

# SENATE BILL REPORT

## SB 6410

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As of January 30, 2020

**Title:** An act relating to possessory liens on motor vehicles that an auction company stores.

**Brief Description:** Addressing possessory liens on motor vehicles that an auction company stores.

**Sponsors:** Senators King and Nguyen.

**Brief History:**

**Committee Activity:** Transportation: 1/27/20.

### Brief Summary of Bill

- Authorizes wholesale motor vehicle auction dealers to retitle a vehicle to the dealer, an insurance company, or a non-profit organization, if the owner of the vehicle does not respond within 30 days of notice that the vehicle is going to be retitled.
- Allows a wholesale motor vehicle auction dealer to place a lien against a vehicle if the dealer has made an advance to move, store, or fix the vehicle at the direction of an owner or person who had lawful possession of the vehicle, until the charges for the advance have been paid.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Kim Johnson (786-7472)

**Background:** Wholesale Motor Vehicle Auction Dealer. Currently there is a type of motor vehicle dealer in Washington called a wholesale motor vehicle auction dealer. A wholesale motor vehicle auction dealer may:

- sell any classification of vehicle.
- sell only to motor vehicle dealers and vehicle wreckers licensed by the state of Washington or licensed by any other state; or
- sell a motor vehicle belonging to the United States government, the state of Washington, or a political subdivision to non-licensed persons as may be required by a public agency.

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*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.*

A wholesale motor vehicle auction dealer that sells a wrecked vehicle must disclose this fact on the bill of sale. A wrecked vehicle means a vehicle that is disassembled, or was acquired with the intent to disassemble and never again be operated as a vehicle, or a vehicle that has sustained such damage that the cost to repair it exceeds the fair market value of a like undamaged vehicle. It is presumed that a vehicle is a wreck if it has sustained such damage that it may not lawfully operate on a highway.

Vehicle Wrecker. A vehicle wrecker is a licensed business that buys, sells, or deals in vehicles for the purpose of wrecking, dismantling, or disassembling a vehicle or who buys or sells integral secondhand parts. Under state law, it is a gross misdemeanor for a person to engage in the business of wrecking vehicles without having a vehicle wrecker license. The license requires payment of a \$25 fee and a \$1,000 surety bond, and compliance with various record keeping and inspection requirements. A vehicle wrecker may acquire vehicles and parts only if the seller can furnish proper ownership documents.

There are currently two processes in state law that address either the titling or satisfaction of a lien against a vehicle when the registered owner is not responsive or is unknown.

Ownership in Doubt. The ownership in doubt process allows for someone in possession of a motor vehicle who is unable to obtain satisfactory evidence of ownership or releases of interest, to apply for title or to register the vehicle. The owner may apply for a three-year registration without title, or a bonded title. After three years of holding a bonded title, the owner may then apply for a vehicle title without restriction.

Abandoned Vehicle Auctions. There is a process for a registered tow truck operator (RTTO) to auction an abandoned vehicle to satisfy a lien against the vehicle for the towing and storage fees the RTTO is owed. The process requires the RTTO to send an impound notice to the legal owner of the vehicle via first class mail, based on information received from law enforcement. After a vehicle is held in impound for more than 120 hours it is considered abandoned, and an RTTO must file an abandoned vehicle report (AVR) with the Department of Licensing (DOL). In response to the AVR, DOL provides information to the RTTO regarding the owner of the vehicle. The RTTO must send, by first class mail, a notice of custody and sale to the owner. If the vehicle remains unclaimed for 15 days, the RTTO must conduct a sale at public auction. Vehicles may be redeemed by their legal owners any time before the start of the auction, after paying towing and storage charges. After the sale at auction, any monies in excess of the lien must be remitted to DOL.

**Summary of Bill:** Definition. A wholesale motor vehicle auction dealer is also defined as (1) a motor vehicle dealer meeting the qualifications regarding licensure for a vehicle dealer; (2) an entity that operates throughout the United States; and (3) an entity whose primary activity in Washington is disposal of totaled motor vehicles.

Lien. A wholesale motor vehicle auction dealer that has a motor vehicle in its possession and has made an advance for freight, storage, services, supplies, or labor for services on the motor vehicle at the request of an owner or lawful possessor of the motor vehicle has a lien on the motor vehicle for the reasonable or agreed charges for labor, materials, or services. The wholesale motor vehicle auction dealer may retain possession of the motor vehicle until the charges are paid.

Retitling Process. A wholesale motor vehicle auction dealer may retitle the motor vehicle in the name of:

- the wholesale motor vehicle auction dealer, if the motor vehicle has remained unclaimed on the auction company's premises for more than 30 days;
- an insurance company that directs the wholesale motor vehicle auction dealer to take possession of the motor vehicle; or
- a tax exempt 501(c)(3) organization that directs the auction company to take possession of the motor vehicle.

The wholesale motor vehicle auction dealer must notify the owner of the vehicle that the owner's vehicle will be retitled by the dealer at least 30 days before retitling the motor vehicle. A failure to respond is deemed an affirmative response and the retitling process may proceed.

Applicability. The bill applies to motor vehicles that a wholesale motor vehicle auction dealer possesses on or after January 1, 2021, and that the wholesale motor vehicle auction dealer stores before, on, or after the January 1, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** January 1, 2021.

**Staff Summary of Public Testimony:** PRO: I am told this bill will address some issues some companies have when they get a car from a charity or insurance company and there is not a title. Copart is a wholesale motor vehicle auction dealer with four locations in Washington. The purpose of this bill is to streamline the process of selling abandoned cars while providing consumer protections. We sell and auction vehicles that are a total loss from insurance companies and also handle vehicles that are donated to charitable organizations. Some of these vehicles do not have a title. These vehicles are not an impound abandoned, these vehicles were released by their owner and we would like to be able to get them off our lot as soon as possible in order to maximize the return for our customers. Other states have authorized us to do this.

CON: RTTO have incredible amount of regulations that we comply with and I am curious how and why Copart would not have to comply with any of them while doing the same work? It is very easy for Copart to not end up with vehicles on their lot with no paperwork/titles, you just have to have your driver that is picking up the vehicle to make sure the title is in the car before they take the car. If it is an insurance company, they are known to pick the vehicles up before they even know who is at fault. The regulation is a huge issue. 46.55 RCW protects the consumer. Vehicles in an insurance claim process should not be sold and retitled in a rushed manner. If we did an impound in a similar circumstances an RTTO would not be able to pick up the vehicle, and neither would a hulk hauler. There has to be the proper paperwork or you do not take the vehicle. There is no right of redemption in this bill

which is a major fault. RTTOs have been regulated for over 40 years. It works. We would not like to see this kind of exemption and it is a slippery slope. Wrecking yards can not pick a car up without paperwork first either. There is no inspection by State Patrol or Department of Licensing.

OTHER: We have concerns on both the regulatory side and the consumer protection side. This may open up a loophole allowing all of the 2700 dealers to do this new titling process which will likely drive titling complaints up considerably. We will have to investigate these claims which will require more staff. The timeline is also very tight and we worry that 30 days is not enough time for people to get the notice and react to it.

**Persons Testifying:** PRO: Senator Curtis King, Prime Sponsor; Tom McBride, Copart; Tyler Gallagher, Copart.

CON: Matthew Porter, 24 Hour Towing; Jackie Currie, citizen; Paul Bressi, Nisqually Towing.

OTHER: Jill Johnson, Department of Licensing.

**Persons Signed In To Testify But Not Testifying:** No one.