

HOUSE BILL REPORT

HB 1479

As Reported By House Committee On:
Transportation Policy & Budget

Title: An act relating to procedures after vehicle impoundment.

Brief Description: Clarifying vehicle impound and redemption procedures.

Sponsors: Representatives Zellinsky and Quall.

Brief History:

Committee Activity:

Transportation Policy & Budget: 2/2/98, 2/3/98 [DPS].

HOUSE COMMITTEE ON TRANSPORTATION POLICY & BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives K. Schmidt, Chairman; Hankins, Vice Chairman; Mielke, Vice Chairman; Mitchell, Vice Chairman; Fisher, Ranking Minority Member; Cooper, Assistant Ranking Minority Member; Backlund; Buck; Cairnes; Chandler; Constantine; DeBolt; Gardner; Hatfield; Johnson; McCune; Murray; O'Brien; Ogden; Radcliff; Robertson; Romero; Scott; Skinner; Sterk; Wood and Zellinsky.

Staff: Jennifer Hanlon (786-7316).

Background: Under current law, RCW 46.12 outlines the perfection of title process. A security interest in a vehicle is perfected when the Department of Licensing (DOL) receives the existing certificate of ownership, an application for a certificate of ownership containing the name and address of the secured party, and payment of the required fee. The security interest is perfected at the time of its creation if the department receives the required information and fee within eight business days of the creation of the interest.

When an owner transfers his vehicle, he must provide a report of sale to DOL. The report of sale must include the date of the sale or transfer, the name and address of the owner and of the transferee, and a description of the vehicle.

Under current law, RCW 46.55 outlines the vehicle impound process and the rights of the parties involved. If an unauthorized vehicle is found abandoned and removed at the direction of law enforcement, the last registered owner of record is guilty of a traffic infraction, unless the vehicle is redeemed. Abandonment of a vehicle creates the

presumption that the last registered owner of the vehicle is responsible for the vehicle unless the owner filed a seller's report of sale with DOL or filed a vehicle theft report with a law enforcement agency.

In the case of an abandoned vehicle registered or titled with DOL, the tow truck operator, within 24 hours after receiving information on the owners from the department, is required to send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners.

An authorized person seeking to redeem an impounded vehicle has a right to a hearing in district court in the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. If the impoundment is determined to be invalid, the registered and legal owners will not have to pay impound, towing or storage fees. Additionally, the registered and legal owners of the vehicle will be eligible for reasonable damages for the loss of the use of the vehicle during impoundment against the person or agency authorizing the impound. The amount will not be less than \$50 per day.

If, after the expiration of 15 days from the date of notice of custody and sale from the registered tow truck operator to the registered and legal owners, the vehicle is not claimed and is not listed as stolen, the tow truck operator is required to publish a notice and conduct a sale of the vehicle at public auction. If the operator does not receive a bid, or the operator is the successful bidder at the auction, the tow truck operator must sell the vehicle within 30 days for scrap; or the tow truck operator can apply for title to the vehicle.

Summary of Substitute Bill: The deadline for submitting the documentation to perfect a security interest effective as of the date of the sale is increased from eight to 20 days.

If an owner transfers his or her interest in a vehicle, the owner shall notify DOL or its agents or subagents of the transfer. The report of sale form must include the driver's license number, if available. The report of sale is deemed properly filed if it contains all of the required information and the department-authorized notation.

A motor vehicle dealer may use a transitional ownership record to perfect a security interest when the certificate of ownership is not available. It may only be used for vehicles already in the DOL system when proof of ownership is not in the possession of the vehicle dealer at the time, and when the certificate of ownership will not be received for submission to the department within 20 calendar days of the sale of the vehicle.

The transitional ownership record must contain the date of sale, the name and address of each owner of the vehicle, the name and address of each security interest holder, the priorities of the security interests, the vehicle information, the name of the dealer or

security interest holder who is submitting the record, and the transferee's driver's license number, if available.

Filing a vehicle theft report with a law enforcement agency relieves the last registered owner of criminal liability for failing to redeem the vehicle. The last registered owner remains liable for the costs incurred in removing and storing an abandoned vehicle. The last registered owner may bring a civil action or request restitution in a criminal action against the person responsible for the theft of the vehicle.

Properly filing a report of sale or transfer relieves the last registered owner of liability for the costs incurred in removing and storing the vehicle. If the date of sale on the report of sale is before the date of the impoundment, the new owner is liable for the costs of removing and storing the vehicle. If the date of sale is after the date of impoundment, the previous registered owner is presumed to be liable for the towing costs.

A licensed vehicle dealer is not liable for towing costs if the dealer filed a transitional ownership record or report of sale in a timely manner. The person to whom the dealer sold the vehicle is liable for the cost incurred in removing and storing the vehicle.

If the date on which a notice is required to be mailed by a tow truck operator falls on a Saturday, Sunday or postal holiday, the tow truck operator can mail the notice on the next day.

If a hearing is requested, the petitioner must pay the court clerk a filing fee equal to the amount required for the filing of a suit in district court. If the court finds that impoundment was not valid, the court will return the petitioner's filing fee.

The maximum time for a tow truck operator to sell a vehicle or apply for title to the vehicle, when a bid at auction was not received, is changed from 30 days to 45 days.

Substitute Bill Compared to Original Bill: The transitional ownership record is created. The report of sale form must include the driver's license number, if available. A filing fee is required for challenging an impoundment. Tow truck operators may conduct public auctions on Saturday.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: All parties have worked together to find an agreeable solution. Other changes have been made to make the bill consistent with other laws.

Testimony Against: None.

Testified: Stu Halsan, Washington Tow Truck Association; and Lisa Thatcher, Washington State Auto Dealers.