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SENATE BILL 5375

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State of Washington                      57th Legislature                      2001 Regular Session

By Senators Kline, Swecker, Costa, Prentice, Rossi and Constantine

Read first time 01/19/2001. Referred to Committee on Transportation.

1            AN ACT Relating to the auction and titling of abandoned  
2 vehicles; amending RCW 46.55.105, 46.55.130, 46.63.110, and  
3 46.12.101; and prescribing penalties.

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

5            **Sec. 1.** RCW 46.55.105 and 1999 c 86 s 5 are each amended to read  
6 as follows:

7            (1) The abandonment of any vehicle creates a prima facie  
8 presumption that the last registered owner of record is  
9 responsible for the abandonment and is liable for costs incurred  
10 in removing, storing, and disposing of the abandoned vehicle, less  
11 amounts realized at auction.

12            (2) If an unauthorized vehicle is found abandoned under  
13 subsection (1) of this section and removed at the direction of law  
14 enforcement, the last registered owner of record is guilty of a  
15 traffic infraction and must pay the penalty imposed in RCW  
16 46.63.110(2), unless the vehicle is redeemed as provided in RCW  
17 46.55.120. In addition to any other monetary penalty payable under  
18 chapter 46.63 RCW, the court shall not consider all monetary

1 penalties as having been paid until the court is satisfied that  
2 the person found to have committed the infraction has made  
3 restitution in the amount of the deficiency remaining after  
4 disposal of the vehicle under RCW 46.55.140.

5 (3) A vehicle theft report filed with a law enforcement agency  
6 relieves the last registered owner of liability under subsection  
7 (2) of this section for failure to redeem the vehicle. However, the  
8 last registered owner remains liable for the costs incurred in  
9 removing, storing, and disposing of the abandoned vehicle under  
10 subsection (1) of this section. Nothing in this section limits in  
11 any way the registered owner's rights in a civil action or as  
12 restitution in a criminal action against a person responsible for  
13 the theft of the vehicle.

14 (4) Properly filing a report of sale or transfer regarding the  
15 vehicle involved in accordance with RCW 46.12.101(1) relieves the  
16 last registered owner of liability under subsections (1) and (2)  
17 of this section. If the date of sale as indicated on the report of  
18 sale is on or before the date of impoundment, the buyer identified  
19 on the latest properly filed report of sale with the department is  
20 assumed liable for the costs incurred in removing, storing, and  
21 disposing of the abandoned vehicle, less amounts realized at  
22 auction. If the date of sale is after the date of impoundment, the  
23 previous registered owner is assumed to be liable for such costs. A  
24 licensed vehicle dealer is not liable under subsections (1) and  
25 (2) of this section if the dealer, as transferee or assignee of  
26 the last registered owner of the vehicle involved, has complied  
27 with the requirements of RCW 46.70.122 upon selling or otherwise  
28 disposing of the vehicle, or if the dealer has timely filed a  
29 transitional ownership record or report of sale under RCW  
30 46.12.103. In that case the person to whom the licensed vehicle  
31 dealer has sold or transferred the vehicle is assumed liable for  
32 the costs incurred in removing, storing, and disposing of the  
33 abandoned vehicle, less amounts realized at auction.

34 (5) For the purposes of reporting notices of traffic infraction  
35 to the department under RCW 46.20.270 and 46.52.101, and for  
36 purposes of reporting notices of failure to appear, respond, or  
37 comply regarding a notice of traffic infraction to the department

1 under RCW 46.63.070(~~(5)~~) (6), a traffic infraction under  
2 subsection (2) of this section is not considered to be a standing,  
3 stopping, or parking violation.

4 (6) A notice of infraction for a violation of this section may  
5 be filed with a court of limited jurisdiction organized under  
6 Title 3, 35, or 35A RCW, or with a violations bureau subject to  
7 the court's jurisdiction.

8 **Sec. 2.** RCW 46.55.130 and 2000 c 193 s 2 are each amended to read  
9 as follows:

10 (1) If, after the expiration of fifteen days from the date of  
11 mailing of notice of custody and sale required in RCW 46.55.110(3)  
12 to the registered and legal owners, the vehicle remains unclaimed  
13 and has not been listed as a stolen vehicle, or a suspended  
14 license impound has been directed, but no security paid under RCW  
15 46.55.120, then the registered tow truck operator having custody  
16 of the vehicle shall conduct a sale of the vehicle at public  
17 auction after having first published a notice of the date, place,  
18 and time of the auction in a newspaper of general circulation in  
19 the county in which the vehicle is located not less than three  
20 days and no more than ten days before the date of the auction. No  
21 vehicle meeting the definition of junk vehicle, as defined in RCW  
22 46.55.010, shall be resold at auction. The notice shall contain a  
23 description of the vehicle including the make, model, year, and  
24 license number and a notification that a three-hour public viewing  
25 period will be available before the auction. The auction shall be  
26 held during daylight hours of a normal business day.

27 (2) The following procedures are required in any public auction  
28 of such abandoned vehicles:

29 (a) The auction shall be held in such a manner that all persons  
30 present are given an equal time and opportunity to bid;

31 (b) All bidders must be present at the time of auction unless  
32 they have submitted to the registered tow truck operator, who may  
33 or may not choose to use the preauction bid method, a written bid  
34 on a specific vehicle. Written bids may be submitted up to five  
35 days before the auction and shall clearly state which vehicle is  
36 being bid upon, the amount of the bid, and who is submitting the  
37 bid;

1 (c) The open bid process, including all written bids, shall be  
2 used so that everyone knows the dollar value that must be  
3 exceeded;

4 (d) The highest two bids received shall be recorded in written  
5 form and shall include the name, address, and telephone number of  
6 each such bidder;

7 (e) In case the high bidder defaults, the next bidder has the  
8 right to purchase the vehicle for the amount of his or her bid;

9 (f) ~~((The successful bidder shall apply for title within  
10 fifteen days;~~

11 ~~(g))~~ The registered tow truck operator shall post a copy of  
12 the auction procedure at the bidding site. If the bidding site is  
13 different from the licensed office location, the operator shall  
14 post a clearly visible sign at the office location that describes  
15 in detail where the auction will be held. At the bidding site a  
16 copy of the newspaper advertisement that lists the vehicles for  
17 sale shall be posted;

18 ~~((h))~~ (g) All surplus moneys derived from the auction after  
19 satisfaction of the registered tow truck operator's lien shall be  
20 remitted within thirty days to the department for deposit in the  
21 state motor vehicle fund. A report identifying the vehicles  
22 resulting in any surplus shall accompany the remitted funds. If the  
23 director subsequently receives a valid claim from the registered  
24 vehicle owner of record as determined by the department within one  
25 year from the date of the auction, the surplus moneys shall be  
26 remitted to such owner;

27 ~~((i))~~ (h) If an operator receives no bid, or if the operator  
28 is the successful bidder at auction, the operator shall, within  
29 forty-five days, sell the vehicle to a licensed vehicle wrecker,  
30 hulk hauler, or scrap processor ~~((by use of the abandoned vehicle  
31 report affidavit of sale))~~ subject to subsection (4) of this  
32 section, or the operator shall apply for title to the vehicle.

33 (3) A tow operator can refuse to accept a bid at an auction  
34 under this section for any of the following reasons: (a) The  
35 bidder is currently indebted to the operator; (b) the operator has  
36 knowledge that the bidder has previously abandoned vehicles  
37 purchased at auction; or (c) the bidder has purchased, at auction,

1 more than four vehicles in the last calendar year without  
2 obtaining title to any or all of the vehicles.

3 (4)(a) The successful bidder must apply for title at the time  
4 the bidder takes possession of the vehicle. The application  
5 completed by the bidder must contain the following information:  
6 (i) The bidder's name, address, and phone number; (ii) the  
7 bidder's driver's license number; (iii) the name or names of the  
8 coowner or legal owner; and (iv) the vehicle identification number  
9 of the vehicle.

10 (b) If the successful bidder is a scrap processor or hulk  
11 hauler, as those terms are defined in RCW 46.79.010, in addition  
12 to the information required in this section, the bidder must also  
13 include on the application the number of his or her hulk hauler or  
14 scrap processor license.

15 (c) The tow operator must submit the completed application to  
16 the department no later than five days after the successful bidder  
17 takes possession of the vehicle.

18 (d) The department must ensure that all the information  
19 contained in the application is available by electronic means to  
20 law enforcement within seven days after the department receives  
21 the application from the operator.

22 (e) The department may charge a reasonable fee to process the  
23 application.

24 (5) In no case may an operator hold a vehicle for longer than  
25 ninety days without holding an auction on the vehicle, except for  
26 vehicles that are under a police or judicial hold.

27 ~~((+4))~~ (6)(a) In no case may the accumulation of storage  
28 charges exceed fifteen days from the date of receipt of the  
29 information by the operator from the department as provided by RCW  
30 46.55.110(3).

31 (b) The failure of the registered tow truck operator to comply  
32 with the time limits provided in this chapter limits the  
33 accumulation of storage charges to five days except where delay is  
34 unavoidable. Providing incorrect or incomplete identifying  
35 information to the department in the abandoned vehicle report  
36 shall be considered a failure to comply with these time limits if  
37 correct information is available. However, storage charges begin to

1 accrue again on the date the correct and complete information is  
2 provided to the department by the registered tow truck operator.

3 **Sec. 3.** RCW 46.63.110 and 1997 c 331 s 3 are each amended to read  
4 as follows:

5 (1) A person found to have committed a traffic infraction shall  
6 be assessed a monetary penalty. No penalty may exceed two hundred  
7 and fifty dollars for each offense unless authorized by this  
8 chapter or title.

9 (2) The monetary penalty for a violation of RCW 46.55.105(2) is  
10 two hundred fifty dollars for each offense. No penalty assessed  
11 under this subsection (2) shall be reduced.

12 (3) The supreme court shall prescribe by rule a schedule of  
13 monetary penalties for designated traffic infractions. This rule  
14 shall also specify the conditions under which local courts may  
15 exercise discretion in assessing fines and penalties for traffic  
16 infractions. The legislature respectfully requests the supreme  
17 court to adjust this schedule every two years for inflation.

18 (~~((+3))~~) (4) There shall be a penalty of twenty-five dollars for  
19 failure to respond to a notice of traffic infraction except where  
20 the infraction relates to parking as defined by local law,  
21 ordinance, regulation, or resolution or failure to pay a monetary  
22 penalty imposed pursuant to this chapter. A local legislative body  
23 may set a monetary penalty not to exceed twenty-five dollars for  
24 failure to respond to a notice of traffic infraction relating to  
25 parking as defined by local law, ordinance, regulation, or  
26 resolution. The local court, whether a municipal, police, or  
27 district court, shall impose the monetary penalty set by the local  
28 legislative body.

29 (~~((+4))~~) (5) Monetary penalties provided for in chapter 46.70  
30 RCW which are civil in nature and penalties which may be assessed  
31 for violations of chapter 46.44 RCW relating to size, weight, and  
32 load of motor vehicles are not subject to the limitation on the  
33 amount of monetary penalties which may be imposed pursuant to this  
34 chapter.

35 (~~((+5))~~) (6) Whenever a monetary penalty is imposed by a court  
36 under this chapter it is immediately payable. If the person is  
37 unable to pay at that time the court may, in its discretion, grant

1 an extension of the period in which the penalty may be paid. If the  
2 penalty is not paid on or before the time established for payment  
3 the court shall notify the department of the failure to pay the  
4 penalty, and the department shall suspend the person's driver's  
5 license or driving privilege until the penalty has been paid and  
6 the penalty provided in subsection (~~((+3+))~~) (4) of this section has  
7 been paid.

8 (~~((+6+))~~) (7) In addition to any other penalties imposed under  
9 this section and not subject to the limitation of subsection (1)  
10 of this section, a person found to have committed a traffic  
11 infraction shall be assessed a fee of five dollars per  
12 infraction. Under no circumstances shall this fee be reduced or  
13 waived. Revenue from this fee shall be forwarded to the state  
14 treasurer for deposit in the emergency medical services and trauma  
15 care system trust account under RCW 70.168.040.

16 **Sec. 4.** RCW 46.12.101 and 1998 c 203 s 11 are each amended to read  
17 as follows:

18 A transfer of ownership in a motor vehicle is perfected by  
19 compliance with the requirements of this section.

20 (1) If an owner transfers his or her interest in a vehicle,  
21 other than by the creation, deletion, or change of a security  
22 interest, the owner shall, at the time of the delivery of the  
23 vehicle, execute an assignment to the transferee and provide an  
24 odometer disclosure statement under RCW 46.12.124 on the  
25 certificate of ownership or as the department otherwise  
26 prescribes, and cause the certificate and assignment to be  
27 transmitted to the transferee. The owner shall notify the  
28 department or its agents or subagents, in writing, on the  
29 appropriate form, of the date of the sale or transfer, the name  
30 and address of the owner and of the transferee, the transferee's  
31 driver's license number if available, and such description of the  
32 vehicle, including the vehicle identification number, the license  
33 plate number, or both, as may be required in the appropriate form  
34 provided or approved for that purpose by the department. The report  
35 of sale will be deemed properly filed if all information required  
36 in this section is provided on the form and includes a department-  
37 authorized notation that the document was received by the

1 department, its agents, or subagents on or before the fifth day  
2 after the sale of the vehicle, excluding Saturdays, Sundays, and  
3 state and federal holidays. Agents and subagents shall immediately  
4 electronically transmit the seller's report of sale to the  
5 department. Reports of sale processed and recorded by the  
6 department's agents or subagents may be subject to fees as  
7 specified in RCW 46.01.140 (4)(a) or (5)(b).

8 (2) The requirements of subsection (1) of this section to  
9 provide an odometer disclosure statement apply to the transfer of  
10 vehicles held for lease when transferred to a lessee and then to  
11 the lessor at the end of the leasehold and to vehicles held in a  
12 fleet when transferred to a purchaser.

13 (3)(a) Except as provided in RCW 46.70.122 the transferee shall  
14 within fifteen days after delivery to the transferee of the  
15 vehicle, execute the application for a new certificate of  
16 ownership in the same space provided therefor on the certificate  
17 or as the department prescribes, and cause the certificates and  
18 application to be transmitted to the department.

19 (b) If the vehicle is purchased at auction under RCW 46.55.130,  
20 the purchaser must comply with the requirements of RCW 46.55.105  
21 in lieu of this section.

22 (4) Upon request of the owner or transferee, a secured party in  
23 possession of the certificate of ownership shall, unless the  
24 transfer was a breach of its security agreement, either deliver  
25 the certificate to the transferee for transmission to the  
26 department or, when the secured party receives the owner's  
27 assignment from the transferee, it shall transmit the transferee's  
28 application for a new certificate, the existing certificate, and  
29 the required fee to the department. Compliance with this section  
30 does not affect the rights of the secured party.

31 (5) If a security interest is reserved or created at the time  
32 of the transfer, the certificate of ownership shall be retained by  
33 or delivered to the person who becomes the secured party, and the  
34 parties shall comply with the provisions of RCW 46.12.170.

35 (6) If the purchaser or transferee fails or neglects to make  
36 application to transfer the certificate of ownership and license  
37 registration within fifteen days after the date of delivery of the  
38 vehicle, he or she shall on making application for transfer be



1 assessed a twenty-five dollar penalty on the sixteenth day and two  
2 dollars additional for each day thereafter, but not to exceed one  
3 hundred dollars. The director may by rule establish conditions  
4 under which the penalty will not be assessed when an application  
5 for transfer is delayed for reasons beyond the control of the  
6 purchaser. Conditions for not assessing the penalty may be  
7 established for but not limited to delays caused by:

8 (a) The department requesting additional supporting documents;

9 (b) Extended hospitalization or illness of the purchaser;

10 (c) Failure of a legal owner to release his or her interest;

11 (d) Failure, negligence, or nonperformance of the department,  
12 auditor, or subagent.

13 Failure or neglect to make application to transfer the  
14 certificate of ownership and license registration within forty-  
15 five days after the date of delivery of the vehicle is a  
16 misdemeanor.

17 (7) Upon receipt of an application for reissue or replacement  
18 of a certificate of ownership and transfer of license  
19 registration, accompanied by the endorsed certificate of ownership  
20 or other documentary evidence as is deemed necessary, the  
21 department shall, if the application is in order and if all  
22 provisions relating to the certificate of ownership and license  
23 registration have been complied with, issue new certificates of  
24 title and license registration as in the case of an original issue  
25 and shall transmit the fees together with an itemized detailed  
26 report to the state treasurer, to be deposited in the motor  
27 vehicle fund.

28 (8) Once each quarter the department shall report to the  
29 department of revenue a list of those vehicles for which a  
30 seller's report has been received but no transfer of title has  
31 taken place.

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