
Transportation Committee

HB 2359

Brief Description: Concerning vehicle impounds.

Sponsors: Representatives Peterson, Donaghy, Reed, Ramel and Simmons.

Brief Summary of Bill

- Creates additional responsibilities and procedures regarding the impounding of a vehicle used or thought or claimed to be used as a home, residence, shelter, and/or homestead including that a vehicle residence may not be sold at auction.
- Makes changes to court hearings for all vehicle impounds, including requiring courts to conduct requested hearings on vehicle impounds within two business days and requiring courts to adjust the payment of fees in certain circumstances.
- Requires state and local governments to ensure vehicle residences are impounded as a last resort, to pay storage charges for impounded vehicle residences, and to pay the registered tow truck operator the remaining costs if a court reduces impound or storage fees.

Hearing Date: 2/1/24

Staff: Michael Hirsch (786-7195).

Background:

Vehicle Impounds.

Registered tow truck operators (RTTOs) who impound vehicles from private or public property, or tow for law enforcement agencies, are regulated by the Department of Licensing (DOL). Impoundment is defined as the taking and holding of a vehicle in legal custody without the

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consent of the owner, and may only be performed by RTTOs.

A vehicle may be impounded by an RTTO at the direction of a law enforcement officer or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or an agent. An RTTO must have a signed impound authorization. An RTTO who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid.

Abandoned Vehicle Process.

When a vehicle is impounded, within 24 hours the RTTO must send an impound notice to the legal and registered owners, based on information received from law enforcement. After being held for 120 consecutive hours, a vehicle is considered abandoned and the RTTO must file an abandoned vehicle report with the DOL. In response to the abandoned vehicle report, the DOL provides information to the RTTO regarding the owner of the vehicle within 72 hours. Within 24 hours of receipt of this information, the RTTO must send by certified mail a notice of custody and sale to the owner.

Redeeming a Vehicle and Requesting a Hearing.

A vehicle may be redeemed by the legal owners at any time before the start of the auction upon payment of towing and storage charges. A person seeking to redeem an impounded vehicle has the right to a court hearing. The RTTO must give written notice of their right of redemption and opportunity for a hearing, as well as the form for requesting a hearing, information on the person or agency that authorized the impound, and the towing and storage costs to any person who seeks to redeem an impounded vehicle.

Courts.

In *City of Seattle v. Long*, decided in 2021, the Washington Supreme Court held that occupied personal property used as a residence, such as a car, truck, or recreational vehicle, is automatically protected under the Homestead Act, which provides protections from using a residence to satisfy debts. However, the court found that this homestead protection did not apply to the particular case, because while the City of Seattle had impounded the vehicle at issue, it had not yet attempted to collect on any debt. The court further held that the impoundment of a vehicle and the associated costs are fines, and that an inquiry regarding the ability to pay is necessary. Finally, the court determined that a reasonable fine may still be constitutional and appropriate.

Courts can charge filing fees and may waive them in some instances.

Abandoned Vehicle Auction.

If an abandoned vehicle remains unclaimed after 15 days, the RTTO must conduct a sale of the vehicle at public auction. The RTTO may not hold a vehicle for longer than 90 days without holding an auction on the vehicle, except in the case of a law enforcement or court order. If the money from the sale of a vehicle at auction is more than the RTTO's lien on the vehicle, any

money in excess of the lien must be remitted to the DOL. The remitted money from the sale of a vehicle may be claimed by the registered owner of record for up to one year from the date of the auction. If the amount bid at auction is less than the RTTO's lien on the vehicle, the RTTO is allowed a deficiency claim against the registered owner of an impounded vehicle of up to \$500 for vehicles less than or equal to 10,000 pounds gross vehicle weight. For vehicles over 10,000 pounds gross vehicle weight, an RTTO is allowed a deficiency claim of up to \$1,000.

The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. If an RTTO receives no bid at auction, or if the RTTO is the successful bidder at auction, the RTTO must either sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor, or apply for a title to the vehicle within 45 days.

Abandoned Junk Vehicle.

A vehicle considered as an abandoned junk vehicle may be authorized for disposal. A junk vehicle is a vehicle certified by a law enforcement officer, health department employee, or other authorized person as having approximate value equal to the value of its parts among other requirements.

Abandoned Recreational Vehicle.

An abandoned recreational vehicle (ARV) means a camper, motor home, or travel trailer that has either: (1) been impounded from public property; (2) gone through the abandoned vehicle process and received no bids at auction; or (3) was declared an abandoned junk vehicle by a law enforcement officer, while on public property.

An RTTO, vehicle wrecker, scrap metal business, or scrap processor may apply to the DOL for reimbursement of up to \$10,000 to cover 100 percent of eligible costs for the transport, storage, dismantling, and disposal of ARVs from public property provided that funds are available from the Abandoned Recreational Vehicle Disposal Account.

Summary of Bill:

Vehicle Residence.

A vehicle residence is defined as a vehicle used as a home, residence, shelter, and/or homestead.

State and local government must develop procedures to ensure vehicle residences are impounded as a last resort after considering all available reasonable alternatives, including contacting the individual, moving the vehicle to a safe lot or safe parking area, and moving the vehicle to an alternative legal location.

State and local government must notify an RTTO when requesting an impound or 24 hours after impoundment that the vehicle may be a vehicle residence if they receive information or observe an indication the vehicle is a vehicle residence. Public auction procedures must be stopped if an RTTO is informed that a vehicle is a vehicle residence.

State and local governments who authorize the impoundment of a vehicle residence are responsible for paying storage costs to the RTTO. Additional storage costs may not accrue for a private impound once an RTTO has been notified the vehicle is a residence or a hearing has been requested.

Redeeming a Vehicle and Requesting a Hearing.

The form to request a hearing must be made available in all languages spoken by more than 10 percent of the population in the county where the RTTO is registered. Courts must also make the hearing request form available.

Courts.

In addition to the validity of the impoundment and the amount of towing and storage charges a person can also contest an RTTO's retention of an impounded vehicle. Courts are required to notify relevant individuals immediately after receiving the request for a hearing, rather than within five days. Courts must waive filing fees for individuals who cannot pay due to financial hardship, or if they are requesting a hearing for a claimed vehicle residence. Courts may grant hearing requests after 10-day period, must freely grant requests for a late hearing when the individual claims financial hardship, or if the vehicle is a vehicle residence. Courts must develop procedures to ensure a hearing is conducted within two business days after the request for the hearing except if the impounded vehicle has already been redeemed by the hearing requester, courts must schedule a hearing within 30 days. If the hearing for a vehicle not redeemed is delayed beyond two business days and the impounded vehicle is claimed as a vehicle residence, the court must order the release of the vehicle to the registered or legal owner, or other certain individuals. A court or administrative hearing officer may continue a hearing for up to 30 days to clarify ownership of a vehicle. The reasons for which an agency must issue a written order to release following a vehicle impounded because of a suspended license are expanded to include if the vehicle is a vehicle residence, and the economic hardship to the family or domestic partner, in addition to the spouse.

The court is directed to look at fees in light of an individual's financial circumstances. In all circumstances, the court may order payment of imposed towing and storage fees on a monthly or other term payment plan. If the court lowers fees and charges for a publicly requested impound, the requesting state or local government must pay the remaining costs of the impoundment or storage fees to the RTTO, except if otherwise determined by the contract with the RTTO. A court may discharge or adjust the RTTO's lien and deficiency claim for a publicly requested impound. A court may not adjust fees or charges that are in compliance with posted or contracted rates for an impound not at the direction of state or local government.

Abandoned Vehicle Auction.

A vehicle residence may not be sold at public auction, and may not be retained by the operator for unpaid charges. After an RTTO is informed that a vehicle is a vehicle residence the vehicle may only be considered an abandoned vehicle if 90 days have passed since the RTTO was informed or re-informed that the vehicle is a vehicle residence and no vehicle resident, legal or registered owner, or authorized individual has redeemed the vehicle by payment, requested a

hearing, or communicated with the RTTO to arrange redemption of the vehicle. Until the date of auction, personal belongings in an impounded vehicle residence must be kept intact and returned to the vehicle's owner or agent.

Abandoned Junk Vehicle.

A vehicle residence may not be authorized for disposal as an abandoned junk vehicle. A landowner mailing notice to the registered and legal owners of a vehicle must also post notice on the vehicle.

Abandoned Recreational Vehicle.

A vehicle claimed as a vehicle residence is not an ARV.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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