportunity to redeem the vehicle. The request must be in writing and filed with the appropriate court at least five days before the date of a vehicle's auction. If the vehicle owner fails to act, the towing company may auction the vehicle.

Potter v. Washington State Patrol

In November 2008, the Washington Supreme Court held that a person whose vehicle is unlawfully impounded may bring a conversion action against the authority that authorized the impoundment. *Potter v. Washington State Patrol*, 165 Wn. 2d 67, 89 (2008). In *Potter*, the appellant brought a class action lawsuit against the Washington State Patrol (WSP) alleging the WSP unlawfully converted his vehicles by impounding them pursuant to a mandatory impound policy that was held invalid. The Supreme Court held that the there was no clear evidence that the Legislature intended Chapter 46.55 RCW as the exclusive remedy for unlawful impoundments. Thus, the appellant was permitted to bring a conversion action against the WSP.

Summary of Bill:

The procedures available in Chapter 46.55 RCW are the exclusive remedy for any claims based on impoundment at the direction of a law enforcement officer or governmental agency. Any civil cause of action based on impoundment at the direction of a law enforcement officer or government agency is abolished.

Appropriation: None.

Fiscal Note: Not requested.

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