
SUBSTITUTE SENATE BILL 5672

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Jacobsen, Esser, Poulsen, Benson
and Swecker)

READ FIRST TIME 03/01/05.

1 AN ACT Relating to commercial parking businesses; and adding a new
2 chapter to Title 19 RCW.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Commercial parking business" means the ownership, lease,
7 operation, or management of a commercial parking lot.

8 (2) "Commercial parking lot" means a covered or uncovered area with
9 or without stalls for the purpose of parking motor vehicles for a fee.

10 (3) "Event parking" means parking for which fees are charged
11 outside of the rates normally charged for hourly or other periodic
12 parking, or of the rates specified in any sign that may be posted on
13 the commercial parking lot under section 2(1) of this act.

14 (4) "Parking charge" means a monetary fee charged to a parking
15 customer for parking in a commercial parking lot, and includes fees
16 charged for monthly parking, fees charged for reserved parking, fees
17 charged for parking for a given amount of time, fees charged for event
18 parking, fees charged for unauthorized parking, late fees, and
19 collection agency fees.

1 (5) "Parking customer" means a person who parks a vehicle in a
2 commercial parking lot, and the registered owner of the vehicle; and
3 also means a person or entity that enters into an agreement, written or
4 otherwise, with a commercial parking business for parking services.

5 (6) "Unauthorized parking" means parking a vehicle in a commercial
6 parking lot in an area not designated for parking; in a reserved stall
7 or area without permission of the commercial parking business; in a
8 stall or area without paying the posted parking charge or without
9 paying a sufficient parking charge for the length of time the vehicle
10 is parked; in more than one stall simultaneously without paying the
11 appropriate parking charge for each stall; in a stall or area during
12 event parking without paying the event parking rate; or in a stall or
13 area without paying the parking charge provided in, or otherwise
14 without complying with, the terms of an agreement between the parking
15 customer and the commercial parking business.

16 (7) "Unauthorized vehicle" means a vehicle parked in a manner
17 constituting unauthorized parking.

18 NEW SECTION. **Sec. 2.** (1) Except as provided in subsections (2),
19 (3), and (4) of this section, a commercial parking business may not
20 charge a parking charge unless a sign is conspicuously posted on the
21 parking lot that clearly indicates:

22 (a) The times and circumstances in which a parking charge will be
23 charged;

24 (b) The amount of the parking charge, a schedule of hourly or daily
25 rates, or a schedule of parking charges for different circumstances or
26 durations; and

27 (c) The name, telephone number, and address of the commercial
28 parking business.

29 (2) A commercial parking business need not comply with subsection
30 (1) of this section to charge a parking charge with respect to a
31 specific parking customer when the commercial parking business has an
32 agreement, written or otherwise, with the parking customer for parking
33 services.

34 (3) A commercial parking business need not comply with subsection
35 (1) of this section to charge a parking charge with respect to a
36 specific parking customer when the information required under

1 subsection (1) of this section is contained in a ticket, card, or other
2 written memorandum provided to the parking customer upon entry into the
3 commercial parking lot.

4 (4) A commercial parking business need not comply with subsection
5 (1) of this section to charge a parking charge for event parking,
6 provided the parking charge for the event is clearly disclosed to the
7 parking customer upon entry to the commercial parking lot by an on-site
8 attendant or by conspicuous signage posted at the entrance to the
9 commercial parking lot.

10 (5) A sign is "conspicuously posted" for the purposes of this
11 chapter only when the sign: (a) Is clearly visible at all times,
12 including after dark, to a person seated in the driver's seat of a
13 vehicle fifty feet away; (b) contains no information other than as is
14 required under this section or RCW 46.55.070; and (c) is in compliance
15 with the rules adopted by the department of licensing under RCW
16 46.55.070.

17 (6) A commercial parking business shall neither authorize nor
18 allow:

19 (a) The impounding of any vehicle engaged in unauthorized parking,
20 unless:

21 (i) The unauthorized parking constitutes a traffic hazard or
22 obstruction;

23 (ii) A customer of the commercial parking business requests removal
24 of a vehicle that is engaging in unauthorized parking in the customer's
25 reserved stall at the time of the request; or

26 (iii) The commercial parking business has twice previously notified
27 the registered owner of the vehicle pursuant to section 3 of this act
28 that the vehicle had parked without authorization at a facility owned,
29 leased, operated, or managed by the commercial parking business; has
30 either collected or attempted to collect, and has not waived the
31 unauthorized parking fee in either previous instance; and has with at
32 least one of the notices provided pursuant to section 3 of this act
33 informed the registered owner in writing that the vehicle could be
34 subject to impound if the vehicle engaged in unauthorized parking at
35 any of the parking business's facilities again; or

36 (b) The immobilization, or impound-in-place, of a vehicle that is
37 engaging in unauthorized parking.

1 NEW SECTION. **Sec. 3.** A parking customer who engages in
2 unauthorized parking shall be liable to the commercial parking business
3 for a reasonable parking charge if notice of the amount of the parking
4 charge is provided to such customer. If the customer fails to pay the
5 reasonable parking charge within fifteen days and after notice as
6 provided in this section, then the customer shall also be liable to the
7 commercial parking business for a late fee not to exceed twenty-five
8 dollars and for reasonable collection agency fees in the event the
9 account is assigned to a collection agency licensed under chapter 19.16
10 RCW. In addition, in the event of court action on the parking charges,
11 it shall be the burden of the party bringing the action to show, by a
12 preponderance of the evidence, both that the claimed unauthorized
13 parking occurred, including that payment of the posted parking charge
14 was not tendered, and that the commercial parking business was, at the
15 time of the alleged unauthorized parking, in compliance with section 2
16 of this act. The court shall award statutory costs and reasonable
17 attorneys' fees to the prevailing party in any action brought to
18 recover or defend against parking charges pursuant to this chapter.

19 (1) The following shall be presumed reasonable parking charges for
20 unauthorized parking:

21 (a) The posted parking charge that would be charged for the actual
22 time the vehicle remains parked at the commercial parking lot; or

23 (b) A fee not to exceed fifty dollars.

24 (2) If a reasonable parking charge for unauthorized parking is to
25 be charged in an amount other than the posted parking charge that would
26 be charged for the actual time the vehicle remains parked, then the
27 amount of the reasonable parking charge shall be stated in a sign or
28 signs that are conspicuously posted on the premises of the commercial
29 parking lot. In addition, written notice of the amount of the parking
30 charge, however calculated, and the date or dates of the unauthorized
31 parking, the license number of the unauthorized vehicle, and the name
32 and address of the commercial parking business shall be provided by any
33 of the following means:

34 (a) By affixing the notice to the windshield of the vehicle, or
35 otherwise conspicuously affixing it to the vehicle, while the vehicle
36 is still parked at the commercial parking lot;

37 (b) By mailing the notice via first class mail, postage prepaid, to

1 the registered owner of the vehicle within the later of ninety days
2 after the effective date of this act or ninety days after the date the
3 unauthorized parking occurred; or

4 (c) By delivering the notice to the registered owner of the vehicle
5 through any commercially reasonable means within the later of ninety
6 days after the effective date of this act or ninety days after the date
7 the unauthorized parking occurred.

8 (3) If a late fee is to be charged, then the amount of the late fee
9 shall be stated in a sign or signs that are conspicuously posted on the
10 premises of the commercial parking lot. In addition, written notice of
11 the amount of the fee and the date or dates of the unauthorized
12 parking, the license number of the unauthorized vehicle, and the name
13 and address of the commercial parking business shall be provided by any
14 of the following means:

15 (a) By affixing the notice to the windshield of the vehicle, or
16 otherwise conspicuously affixing it to the vehicle, while the vehicle
17 is still parked at the commercial parking lot;

18 (b) By mailing the notice via first class mail, postage prepaid, to
19 the registered owner of the vehicle within the later of ninety days
20 after the effective date of this act or ninety days after the date the
21 unauthorized parking occurred; or

22 (c) By delivering the notice to the registered owner of the vehicle
23 through any commercially reasonable means within the later of ninety
24 days after the effective date of this act or ninety days after the date
25 the unauthorized parking occurred.

26 (4) If a reasonable collection fee is to be charged, the commercial
27 parking business or its agent shall provide notice of the possibility
28 of assignment to collection of the fee, or the method of its
29 calculation, not less than fifteen days prior to assessment of such
30 fee. The amount to be paid for collection services shall be left to
31 the agreement of the commercial parking business and its collection
32 agency or agencies, but a contingent fee of the full amount of the debt
33 up to one hundred dollars and of fifty percent of the debt over one
34 hundred dollars per account is reasonable. The notice required under
35 this subsection can be given by any of the following means, and can be
36 combined with any other notice given to the parking customer:

37 (a) By including the notice in the sign or signs that are required

1 to be posted at the commercial parking lot or that are otherwise
2 conspicuously posted on the premises of the commercial parking lot;

3 (b) By affixing the notice to the windshield of the vehicle, or
4 otherwise conspicuously affixing it to the vehicle, while the vehicle
5 is still parked at the commercial parking lot;

6 (c) By mailing the notice via first class mail, postage prepaid, to
7 the registered owner of the vehicle within the later of ninety days
8 after the effective date of this act or ninety days after the date the
9 unauthorized parking occurred; or

10 (d) By delivering the notice to the registered owner of the vehicle
11 through any commercially reasonable means within the later of ninety
12 days after the effective date of this act or ninety days after the date
13 the unauthorized parking occurred.

14 (5) Nothing in this section shall prohibit a commercial parking
15 business or its agent from allowing more than fifteen days for a
16 parking customer to pay a reasonable parking charge prior to assessing
17 a late fee or a collection agency fee. Nothing in this section shall
18 prohibit a commercial parking business or its agent from discounting
19 any parking charges for payment within a specified time frame, or from
20 notifying a parking customer that any parking charges will be
21 discounted if paid within such time frame.

22 NEW SECTION. **Sec. 4.** The registered owner of an unauthorized
23 vehicle in a commercial parking lot is presumed to be liable for
24 parking charges. It shall be an affirmative defense of the registered
25 owner, provable by a preponderance of the evidence, that the person who
26 parked the vehicle at the commercial parking lot was not authorized,
27 either actually or impliedly, by the registered owner to use or drive
28 the vehicle. Any notice provided under this chapter to the registered
29 owner of an unauthorized vehicle shall conclusively be presumed to have
30 been provided to every parking customer responsible for the parking
31 charges associated with the unauthorized vehicle.

32 NEW SECTION. **Sec. 5.** (1) Nothing in this chapter precludes the
33 right to commence action in a court under chapter 12.40 RCW for small
34 claims.

35 (2) This chapter shall apply to all parking charges incurred on or
36 after the effective date of this act.

1 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
2 a new chapter in Title 19 RCW.

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