
HOUSE BILL 2535

State of Washington 65th Legislature 2018 Regular Session

By Representatives Hayes, Goodman, and Pollet

Read first time 01/10/18. Referred to Committee on Transportation.

1 AN ACT Relating to criminal background checks for employees of
2 certain towing operators; and amending RCW 46.55.115.

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

4 **Sec. 1.** RCW 46.55.115 and 1993 c 121 s 2 are each amended to
5 read as follows:

6 (1) The Washington state patrol, under its authority to remove
7 vehicles from the highway, may remove the vehicles directly, through
8 towing operators appointed by the state patrol and called on a
9 rotational or other basis, through contracts with towing operators,
10 or by a combination of these methods. When removal is to be
11 accomplished through a towing operator on a noncontractual basis, the
12 state patrol may appoint any towing operator for this purpose upon
13 the application of the operator. Each letter of appointment (~~shall~~
14 ~~be~~) issued is contingent upon the submission of an application to
15 the state patrol subject to subsection (2) of this section and the
16 making of subsequent reports in such form and frequency and
17 compliance with such standards of equipment, performance, pricing,
18 and practices as may be required by rule of the state patrol.

19 ~~((An))~~ (2) The state patrol may require that a towing operator
20 that has applied for or been issued a letter of appointment or
21 contract complete a criminal background check for prospective and

1 current employees of the towing operator. The state patrol may refuse
2 to issue or revoke a letter of appointment or contract if an employee
3 that operates a tow truck for the towing operator that has been
4 issued a letter of appointment or contract:

5 (a) Has been convicted of any of the following:

6 (i) Any class A felony or any sex offense as defined in RCW
7 9.94A.030, regardless of the date of conviction;

8 (ii) Any class B felony within the last ten years;

9 (iii) Any class C felony within the last five years;

10 (iv) Any driving under the influence offense under RCW 46.61.502,
11 two or more times within the last five years;

12 (v) Any crime of false swearing; or

13 (b) Must register as a sex offender or kidnapping offender.

14 (3) The state patrol may refuse to issue or revoke a letter of
15 appointment or contract if any applicant, partner, or corporate
16 officer involved in daily operations of the towing operator:

17 (a) Has demonstrated a willful disregard for complying with
18 ordinances, statutes, rules, or court orders, whether at the local,
19 state, or federal level; or

20 (b) Fails to demonstrate character and general fitness sufficient
21 to command the confidence of the state patrol and warrant a belief
22 that the business will be operated honestly, fairly, and efficiently
23 in the conduct of towing, impound, and vehicle auction activities. In
24 determining character and general fitness, the state patrol may
25 consider:

26 (i) Prior contacts with law enforcement;

27 (ii) Criminal record;

28 (iii) Reputation in the community; and

29 (iv) Associations.

30 (4)(a) A misrepresentation of fact found to have been made by a
31 letter of appointment or contract applicant or holder is deemed a
32 lack of good faith and constitutes good and sufficient cause for the
33 denial of the application or the revocation of the letter of
34 appointment or contract.

35 (b) For one year, beginning from the date of application denial
36 or date of revocation of the letter of appointment or contract, only
37 one application for the state patrol's rotational tow list may be
38 considered and accepted for an applicant who has had its previous
39 application denied or a holder who has had its letter of appointment
40 or contract revoked.

1 (5) Any person subject to this section may request to review his
2 or her record using the form provided in WAC 446-20-400 as it existed
3 on the effective date of this section, or such subsequent date as may
4 be provided by the state patrol by rule, consistent with the purposes
5 of this section. The request must be made by the person whose record
6 is sought, except, if requested by the state patrol, other
7 documentation to prove identification must be provided before viewing
8 the record. Any person wishing to contest the information contained
9 in his or her criminal history record must do so using the process
10 established in chapter 446-20 WAC as it existed on the effective date
11 of this section, or such subsequent date as may be provided by the
12 state patrol by rule, consistent with the purposes of this section.

13 (6) A letter of appointment may be (~~rescinded~~) ~~revoked~~ by the
14 state patrol upon evidence that the appointed towing operator is not
15 complying with the laws or rules relating to the removal and storage
16 of vehicles from the highway. The state patrol may not (~~rescind an~~)
17 revoke a letter of appointment merely because a registered tow truck
18 operator negotiates a different rate for voluntary, owner-requested
19 towing than for involuntary towing under this chapter. The costs of
20 removal and storage of vehicles under this section (~~shall~~) ~~must~~ be
21 paid by the owner or driver of the vehicle, unless provided otherwise
22 in statute or the Washington Administrative Code, and (~~shall be~~) ~~is~~
23 a lien upon the vehicle until paid, unless the removal is determined
24 to be invalid.

25 (7) Rules (~~promulgated~~) ~~adopted~~ under this section (~~shall be~~)
26 are binding only upon those towing operators appointed by the state
27 patrol for the purpose of performing towing services at the request
28 of the Washington state patrol. However, any rules adopted that are
29 not consistent with this section are unenforceable.

30 (8) Any person aggrieved by a decision of the state patrol made
31 under this section may appeal the decision under chapter 34.05 RCW.

32 (9) For the purposes of this section:

33 (a)(i) "Conviction" has the same meaning as defined in RCW
34 9.94A.030. "Conviction" does not include a deferred prosecution,
35 stipulated order of continuance, or other method of resolving a
36 criminal case that does not include a finding of guilty.

37 (ii) A criminal conviction that has been expunged must not be
38 construed as a conviction for the purposes of this section.

39 (iii) Any crime referenced in this section is as defined in the
40 criminal code. Any out-of-state conviction for an offense must be

1 classified according to the comparable offense definitions and
2 sentences provided by Washington law.

3 (b) "Daily operations" means work activities completed by
4 employees such as impounding and recovering vehicles. Daily
5 operations do not include administrative actions, dispatching,
6 automotive repair and maintenance of vehicles that perform towing,
7 roadside services, recoveries, auctions, storage yard activities, and
8 other actions not directly related to directly impounding and
9 recovering vehicles:

10 (i) The acceptance or release of a vehicle under a letter of
11 appointment; or

12 (ii) Transactions for any tow requested under a letter of
13 appointment.

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