

SENATE BILL REPORT

ESHB 2372

As Reported by Senate Committee On:
Transportation, February 27, 2012

Title: An act relating to tow trucks.

Brief Description: Concerning tow truck employee certification and private impound rates.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Pollet, Kenney, Reykdal, Dickerson, Jinkins, Wylie, Hasegawa, Pettigrew, Billig, Pedersen, Ryu, Fitzgibbon, Darneille, Blake, Finn, Eddy and Kagi).

Brief History: Passed House: 2/13/12, 55-43.

Committee Activity: Transportation: 2/27/12 [DPA, DNP].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Haugen, Chair; Eide, Vice Chair; King, Ranking Minority Member; Fain, Assistant Ranking Minority Member; Delvin, Ericksen, Frockt, Hill, Hobbs, Litzow, Rolfes, Sheldon, Shin and Swecker.

Minority Report: Do not pass.

Signed by Senator Ranker.

Staff: Kim Johnson (786-7472)

Background: State law regulates tow truck operators (operators) who impound vehicles from private or public property and/or tow for law enforcement agencies. Impounds, the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered operators. If on public property, the impound is at the direction of a law enforcement officer; if the vehicle is on private property, the impound is at the direction of the property owner or the owner's agent.

Operators are issued a tow truck permit by the Department of Licensing (DOL), following payment of a \$100 per company and a \$50 per truck fee, plus an inspection by the Washington State Patrol (WSP). Operators must also file a surety bond of \$5,000 with DOL and meet certain minimum insurance requirements. An operator must file a fee schedule with DOL. An operator may not charge a fee that exceeds those filed with DOL.

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.

In order for an operator to provide towing services for the WSP, an application must be approved and a letter of appointment issued by the WSP. As part of the application process, the WSP requires compliance with standards for equipment, performance, pricing, and practices. These standards are only binding on those towing operators appointed by the WSP for the purpose of performing towing services at the request of the WSP. Current rules establish requirements related to criminal background checks for owners, officers, and employees of operators. The WSP also sets maximum rates for towing services for WSP originated calls.

State law also requires the WSP to classify tow trucks in rule. The WSP has established requirements for class A, class B, class B-2, class C, class D, class E, class S, and class S-1 tow trucks. The classes are based on size, equipment, and capabilities of the tow truck.

Summary of Bill (Recommended Amendments): Legislative findings are made regarding the public knowing what the charges and fees will be for the private impound of vehicles parked on private property, and that those charges should be uniform and reasonable throughout the state.

All owners and officers of registered tow truck operator businesses and all employees who serve as tow truck drivers must meet the criminal background requirements in the same manner as those operators authorized to perform public impounds for the WSP. An operator must notify the WSP and DOL of any changes in ownership or corporate officers. In addition, the operator must notify the WSP of any employees hired as tow truck drivers within three days of hiring.

Maximum rates for private impounds performed by operators using class A, class D, or class E tow trucks are established:

- towing hourly rate may not exceed 135 percent of the rate established for class A tow trucks for WSP originated calls;
- daily storage rate may not exceed 135 percent of the rate established for WSP originated calls; and
- after-hours release fee may not exceed 100 percent of the rate established for WSP originated calls.

The maximum rate requirements apply to all operators whether or not they hold letters of appointment from the WSP to respond to WSP originated calls. These requirements do not apply to other classes of tow trucks than those specified and do not apply to law enforcement impounds or private voluntary towing. Additionally the requirements only apply if a vehicle is parked and upright, has all its wheels and tires attached, does not have a broken axle, and has not been involved in an accident at the location from which it is being impounded.

The state of Washington fully occupies and preempts the entire field of private property vehicle impound rate regulation within the boundaries of the state.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Amendments): The following maximum rates for private impounds performed by operators using class A, class D, or class E tow trucks were lowered:

- towing hourly rate may not exceed 135 percent of the rate established for class A tow trucks for WSP originated calls;
- daily storage rate may not exceed 135 percent of the rate established for WSP originated calls.

The state of Washington fully occupies and preempts the entire field of private property vehicle impound rate regulation within the boundaries of the state.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony as Heard in Committee: PRO: Towing rates being charged for a private impound are frequently over \$650 and sometimes \$1,000 to \$2,000. This is a problem all over the state. We are in a position where state law does not provide any limit on what a tow operator may charge and some have taken the position the sky is the limit. As a result the list of people charged exorbitant tow rates. We need to do something to protect the public. The towing association wants to make sure these bad actors don't dominate the industry. You can commit a crime in Washington and pay less than what it costs to redeem your car if you park in the wrong spot. We support this version of the bill, but the City of Seattle cannot support preemption language. Other cities in the country regulate the price tow companies can charge and the rate is less than what is in this bill. We believe we can set a lower rate than that set out in this bill and want to preserve our right to do so if a study of costs support a lower rate cap.

OTHER: The Towing and Recovery Association of Washington does not support the bill that passed the House floor. The bill passed out of the House Transportation Committee in good shape. It was a reasonable proposal. The key was a statewide standard in exchange for price regulation. If the statewide standard is put back into the bill we would be willing to reduce the price cap to 135 percent of the WSP rate. That would amount to a tow plus a half a day storage up to \$268. People don't like to be towed. But we provide a necessary service. The House Transportation Committee recognized that a statewide standard is critical. How will a tow operator know which municipality's rate applies as addresses are often not completely accurate. Both the DOL and WSP regulate registered tow operators. Additionally, the towers would be subject to audit by every municipality. This is already a heavily regulated industry.

The WSP has a technical concern with the language requiring the criminal background checks. The FBI is very particular about how we use criminal histories for employment purposes. We need to modify the language to give us the ability to use a fingerprint based background check.

Persons Testifying: PRO: Representative Pollet, prime sponsor; Mike OBrien, Denise Movius, City of Seattle.

OTHER: Stu Halsan, Rick Jensen, Towing and Recovery Assn.; Al Runte, Isben Towing;
Jason Berry, WSP.