

SENATE BILL REPORT

SB 5652

As Reported by Senate Committee On:
Transportation, February 23, 2023

Title: An act relating to compensation for tow truck operators for keeping the public roadways clear.

Brief Description: Addressing compensation for tow truck operators for keeping the public roadways clear.

Sponsors: Senators Lovick, Dozier, Hawkins, Hunt, Saldaña, Short and Stanford.

Brief History:

Committee Activity: Transportation: 2/20/23, 2/23/23 [DPS].

Brief Summary of First Substitute Bill

- Specifies that a person who operates a vehicle on a public highway in an illegal or negligent manner resulting in damages to the highway is liable for certain vehicle towing-related charges.
- Provides that tow truck expenses described in the bill may be recovered in a civil action instituted by the tow truck operator.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5652 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lias, Chair; Lovick, Vice Chair; Shewmake, Vice Chair; King, Ranking Member; Holy, Assistant Ranking Member; Cleveland, Kauffman, Lovelett, MacEwen, Nobles, Padden, Randall, Valdez, Wilson, C. and Wilson, J..

Staff: Kelly Simpson (786-7403)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Damages to the Highway or Public Property. Under current law, a person operating a vehicle or moving an object or conveyance on a public highway in an illegal or negligent manner is liable for any damage to a public highway, bridge, elevated structure, or public property that results. When the operator of the vehicle is not the owner of the vehicle, object, or conveyance, the owner and operator are jointly and severally liable for any such damage. The Department of Transportation or other state agency may recover the damages to the public highway, bridge, elevated structure, or public property in a civil action.

Public Impounds. Impounds, such as taking and holding a vehicle in legal custody without the consent of the owner, may only be performed by registered tow truck operators (RTTOs). A law enforcement officer or public official requesting a public impound must provide a signed authorization for the impound at the time and place of the impound to the RTTO before the operator may proceed with the impound. The costs of removal and storage of vehicles when directed by the Washington State Patrol must be paid by the owner or driver of the vehicle, and is a lien upon the vehicle until paid, unless the removal is determined to be invalid.

When a vehicle is impounded, an RTTO must send an impound notice to the legal owner, 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, and the RTTO must send, by certified mail, a notice of custody and sale to the owner.

If the vehicle remains unclaimed, 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 upon payment of towing and storage charges.

Summary of Bill (First Substitute): A person who operates a vehicle on a public highway in an illegal or negligent manner resulting in damages to the highway is liable for vehicle recovery, impound, and storage charges for an RTTO dispatched by law enforcement or other agency.

The recovery, impound, and storage fees incurred by an RTTO may be recovered in a civil action instituted by the RTTO.

The amount of unpaid vehicle recovery, impound, and storage charges is presumed to be the amount recoverable in the civil action and may not exceed the amounts established in fee schedules filed with DOL.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (First Substitute):

- Provides that tow truck expenses described in the bill may be recovered in a civil

action instituted by the tow truck operator.

- Removes language directing that tow truck expenses described in the bill be paid directly by the insured or as a third-party claim under the liability insurance coverage of the insured.
- Provides that the amount of unpaid tow truck expenses described in the bill is presumed to be the amount recoverable in the civil action.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: A version of this bill has been considered by the Legislature before, and addresses an issue of fairness. The bill is trying to treat tow operators the same as the agency that calls them out to an accident scene on the highway where damage has occurred to the highway. The state agency is reimbursed for the highway damage, but the tow operator often times is not reimbursed for their work. Due to the many different actors often times involved in serious, heavy haul accidents, the tow operator is often left without reimbursement for their work clearing the accident scene. There are numerous examples of tow operators responding to highway accidents and law enforcement investigations, resulting in many hours of work by tow operators when they often times don't get paid for the work. The bill provides some fairness and equity - tow operators just want to get paid for services rendered.

CON: The insurance industry is not opposed to last biennium's version of this bill. However, this version seeks to establish third-party insurance coverage for tow truck operators. There currently is no contractual relationship between tow operators and insurance policies. This bill seeks to establish policy coverage and relationships where they currently do not exist.

OTHER: Other stakeholders should know that others want to help with the bill but would encourage a small amendment to allow agents of insurance companies make payments on behalf of the insurance companies.

Persons Testifying: PRO: Senator John Lovick, Prime Sponsor; Peter Lukevich, Towing Recovery Association of Washington (TRAW); Kris Zachary, Burns Towing; Paul Bressi, Nisqually Towing.

CON: KENTON BRINE, Northwest Insurance Council.

OTHER: Ben Buchholz, Copart Inc..

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