

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5442

53rd Legislature
1993 Regular Session

Passed by the Senate March 5, 1993
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 6, 1993
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5442** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5442

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senators Vognild, Sellar, Skratek and von Reichbauer

Read first time 01/28/93. Referred to Committee on Transportation.

1 AN ACT Relating to tow trucks; amending RCW 46.55.085, 46.55.115,
2 46.55.120, and 81.80.040; and repealing RCW 46.90.103.

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

4 **Sec. 1.** RCW 46.55.085 and 1987 c 311 s 6 are each amended to read
5 as follows:

6 (1) A law enforcement officer discovering an ((~~apparently~~
7 ~~abandoned~~)) unauthorized vehicle left within a highway right of way
8 shall attach to the vehicle a readily visible notification sticker.
9 The sticker shall contain the following information:

10 (a) The date and time the sticker was attached;

11 (b) The identity of the officer;

12 (c) A statement that if the vehicle is not removed within twenty-
13 four hours from the time the sticker is attached, the vehicle may be
14 taken into custody and stored at the owner's expense; and

15 (d) The address and telephone number where additional information
16 may be obtained.

17 (2) If the vehicle has current Washington registration plates, the
18 officer shall check the records to learn the identity of the last owner
19 of record. The officer or his department shall make a reasonable

1 effort to contact the owner by telephone in order to give the owner the
2 information on the notification sticker.

3 (3) If the vehicle is not removed within twenty-four hours from the
4 time the notification sticker is attached, the law enforcement officer
5 may take custody of the vehicle and provide for the vehicle's removal
6 to a place of safety. A vehicle that does not pose a safety hazard may
7 remain on the roadside for more than twenty-four hours if the owner or
8 operator is unable to remove it from the place where it is located and
9 so notifies law enforcement officials and requests assistance.

10 (4) For the purposes of this section a place of safety includes the
11 business location of a registered tow truck operator.

12 **Sec. 2.** RCW 46.55.115 and 1987 c 330 s 744 are each amended to
13 read as follows:

14 The Washington state patrol, under its authority to remove vehicles
15 from the highway, may remove the vehicles directly, through towing
16 operators appointed by the state patrol and called on a rotational or
17 other basis, through contracts with towing operators, or by a
18 combination of these methods. When removal is to be accomplished
19 through a towing operator on a noncontractual basis, the state patrol
20 may appoint any towing operator for this purpose upon the application
21 of the operator. Each appointment shall be contingent upon the
22 submission of an application to the state patrol and the making of
23 subsequent reports in such form and frequency and compliance with such
24 standards of equipment, performance, pricing, and practices as may be
25 required by rule of the state patrol.

26 An appointment may be rescinded by the state patrol upon evidence
27 that the appointed towing operator is not complying with the laws or
28 rules relating to the removal and storage of vehicles from the highway.
29 The state patrol may not rescind an appointment merely because a
30 registered tow truck operator negotiates a different rate for
31 voluntary, owner-requested towing than for involuntary towing under
32 this chapter. The costs of removal and storage of vehicles under this
33 section shall be paid by the owner or driver of the vehicle and shall
34 be a lien upon the vehicle until paid, unless the removal is determined
35 to be invalid.

36 Rules promulgated under this section shall be binding only upon
37 those towing operators appointed by the state patrol for the purpose of
38 performing towing services at the request of the Washington state

1 patrol. Any person aggrieved by a decision of the state patrol made
2 under this section may appeal the decision under chapter 34.05 RCW.

3 **Sec. 3.** RCW 46.55.120 and 1989 c 111 s 11 are each amended to read
4 as follows:

5 (1) Vehicles impounded by registered tow truck operators pursuant
6 to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under
7 the following circumstances:

8 (a) Only the legal owner, the registered owner, a person authorized
9 in writing by the registered owner or the vehicle's insurer, a person
10 who is determined and verified by the operator to have the permission
11 of the registered owner of the vehicle, or one who has purchased a
12 vehicle from the registered owner who produces proof of ownership or
13 written authorization and signs a receipt therefor, may redeem an
14 impounded vehicle.

15 (b) The vehicle shall be released upon the presentation to any
16 person having custody of the vehicle of commercially reasonable tender
17 sufficient to cover the costs of towing, storage, or other services
18 rendered during the course of towing, removing, impounding, or storing
19 any such vehicle. Commercially reasonable tender shall include,
20 without limitation, cash, major bank credit cards, or personal checks
21 drawn on in-state banks if accompanied by two pieces of valid
22 identification, one of which may be required by the operator to have a
23 photograph. If the towing firm can determine through the customer's
24 bank or a check verification service that the presented check would not
25 be paid by the bank or guaranteed by the service, the towing firm may
26 refuse to accept the check. Any person who stops payment on a personal
27 check or credit card, or does not make restitution within ten days from
28 the date a check becomes insufficient due to lack of funds, to a towing
29 firm that has provided a service pursuant to this section or in any
30 other manner defrauds the towing firm in connection with services
31 rendered pursuant to this section shall be liable for damages in the
32 amount of twice the towing and storage fees, plus costs and reasonable
33 attorney's fees.

34 (2)(a) The registered tow truck operator shall give to each person
35 who seeks to redeem an impounded vehicle written notice of the right of
36 redemption and opportunity for a hearing, which notice shall be
37 accompanied by a form to be used for requesting a hearing, the name of
38 the person or agency authorizing the impound, and a copy of the towing

1 and storage invoice. The registered tow truck operator shall maintain
2 a record evidenced by the redeeming person's signature that such
3 notification was provided.

4 (b) Any person seeking to redeem an impounded vehicle under this
5 section has a right to a hearing in the district court for the
6 jurisdiction in which the vehicle was impounded to contest the validity
7 of the impoundment or the amount of towing and storage charges. The
8 district court has jurisdiction to determine the issues involving all
9 impoundments including those authorized by the state or its agents.
10 Any request for a hearing shall be made in writing on the form provided
11 for that purpose and must be received by the district court within ten
12 days of the date the opportunity was provided for in subsection (2)(a)
13 of this section. If the hearing request is not received by the
14 district court within the ten-day period, the right to a hearing is
15 waived and the registered owner is liable for any towing, storage, or
16 other impoundment charges permitted under this chapter. Upon receipt
17 of a timely hearing request, the district court shall proceed to hear
18 and determine the validity of the impoundment.

19 (3)(a) The district court, within five days after the request for
20 a hearing, shall notify the registered tow truck operator, the person
21 requesting the hearing if not the owner, the registered and legal
22 owners of the vehicle, and the person or agency authorizing the impound
23 in writing of the hearing date and time.

24 (b) At the hearing, the person or persons requesting the hearing
25 may produce any relevant evidence to show that the impoundment, towing,
26 or storage fees charged were not proper.

27 (c) At the conclusion of the hearing, the district court shall
28 determine whether the impoundment was proper, whether the towing or
29 storage fees charged were in compliance with the posted rates, and who
30 is responsible for payment of the fees. The court may not adjust fees
31 or charges that are in compliance with the posted or contracted rates.

32 (d) If the impoundment is found proper, the impoundment, towing,
33 and storage fees as permitted under this chapter together with court
34 costs shall be assessed against the person or persons requesting the
35 hearing, unless the operator did not have a signed and valid
36 impoundment authorization from a private property owner or an
37 authorized agent.

38 (e) If the impoundment is determined to be in violation of this
39 chapter, then the registered and legal owners of the vehicle shall bear

1 no impoundment, towing, or storage fees, and any (~~bond or other~~)
2 security shall be returned or discharged as appropriate, and the person
3 or agency who authorized the impoundment shall be liable for any
4 towing, storage, or other impoundment fees permitted under this
5 chapter. The court shall enter judgment in favor of the registered tow
6 truck operator against the person or agency authorizing the impound for
7 the impoundment, towing, and storage fees paid. In addition, the court
8 shall enter judgment in favor of the registered and legal owners of the
9 vehicle for reasonable damages for loss of the use of the vehicle
10 during the time the same was impounded, for not less than fifty dollars
11 per day, against the person or agency authorizing the impound. If any
12 judgment entered is not paid within fifteen days of notice in writing
13 of its entry, the court shall award reasonable attorneys' fees and
14 costs against the defendant in any action to enforce the judgment.
15 Notice of entry of judgment may be made by registered or certified
16 mail, and proof of mailing may be made by affidavit of the party
17 mailing the notice. Notice of the entry of the judgment shall read
18 essentially as follows:

19 TO:
20 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
21 Court located at in the sum of
22 \$., in an action entitled, Case No.
23 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
24 will be awarded against you under RCW . . . if the judgment is
25 not paid within 15 days of the date of this notice.
26 DATED this day of, 19. . .
27 Signature
28 Typed name and address
29 of party mailing notice

30 (4) Any impounded abandoned vehicle not redeemed within fifteen
31 days of mailing of the notice of custody and sale as required by RCW
32 46.55.110(2) shall be sold at public auction in accordance with all the
33 provisions and subject to all the conditions of RCW 46.55.130. A
34 vehicle may be redeemed at any time before the start of the auction
35 upon payment of towing and storage fees.

36 **Sec. 4.** RCW 81.80.040 and 1984 c 171 s 1 are each amended to read
37 as follows:

1 The provisions of this chapter, except where specifically otherwise
2 provided, and except the provisions providing for licenses, shall not
3 apply to:

4 (1) Motor vehicles when operated in transportation exclusively
5 within the corporate limits of any city or town of less than ten
6 thousand population unless contiguous to a city or town of ten thousand
7 population or over, nor between contiguous cities or towns both or all
8 of which are less than ten thousand population;

9 (2) Motor vehicles when operated in transportation wholly within
10 the corporate limits of cities or towns of ten thousand or more but
11 less than thirty thousand population, or between such cities or towns
12 when contiguous, as to which the commission, after investigation and
13 the issuance of an order thereon, has determined that no substantial
14 public interest exists which requires that such transportation be
15 subject to regulation under this chapter;

16 (3) Motor vehicles when transporting exclusively the United States
17 mail or in the transportation of newspapers or periodicals;

18 (4) Motor vehicles owned and operated by the United States, the
19 state of Washington, or any county, city, town, or municipality
20 therein, or by any department of them, or either of them;

21 (5) Motor vehicles specially constructed for towing not more than
22 two disabled, unauthorized, or repossessed motor vehicles ((or)),
23 wrecking, or exchanging an operable vehicle for a disabled vehicle and
24 not otherwise used in transporting goods for compensation. For the
25 purposes of this subsection, a vehicle is considered to be repossessed
26 only from the time of its actual repossession through the end of its
27 initial tow;

28 (6) Motor vehicles normally owned and operated by farmers in the
29 transportation of their own farm, orchard, or dairy products, including
30 livestock and plant or animal wastes, from point of production to
31 market, or in the infrequent or seasonal transportation by one farmer
32 for another farmer, if their farms are located within twenty miles of
33 each other, of products of the farm, orchard, or dairy, including
34 livestock and plant or animal wastes, or of supplies or commodities to
35 be used on the farm, orchard, or dairy;

36 (7) Motor vehicles when transporting exclusively water in
37 connection with construction projects only;

38 (8) Motor vehicles of less than 8,000 pounds gross vehicle weight
39 when transporting exclusively legal documents, pleadings, process,

1 correspondence, depositions, briefs, medical records, photographs,
2 books or papers, cash or checks, when moving shipments of the documents
3 described at the direction of an attorney as part of providing legal
4 services.

5 NEW SECTION. **Sec. 5.** RCW 46.90.103 and 1975 1st ex.s. c 54 s 4
6 are each repealed.

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