

# HOUSE BILL REPORT

## SHB 1036

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### As Passed Legislature

**Title:** An act relating to business practices of registered tow truck operators by authorizing electronic records creation and storage.

**Brief Description:** Concerning business practices of registered tow truck operators by authorizing electronic records creation and storage.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Harmsworth, Kirby, Short and Muri).

#### Brief History:

##### Committee Activity:

Transportation: 1/12/17, 2/8/17 [DPS].

##### Floor Activity:

Passed House: 2/28/17, 98-0.

Passed Senate: 4/4/17, 49-0.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Authorizes tow truck operators to create and maintain a transaction file for each towed vehicle in an electronic format using software developed for the purpose of electronically storing records, which must be available for audit and inspection.
- Includes as possible methods for the electronic storage of records the use of cloud storage or another acceptable method of storage that reliably provides information storage, retrieval, and access that facilitates the availability of these records for inspection.
- Mandates that electronic records for each tow transaction be maintained in an electronic folder labeled with the date the towing service was performed, with folders maintained in chronological order.

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#### HOUSE COMMITTEE ON TRANSPORTATION

*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Wylie, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Rodne, Shea, Stambaugh, Tarleton, Van Werven and Young.

**Staff:** Jennifer Harris (786-7143).

**Background:**

Registered tow truck operators are required to keep a transaction file on each vehicle that has been towed for a minimum of three years. The transaction file must include the following, which must be part of the file at the time the vehicle is redeemed or becomes abandoned and is sold at public auction: (1) a signed impoundment authorization; (2) a record of the 24-hour written impound notice to a law enforcement agency; (3) a copy of the impound notification to registered and legal owners, sent within 24 hours of impoundment (which must provide the owners with the address of the impounding firm, a 24-hour telephone number, and the name of the person or agency under whose authority the vehicle was impounded); and (4) an itemized invoice of charges against the vehicle.

For abandoned vehicles sold at public auction, the following information must also be included in the transaction file: (1) a copy of the abandoned vehicle report that was sent to and returned by the Department of Licensing (DOL); (2) a copy of the published notice of public auction; (3) a copy of the affidavit of sale showing the sales date, purchaser, amount of the lien, and the sale price; (4) a record of the two highest bid offers, with the names, addresses, and telephone numbers of the two bidders; and (5) a copy of the notice of opportunity for hearing given to those who redeem vehicles.

Records kept by tow truck operators, including transaction files, must be available for audit or inspection during normal business hours by the DOL, the Washington State Patrol, or any other law enforcement agency that has jurisdiction to perform audits and inspections.

**Summary of Substitute Bill:**

The transaction file that registered tow truck operators are required to keep for each vehicle that has been towed may be created and stored electronically using software developed for the business purpose of electronically storing records. These electronic records must be available for audit or inspection to the same extent that other records are available for audit and inspection.

Possible methods for the electronic storage of records include the use of cloud storage or another acceptable method of storage that reliably provides information storage, retrieval, and access that facilitates the availability of these records for inspection. Electronic records for each tow transaction must be maintained in an electronic folder labeled with the date the towing service was performed, with folders maintained in chronological order.

**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) Computers can be used to store information electronically. Many statutes are so prescriptive that they prevent this option from being used. This bill allows towing companies to store records on computers and move into the twenty-first century. This is a straightforward issue. Things have become archaic in the industry. Most towing companies are computerized, and use software packages available for recordkeeping, but are still required to keep boxes and boxes of paper records. This method would allow towing companies to keep records solely in an electronic form, rather than having to keep paper copies as well.

The bill does not mandate that computers be used to store information electronically, but permits it. The statute is not prohibitive currently, but it is not permissive either. This bill would clear up the discrepancy and allow tow truck operators to store electronic records.

(Opposed) In addition to keeping paper records, towing companies should be permitted to keep electronic records. Paper records serve a function that is different from, and in many ways superior to, electronic records. Paper records are more secure and more resistant to tampering than electronic records. If the format records are required to be kept in is changed, then the electronic records kept should have to be filed with the Washington State Patrol or some other government agency so that there are no problems obtaining adequate records to review.

**Persons Testifying:** (In support) Representative Harmsworth, prime sponsor; Peter Lukovich, Towing and Recovery Association of Washington; Paul Bressi, Nisqually Towing; and Kris Zachary, Burns Towing.

(Opposed) Arthur West.

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