

HOUSE BILL REPORT

ESHB 2274

As Amended by the Senate

Title: An act relating to protecting individuals from reports of sale filed with an incorrect buyer of a subsequently abandoned vehicle.

Brief Description: Concerning the filing of vehicle reports of sale.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Harmsworth, Bergquist, Hayes, Morris, Moscoso, Pollet, Vick, Wilson, Van Werven and Haler).

Brief History:

Committee Activity:

Transportation: 1/13/16, 1/20/16 [DPS].

Floor Activity:

Passed House: 2/12/16, 95-0.

Senate Amended.

Passed Senate: 3/2/16, 43-3.

Brief Summary of Engrossed Substitute Bill

- Specifies that a report of sale is not proof of a completed vehicle transfer for the purpose of collection of expenses where there is no evidence indicating the buyer knew of or was a party to the acceptance of the vehicle transfer.
- Allows a buyer, where there was no acceptance of the transfer, to recover costs associated with the towing, storage, auction, or any other damages incurred, such as reasonable attorney's fees and litigation costs, against the person who filed the fraudulent report of sale.
- Prohibits a collection agency from bringing an action or initiating an arbitration proceeding on a claim for any amount related to a transfer of sale of a vehicle when the collection agency has been informed that the transfer of the vehicle was not a legal transfer, not accepted by purchaser, sellers report properly filed, or a police report states that there was not a legal transfer.
- Provides that where a person has caused a victim to lose money or property through a fraudulent filing of a report of sale, the court may order the defendant to pay restitution not to exceed double the amount of the defendant's gain or victim's loss.

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.

- Changes the due date for a report of sale from 21 business days to five business days.
- Requires that a report of sale includes the full seller's and buyer's name and complete current addresses.
- Provides that if the date of sale as indicated on the report of sale is before the date of impoundment, the buyer identified on the latest properly filed report of sale with the Department of Licensing (DOL) is assumed liable for the costs incurred of the abandoned vehicle.
- Specifies that a seller in a report of sale filed, in which the named buyer thereafter alleges that there was no acceptance of the transfer, has a cause of action against the named buyer to recover damages incurred as a result of the allegation including reasonable attorney's fees and litigation costs.
- Requires that if a court has declared that a fraudulent report of sale has been filed, the court must notify the DOL in writing with a copy of the court order. Once notified, the DOL may remove the fraudulent report of sale from the vehicle record.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Bergquist, Gregerson, Hayes, Hickel, Kochmar, McBride, Morris, Pike, Riccelli, Rodne, Rossetti, Sells, Shea, Stambaugh, Tarleton and Young.

Staff: Jerry Long (786-7306).

Background:

When an owner releases interest in a vehicle, the owner must notify the Department of Licensing (DOL), county auditor, other agent, or a subagent either in writing or electronically within 21 business days after a vehicle has been sold, given as a gift to another person, traded, donated, given to an insurance company or wrecking yard, or disposed of. The information on a report of sale includes the date of sale or transfer, owner's name and address, name and address of the person acquiring the vehicle, the vehicle identification number, and the license plate number. The fee for filing a report of sale is \$5 if filed at a county auditor, other agent, or subagent. There is no cost when the report of sale is filed with the DOL.

The DOL updates the vehicle record when the report is received and sends a quarterly report to the Department of Revenue that lists vehicles where a report of sale has been received, but no transfer of ownership has taken place.

If a vehicle is found abandoned and removed at the direction of law enforcement, the last registered owner of record is guilty of a traffic infraction of \$550 for the violation of a "littering—abandoned vehicle" unless the vehicle is redeemed or a vehicle theft report has been filed with a law enforcement agency. A properly filed report of sale or transfer of a vehicle relieves the last registered owner of liability. The date of sale will determine whether the buyer or the previous owner will be assumed to be responsible for the costs incurred in removing, storing, and disposing of the vehicle, less the amounts realized at auction.

Summary of Engrossed Substitute Bill:

The substitute bill specifies that a report of sale is not proof of a completed vehicle transfer for the purpose of collection of expenses related to towing, storage, and auction of an abandoned vehicle where there is no evidence indicating the buyer knew of or was a party to the acceptance of the vehicle transfer. A contract signed by the prior owner and the new owner, a certificate of title, or other legal proof of acceptance of the vehicle of the new owner may be used to establish legal responsibility for the abandoned vehicle.

When there is reason to believe that a report of sale has been filed and the reported buyer did not know of the transfer or did not accept the transfer, the liability remains with the last registered owner to prove the vehicle transfer was legal or accepted by the person reported as the new owner.

A buyer in a report of sale that has been filed, in which there was no acceptance of the transfer, has a course of action against the person who filed the report. The person can recover costs associated with the towing, storage, auction, or any other damages incurred as a result of being named as the buyer on the report of sale including reasonable attorney's fees and litigation costs. This action is in addition to any other remedy available to the person.

The substitute bill prevents a collection agency from bringing an action or initiating an arbitration proceeding on a claim for any amount related to a transfer of sale of a vehicle when the collection agency has been informed or reasonably should know that the DOL transfer of sale form was filed properly or has been informed or reasonably should know that the transfer of the vehicle either was not made pursuant to a legal transfer or was not voluntarily accepted by the person designated as the purchaser/transferee, and prior to the commencement of the action or arbitration, the licensee has received from the putative transferee a copy of a police report referencing that the transfer of sale of the vehicle either (1) was not made pursuant to a legal transfer or (2) was not voluntarily accepted by the person designated as the purchaser/transferee.

The substitute bill designates that it is the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes the restitution is appropriate and feasible.

When a person causes a victim to lose money or property through the filing of a report of sale where the designed buyer had no knowledge of the vehicle transfer or the fraudulent filing of a report of sale, the following action may occur: upon conviction or when the offender pleads guilty and agrees with the prosecutor's restitution recommendation, the court may order the defendant to pay restitution. The amount may not exceed double the amount of the

defendant's gain or the victim's loss. The amount may be used to provide restitution to the victim at the order of the court.

If the court orders restitution, the court must make a finding as to the amount of the victim's loss. If the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing. The bill defines "loss" as the amount of money or the value of property or services lost.

The substitute bill changes the due date for a report of sale from 21 business days to five business days. It requires that a report of sale include all of the following: the full owner's name and complete, current address, and the complete, current address of the person acquiring the vehicle including street and number, and apartment number if applicable, or the post office box number, city or town, and postal code.

The substitute bill provides that if the date of sale as indicated on the report of sale is before the date of impoundment, the buyer identified on the latest properly filed report of sale with the DOL is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

The substitute bill specifies that a seller in a report of sale filed in which the named buyer thereafter alleges that there was no acceptance of the transfer has a cause of action against the named buyer to recover damages incurred as a result of the allegation including reasonable attorney's fees and litigation costs. This is in addition to any other remedy available to the person.

The substitute bill requires that if a court has declared that a fraudulent report of sale has been filed with the DOL, county auditor or other agent, or subagent appointed by the Director of the DOL (Director), the court must notify the DOL in writing with a copy of the court order. Once notified, the DOL may remove the fraudulent report of sale from the vehicle record.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes technical corrections on references and provides clarifications on vehicle transfers that align with current industry terminology.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is a true story of an individual that was named as a buyer on a seller's report of sale for an abandoned vehicle and incurred costs associated with the removal of the vehicle. This cost the person time and additional costs to go through the process of

eliminating the liabilities. The person was unaware that they were named on the seller's report and did not know of the fraudulent report until contacted for costs associated with the abandoned vehicle.

(Opposed) None.

(Other) In 2015 legislation, the time to file a seller's report was changed from five business days to 21 business days. This means that an impounded vehicle could be sold at auction before the report of sale is filed disclosing who purchased the vehicle. The seller's report of sale should have the seller's and buyer's full name and address on the report of sale. Many reports of sale are submitted to the DOL, subagents, and county auditors that are not completely filled out and cannot be processed by the DOL. The statute should state that if the seller's report of sale was filed on a certain date and if the vehicle is impounded prior to that date, the seller is responsible for the costs of abandonment. This would prevent someone from going onto the DOL's website immediately after their vehicle was legally impounded and filing a fraudulent report of sale in an attempt to evade the costs of the impound after the fact. The other item that should be in statute is protection for the seller, where a person legitimately buys a car and then changes their mind and does not do the title transfer and tries to get out of the purchase and any related costs by accusing the seller of filing the seller's report without their consent.

Persons Testifying: (In support) Representative Harmsworth, prime sponsor.

(Other) Stu Halsan, Towing and Recovery Association of Washington.

Persons Signed In To Testify But Not Testifying: None.