

HOUSE BILL REPORT

E2SHB 2817

As Passed Legislature

Title: An act relating to contaminated motor vehicles, vehicles, and vessels.

Brief Description: Concerning contaminated motor vehicles, vehicles, and vessels.

Sponsors: By House Committee on Transportation (originally sponsored by Representatives Campbell, Green, Morrell, Hudgins and McCune).

Brief History:

Committee Activity:

Select Committee on Environmental Health: 1/29/08, 2/5/08 [DPS];
Transportation: 2/8/08 [DP2S(w/o sub ENVH)].

Floor Activity:

Passed House: 2/18/08, 94-0.
Senate Amended.
Passed Senate: 3/7/08, 48-0.
House Concurred.
Passed House: 3/10/08, 94-0.
Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Provides for decontamination, demolition, or disposal of vehicles and vessels contaminated with hazardous chemicals and assigns responsibility.
- Makes it a gross misdemeanor to advertise for sale or sell a vehicle or vessel contaminated with hazardous chemicals.
- Requires the Department of Licensing to place notice on a contaminated vehicle or vessel title and a second notice after decontamination.
- Provides that tow operators must only remove a vehicle to a secure public facility and are not required to store or dispose of a vehicle contaminated with hazardous chemicals.

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

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Sump, Ranking Minority Member; Chase, Hunt, Morrell and Wood.

Minority Report: Do not pass. Signed by 1 member: Representative Newhouse.

Staff: Brad Avy (786-7289).

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Select Committee on Environmental Health. Signed by 17 members: Representatives Clibborn, Chair; Flannigan, Vice Chair; Appleton, Campbell, Dickerson, Eddy, Hudgins, Jarrett, Loomis, Rolfes, Sells, Springer, Takko, Upthegrove, Wallace, Williams and Wood.

Staff: Teresa Berntsen (786-7301).

Background:

Hazardous chemicals associated with the illegal manufacture of controlled substances can contaminate vehicles, motor vehicles, and vessels. Vehicles and vessels are not required to be identified as contaminated when offered for sale, including vehicles sold at public auction under towing and impoundment statutes. When a vehicle or vessel is sold and used without decontamination, individuals that come in contact with the vehicle or vessel can be harmed by the chemical residue.

Law enforcement agencies are required to notify local health officers when they become aware that a property (including a boat, motor vehicle, or trailer) has been contaminated with hazardous chemicals used to manufacture illegal drugs. Local health officers must post notices of contamination, inspect property, and report all cases of contaminated property to the Department of Health (DOH). If, after inspection, a local health officer finds a property is contaminated, then the local health officer must issue an order declaring the property unfit and prohibiting its use due to immediate or long-term safety hazards.

An owner of contaminated property is responsible for the costs to have the property decontaminated, demolished, or disposed of and must use the services of a contractor who is certified by the DOH to perform the service unless otherwise authorized by the local health officer. A city or county may also process contaminated property through the use of an authorized contractor.

Summary of Engrossed Second Substitute Bill:

After a local health officer has issued an order declaring a vehicle or vessel unfit and prohibiting its use due to contamination by hazardous chemicals, the city or county in which the property is located must prohibit its use, occupancy, or removal, and require demolition,

disposal, or decontamination. The city, county, or local law enforcement agency may impound the vehicle or vessel.

The owner of a contaminated vehicle or vessel must have the property demolished, disposed of, or decontaminated by an authorized contractor, or under a written work plan approved by the local health officer within 30 days of receiving an order declaring the property unfit and prohibited from use. After all procedures granting the right of notice and the opportunity to appeal have been exhausted, if the property owner has not acted, then the local health officer or the local law enforcement agency may demolish, dispose of, or decontaminate the property. If the local health officer or local law enforcement agency has taken responsibility for demolition, disposal, or decontamination, then all rights, title, and interest in the property are forfeited to the local health jurisdiction or the local law enforcement agency.

The property owner is responsible for the costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency, except:

- the legal owner of a vehicle or a vessel whose sole basis of ownership is a bona fide security interest is responsible for costs only if the legal owner had knowledge of or consented to any act or omission that caused contamination of the vehicle or vessel; and
- if the vehicle or vessel has been stolen and the property owner neither had knowledge of nor consented to any act or omission that contributed to the theft and subsequent contamination of the vehicle or vessel, the owner is not responsible for costs, except:
 - (1) if the registered owner is insured, the registered owner must, within fifteen calendar days of receiving an order declaring the property unfit and prohibiting its use, submit a claim to his or her insurer for reimbursement of costs; and
 - (2) must provide proof of claim to the local health officer or the local law enforcement agency.

The Department of Licensing must place notification on the title of contaminated vehicles and vessels declared unfit and prohibited from use by order of the local health officer. The Department of Licensing must also place notification on the title when vehicles or vessels have been decontaminated and released for reuse.

A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a contaminated vehicle or vessel that has been declared unfit and prohibited from use by the local health officer when:

- the person has knowledge that the local health officer has issued an order declaring the vehicle or vessel unfit and prohibiting its use; or
- a notification has been placed on the title that the vehicle or vessel is contaminated.

A person may advertise for sale or sell a vehicle or vessel after a release for reuse document has been issued by the local health officer or a notification has been placed on the title that the vehicle or vessel has been decontaminated and released for reuse.

A tow operator who contracts with a law enforcement agency for transporting an impounded vehicle must only remove a contaminated vehicle to a secure public facility and is not required to store or dispose of the vehicle. The vehicle must remain in the care, custody, and control of the law enforcement agency to be demolished, disposed of, or decontaminated. The law enforcement agency must pay for all costs incurred as a result of the towing if the vehicle owner does not pay within 30 days. The law enforcement agency may seek reimbursement from the owner.

If funding is not provided for the purposes of the bill, the bill becomes null and void.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 8, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Select Committee on Environmental Health)

(In support) The bill should be expanded to cleaning up contamination left by other illegal drug manufacturing. There should be a notice on the vehicle title that the property was contaminated so people that have allergies can be informed. Notice is placed on the title for homes and properties and it makes sense to also have notice for cars since they are a totally enclosed space.

(In support with concerns) Some vehicles that are seized can be decontaminated. Decontamination should be an option under the bill. Vehicle titles should have a notification option that shows whether they are or were previously contaminated. The bill should address more illegal drugs than just methamphetamine. Costs under the bill can fall back to local government and there needs to be a way to fund these costs.

(With concerns) The towing industry does not want to have to deal with contaminated vehicles. The costs for dealing with a contaminated vehicle are difficult or impossible to recover. Auto dealers can be the legal owner of a vehicle. The bill does not differentiate between a registered and legal owner and should only apply to the registered owner. Financial institutions that have a secured interest should not be held responsible for the cost of disposal of a contaminated vehicle. The definition of contamination is overly broad and makes vehicles unnecessarily subject to destruction. The local health department should certify contaminated vehicles as contaminated and unfit for use. A secured lender should be allowed to take back a contaminated vehicle under forfeiture and seizure law.

Staff Summary of Public Testimony: (Transportation)

(In support) Vehicles are found significantly contaminated and can expose children and families to harmful chemicals. Notice on a vehicle's title that the vehicle has been contaminated helps inform the public. The language in the proposed substitute bill that clarifies the role of towing companies will help to not put the liability of caring for and selling

contaminated vehicles on towing companies. Some contaminated vehicles are expensive, and it is good to have the option for vehicles to be decontaminated.

(In support with concerns) The bill would be improved by expanding it to cleaning up contamination left by other illegal drug manufacturing. Costs can be passed back to local governments under this bill.

(Opposed) Clarification should be made between legal and registered owners of vehicles. It should be clarified that auto dealers or financial institutions that have a security interest in a vehicle are not held responsible for the cost of disposal of a contaminated vehicle.

Persons Testifying: (Select Committee on Environmental Health) (In support) Representative Campbell, prime sponsor; Yoshe Revelle; and Barbara Dolan, Community Action Team.

(In support with concerns) Gary Gardner, Boeing Employees Credit Union; Scott Hazlegrove, Washington Auto Dealers Association; and Stu Halsan, Towing and Recovery Association.

(With concerns) Mark Rozzano and Lt. Mark Richardson, Snohomish Regional Drug Task Force; and Jonelle Fenton-Wallace, Snohomish Regional Drug Task Force and Local Public Health Officers Association.

Persons Testifying: (Transportation) (In support) Stu Halsan, Towing and Recovery Association.

(In support with concerns) Jonelle Fenton-Wallace, Snohomish Regional Drug Task Force and Washington State Association of Local Public Health Officials.

(Opposed) T. K. Bentler, Washington State Independent Auto Dealers; and Scott Hazlegrove, Washington State Auto Dealers Association.

Persons Signed In To Testify But Not Testifying: (Select Committee on Environmental Health) None.

Persons Signed In To Testify But Not Testifying: (Transportation) None.