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HOUSE BILL 2663

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State of Washington                      63rd Legislature                      2014 Regular Session

By Representatives Pollet, Kretz, Goodman, Rodne, Gregerson, and Freeman

Read first time 01/24/14. Referred to Committee on Transportation.

1            AN ACT Relating to regulating tow truck operators not regulated  
2 under chapter 46.55 RCW; amending RCW 46.63.020; adding a new chapter  
3 to Title 46 RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.**    APPLICABILITY. This chapter does not apply  
6 to registered tow truck operators regulated under chapter 46.55 RCW.  
7 Licensing under this chapter does not relieve the tow truck operator  
8 from the licensing requirements for other activities including, but not  
9 limited to, motor vehicle transporters under chapter 46.76 RCW, hulk  
10 haulers under chapter 46.79 RCW, and vehicle wreckers under chapter  
11 46.80 RCW, as applicable.

12            NEW SECTION.    **Sec. 2.**    DEFINITIONS.    The definitions in this  
13 section apply throughout this chapter unless the context clearly  
14 requires otherwise.

15            (1) "Tow truck" means any vehicle used in towing by a tow truck  
16 operator. "Tow truck" includes any truck or automobile when using  
17 equipment such as a trailer, dolly, tow bar, rope, chain, or cable to  
18 tow another vehicle.

1 (2) "Tow truck operator" or "operator" means a business that tows  
2 vehicles for monetary compensation.

3 (3) "Towing" or "to tow" means the moving of a vehicle owned by  
4 another person from one place to another by any means including, but  
5 not limited to, the use of a tow truck, flatbed truck, trailer, dolly,  
6 tow bar, lifts, rope, chain, or cable.

7 NEW SECTION. **Sec. 3.** LICENSING. (1) A person shall not engage in  
8 or offer to engage in the activities of a tow truck operator without a  
9 current license from the department authorizing him or her to engage in  
10 such activities.

11 (2) Any person engaging in or offering to engage in the activities  
12 of a tow truck operator without the license required under this chapter  
13 is guilty of a gross misdemeanor and is also subject to traffic  
14 infractions and civil penalties that may be imposed by the department  
15 or the state patrol under this chapter.

16 NEW SECTION. **Sec. 4.** APPLICATION--CONTENTS, BOND, INSURANCE, FEE,  
17 CERTIFICATE. (1) Application for licensing as a tow truck operator  
18 must be made on forms furnished by the department, be accompanied by an  
19 inspection certification from the Washington state patrol, be signed by  
20 the applicant or an agent, and include the following information:

21 (a) The name and address of the person, firm, partnership,  
22 association, or corporation under whose name the business is to be  
23 conducted;

24 (b) The names and addresses of all persons having an interest in  
25 the business, or if the owner is a corporation, the names and addresses  
26 of the officers of the corporation;

27 (c) The names and addresses of all employees who serve as tow truck  
28 drivers;

29 (d) Proof of minimum insurance required under subsection (3) of  
30 this section;

31 (e) The vehicle registration and vehicle identification numbers of  
32 all tow trucks of which the applicant is the registered owner;

33 (f) Any other information the department may require; and

34 (g) A certificate of approval from the Washington state patrol  
35 certifying that the applicant has an established place of business and  
36 that mail is received at the address shown on the application.

1 (2) Before issuing a license to an applicant, the department must  
2 require the applicant to file with the department a surety bond in the  
3 amount of five thousand dollars running to the state and executed by a  
4 surety company authorized to do business in this state. The bond must  
5 be approved as to form by the attorney general and conditioned that the  
6 operator conduct his or her business in conformity with this chapter,  
7 and to compensate any person, company, or the state for failure to  
8 comply with this chapter or the rules adopted under this chapter, or  
9 for fraud, negligence, or misrepresentation in the handling of these  
10 vehicles. Any person injured by the tow truck operator's failure to  
11 fully perform duties imposed under this chapter and the rules adopted  
12 under this chapter is entitled to recover actual damages, including  
13 reasonable attorneys' fees, against the surety and the tow truck  
14 operator. Successive recoveries against the bond are permitted, but  
15 the aggregate liability of the surety to all persons must not exceed  
16 the amount of the bond. As a condition of authority to do business,  
17 the operator must keep the bond in full force and effect. Failure to  
18 maintain the penalty value of the bond or cancellation of the bond by  
19 the surety automatically cancels the operator's license.

20 (3)(a) Before the department may issue a license to an applicant,  
21 the applicant must provide proof of minimum insurance requirements of:

22 (i) One hundred thousand dollars for liability for bodily injury or  
23 property damage per occurrence; and

24 (ii) Fifty thousand dollars of legal liability per occurrence, to  
25 protect against vehicle damage, including, but not limited to, fire and  
26 theft, from the time a vehicle comes into the custody of an operator  
27 until it is delivered to the owner or to another person at the owner's  
28 direction.

29 (b) Cancellation of or failure to maintain the insurance required  
30 under (a)(i) and (ii) of this subsection automatically cancels the  
31 operator's license.

32 (4) The fee for each original license and annual renewal is one  
33 hundred dollars per company, plus fifty dollars per truck. The  
34 department must forward the license fee to the state treasurer for  
35 deposit in the motor vehicle fund.

36 (5) The applicant must submit an inspection certificate from the  
37 state patrol before the department may issue or renew an operator's  
38 license.

1 (6) Upon approval of the application, the department must issue a  
2 license certificate to the tow truck operator to be displayed  
3 prominently at the operator's place of business.

4 NEW SECTION. **Sec. 5.** PERMIT REQUIRED--INSPECTIONS OF EQUIPMENT.

5 (1) A tow truck operator must apply for and keep current a tow truck  
6 permit for each tow truck of which the operator is the registered  
7 owner. Application for a tow truck permit must be accompanied by a  
8 report from the Washington state patrol covering a physical inspection  
9 of each tow truck capable of being used by the applicant.

10 (2) Upon receipt of the fee provided in section 4(4) of this act  
11 and a satisfactory inspection report from the state patrol, the  
12 department must issue each tow truck an annual tow truck permit or  
13 decal. The class of the tow truck, determined according to section 6  
14 of this act, must be stamped on the permit or decal. The permit or  
15 decal must be displayed on the passenger side of the truck's front  
16 windshield.

17 (3) A tow truck number from the department must be affixed in a  
18 permanent manner to each tow truck.

19 (4) The Washington state patrol must conduct an annual inspection  
20 of each tow truck operator's equipment and facilities during the  
21 operator's normal business hours. Unscheduled inspections may be  
22 conducted without notice at the operator's place of business by an  
23 inspector to determine the fitness of a tow truck or equipment.

24 (5) If at the time of the annual or subsequent inspections the  
25 equipment does not meet the requirements of this chapter, and the  
26 deficiency is a safety-related deficiency, or the equipment is  
27 necessary to the truck's performance, the inspector must cause the  
28 registered tow truck operator to remove that equipment from service as  
29 a tow truck until the equipment has been satisfactorily repaired. A  
30 red tag must be placed on the windshield of a tow truck taken out of  
31 service, and the tow truck must not provide tow truck service until the  
32 Washington state patrol recertifies the truck and removes the tag.

33 NEW SECTION. **Sec. 6.** CLASSIFICATION OF TRUCKS--MARKING

34 REQUIREMENTS--TIME AND PLACE OF INSPECTION--PENALTY. (1) Tow trucks  
35 must be classified by towing capabilities and must meet or exceed all  
36 equipment standards set by the state patrol for the type of tow trucks

1 to be used by an operator. A tow truck using equipment such as a  
2 dolly, trailer, or other means of transportation that is not in  
3 compliance with the equipment standards set by the state patrol is in  
4 violation of this chapter.

5 (2) All tow trucks must display the firm's name, city of address,  
6 and telephone number. This information must be painted on or  
7 permanently affixed to both sides of the vehicle in accordance with  
8 rules adopted by the department.

9 (3) Before a tow truck is put into tow truck service, or when the  
10 reinspection of a tow truck is necessary, the district commander of the  
11 state patrol must designate a location and time for the inspection to  
12 be conducted. When practicable, the inspection or reinspection must be  
13 made within three business days following the request by the operator.

14 (4) Failure to comply with any requirement of this section or rules  
15 adopted under this section is a traffic infraction.

16 NEW SECTION. **Sec. 7.** BUSINESS LOCATION--REQUIREMENTS. (1) The  
17 address that the tow truck operator lists on his or her application  
18 must be the business location of the firm where its files are kept.  
19 Each separate business location requires a separate license under this  
20 chapter.

21 (2) Each business location must have a sign displaying the firm's  
22 name that is readable from the roadway.

23 (3) At the business locations listed, the licensed operator must  
24 post in a conspicuous and accessible location:

25 (a) All pertinent licenses and permits to operate as a tow truck  
26 operator; and

27 (b) Information supplied by the department as to where complaints  
28 regarding either equipment or service are to be directed.

29 NEW SECTION. **Sec. 8.** FEES--SCHEDULES. (1) An operator must file  
30 a fee schedule with the department. All filed fees must be adequate to  
31 cover the costs of service provided. Fees may not exceed those filed  
32 with the department. At least ten days before the effective date of  
33 any change in an operator's fee schedule, the licensed tow truck  
34 operator must file the revised fee schedule with the department.

35 (2) A fee that is charged for tow truck service must be calculated

1 on an hourly basis, and after the first hour must be charged to the  
2 nearest quarter hour.

3 NEW SECTION. **Sec. 9.** AVAILABILITY OF RECORDS, EQUIPMENT, AND  
4 FACILITIES FOR AUDIT AND INSPECTION. Records, equipment, and  
5 facilities of a licensed tow truck operator must be made available  
6 during normal business hours for audit or inspection by the department,  
7 the Washington state patrol, or any law enforcement agency having  
8 jurisdiction.

9 NEW SECTION. **Sec. 10.** COMPLAINTS, WHERE FORWARDED. (1) All law  
10 enforcement agencies or local licensing agencies that receive  
11 complaints involving licensed tow truck operators must forward the  
12 complaints, along with any supporting documents including all results  
13 from local investigations, to the department.

14 (2) Complaints involving deficiencies of equipment must be  
15 forwarded by the department to the state patrol.

16 NEW SECTION. **Sec. 11.** PRESIDING OFFICER AT LICENSING HEARING.  
17 The director or the chief of the Washington state patrol may use a  
18 hearing officer or administrative law judge for presiding over a  
19 hearing regarding licensing provisions under this chapter or rules  
20 adopted under this chapter.

21 NEW SECTION. **Sec. 12.** RULES. The director, in cooperation with  
22 the chief of the Washington state patrol, must adopt rules that carry  
23 out the provisions and intent of this chapter.

24 NEW SECTION. **Sec. 13.** PENALTIES FOR CERTAIN ACTS OR OMISSIONS.  
25 A tow truck operator's license may be denied, suspended, or revoked,  
26 the licensee may be ordered to pay a monetary penalty of a civil nature  
27 not to exceed one thousand dollars per violation, or the licensee may  
28 be subjected to any combination of license and monetary penalty,  
29 whenever the director has reason to believe the licensee has committed,  
30 or is at the time committing, a violation of this chapter or rules  
31 adopted under this chapter or any other statute or rule. All orders by  
32 the director made under this chapter are subject to chapter 34.05 RCW.

1           NEW SECTION.   **Sec. 14.**   CEASE AND DESIST ORDER.   Whenever it  
2 appears to the director that any licensed tow truck operator or a  
3 person offering towing services has engaged in or is about to engage in  
4 any act or practice constituting a violation of this chapter or any  
5 rule adopted under this chapter, the director may issue an order  
6 directing the operator or person to cease and desist from continuing  
7 the act or practice. Reasonable notice of and opportunity for a  
8 hearing must be given. The director may issue a temporary order  
9 pending a hearing. The temporary order must remain in effect until ten  
10 days after the hearing is held and becomes final if the person to whom  
11 notice is addressed does not request a hearing within fifteen days  
12 after the receipt of notice.

13           NEW SECTION.   **Sec. 15.**   REFUSAL TO ISSUE LICENSE, GROUNDS FOR.   If  
14 an application for a license to conduct business as a tow truck  
15 operator is filed by any person whose license has previously been  
16 canceled for cause by the department, or if the department is of the  
17 opinion that the application is not filed in good faith or that the  
18 application is filed by some person as a subterfuge for the real person  
19 in interest whose license has previously been canceled for cause, the  
20 department, after a hearing, of which the applicant has been given  
21 twenty days' notice in writing and at which the applicant may appear in  
22 person or by counsel and present testimony, may refuse to issue the  
23 person a license to conduct business as a tow truck operator.

24           **Sec. 16.**   RCW 46.63.020 and 2013 2nd sp.s. c 23 s 21 are each  
25 amended to read as follows:

26           Failure to perform any act required or the performance of any act  
27 prohibited by this title or an equivalent administrative regulation or  
28 local law, ordinance, regulation, or resolution relating to traffic  
29 including parking, standing, stopping, and pedestrian offenses, is  
30 designated as a traffic infraction and may not be classified as a  
31 criminal offense, except for an offense contained in the following  
32 provisions of this title or a violation of an equivalent administrative  
33 regulation or local law, ordinance, regulation, or resolution:

34           (1) RCW 46.09.457(1)(b)(i) relating to a false statement regarding  
35 the inspection of and installation of equipment on wheeled all-terrain  
36 vehicles;

- 1 (2) RCW 46.09.470(2) relating to the operation of a nonhighway  
2 vehicle while under the influence of intoxicating liquor or a  
3 controlled substance;
- 4 (3) RCW 46.09.480 relating to operation of nonhighway vehicles;
- 5 (4) RCW 46.10.490(2) relating to the operation of a snowmobile  
6 while under the influence of intoxicating liquor or narcotics or habit-  
7 forming drugs or in a manner endangering the person of another;
- 8 (5) RCW 46.10.495 relating to the operation of snowmobiles;
- 9 (6) Chapter 46.12 RCW relating to certificates of title,  
10 registration certificates, and markings indicating that a vehicle has  
11 been destroyed or declared a total loss;
- 12 (7) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment of  
13 taxes and fees by failure to register a vehicle and falsifying  
14 residency when registering a motor vehicle;
- 15 (8) RCW 46.16A.520 relating to permitting unauthorized persons to  
16 drive;
- 17 (9) RCW 46.16A.320 relating to vehicle trip permits;
- 18 (10) RCW 46.19.050 relating to knowingly providing false  
19 information in conjunction with an application for a special placard or  
20 license plate for disabled persons' parking;
- 21 (11) RCW 46.20.005 relating to driving without a valid driver's  
22 license;
- 23 (12) RCW 46.20.091 relating to false statements regarding a  
24 driver's license or instruction permit;
- 25 (13) RCW 46.20.0921 relating to the unlawful possession and use of  
26 a driver's license;
- 27 (14) RCW 46.20.342 relating to driving with a suspended or revoked  
28 license or status;
- 29 (15) RCW 46.20.345 relating to the operation of a motor vehicle  
30 with a suspended or revoked license;
- 31 (16) RCW 46.20.410 relating to the violation of restrictions of an  
32 occupational driver's license, temporary restricted driver's license,  
33 or ignition interlock driver's license;
- 34 (17) RCW 46.20.740 relating to operation of a motor vehicle without  
35 an ignition interlock device in violation of a license notation that  
36 the device is required;
- 37 (18) RCW 46.20.750 relating to circumventing an ignition interlock  
38 device;



1 (19) RCW 46.25.170 relating to commercial driver's licenses;  
2 (20) Chapter 46.29 RCW relating to financial responsibility;  
3 (21) RCW 46.30.040 relating to providing false evidence of  
4 financial responsibility;  
5 (22) RCW 46.35.030 relating to recording device information;  
6 (23) RCW 46.37.435 relating to wrongful installation of  
7 sunscreening material;  
8 (24) RCW 46.37.650 relating to the sale, resale, distribution, or  
9 installation of a previously deployed air bag;  
10 (25) RCW 46.37.671 through 46.37.675 relating to signal preemption  
11 devices;  
12 (26) RCW 46.37.685 relating to switching or flipping license  
13 plates, utilizing technology to flip or change the appearance of a  
14 license plate, selling a license plate flipping device or technology  
15 used to change the appearance of a license plate, or falsifying a  
16 vehicle registration;  
17 (27) RCW 46.44.180 relating to operation of mobile home pilot  
18 vehicles;  
19 (28) RCW 46.48.175 relating to the transportation of dangerous  
20 articles;  
21 (29) RCW 46.52.010 relating to duty on striking an unattended car  
22 or other property;  
23 (30) RCW 46.52.020 relating to duty in case of injury to or death  
24 of a person or damage to an attended vehicle;  
25 (31) RCW 46.52.090 relating to reports by repairers, storage  
26 persons, and appraisers;  
27 (32) RCW 46.52.130 relating to confidentiality of the driving  
28 record to be furnished to an insurance company, an employer, and an  
29 alcohol/drug assessment or treatment agency;  
30 (33) RCW 46.55.020 relating to engaging in the activities of a  
31 registered tow truck operator without a registration certificate;  
32 (34) RCW 46.55.035 relating to prohibited practices by tow truck  
33 operators;  
34 (35) RCW 46.55.300 relating to vehicle immobilization;  
35 (36) Section 3(2) of this act relating to engaging in tow truck  
36 operator activities without a license;  
37 (37) RCW 46.61.015 relating to obedience to police officers,  
38 flaggers, or firefighters;

1        ~~((37))~~ (38) RCW 46.61.020 relating to refusal to give information  
2 to or cooperate with an officer;  
3        ~~((38))~~ (39) RCW 46.61.022 relating to failure to stop and give  
4 identification to an officer;  
5        ~~((39))~~ (40) RCW 46.61.024 relating to attempting to elude  
6 pursuing police vehicles;  
7        ~~((40))~~ (41) RCW 46.61.212(4) relating to reckless endangerment of  
8 emergency zone workers;  
9        ~~((41))~~ (42) RCW 46.61.500 relating to reckless driving;  
10       ~~((42))~~ (43) RCW 46.61.502 and 46.61.504 relating to persons under  
11 the influence of intoxicating liquor or drugs;  
12       ~~((43))~~ (44) RCW 46.61.503 relating to a person under age twenty-  
13 one driving a motor vehicle after consuming alcohol;  
14       ~~((44))~~ (45) RCW 46.61.520 relating to vehicular homicide by motor  
15 vehicle;  
16       ~~((45))~~ (46) RCW 46.61.522 relating to vehicular assault;  
17       ~~((46))~~ (47) RCW 46.61.5249 relating to first degree negligent  
18 driving;  
19       ~~((47))~~ (48) RCW 46.61.527(4) relating to reckless endangerment of  
20 roadway workers;  
21       ~~((48))~~ (49) RCW 46.61.530 relating to racing of vehicles on  
22 highways;  
23       ~~((49))~~ (50) RCW 46.61.655(7) (a) and (b) relating to failure to  
24 secure a load;  
25       ~~((50))~~ (51) RCW 46.61.685 relating to leaving children in an  
26 unattended vehicle with the motor running;  
27       ~~((51))~~ (52) RCW 46.61.740 relating to theft of motor vehicle  
28 fuel;  
29       ~~((52))~~ (53) RCW 46.64.010 relating to unlawful cancellation of or  
30 attempt to cancel a traffic citation;  
31       ~~((53))~~ (54) RCW 46.64.048 relating to attempting, aiding,  
32 abetting, coercing, and committing crimes;  
33       ~~((54))~~ (55) Chapter 46.65 RCW relating to habitual traffic  
34 offenders;  
35       ~~((55))~~ (56) RCW 46.68.010 relating to false statements made to  
36 obtain a refund;  
37       ~~((56))~~ (57) Chapter 46.70 RCW relating to unfair motor vehicle

1 business practices, except where that chapter provides for the  
2 assessment of monetary penalties of a civil nature;  
3 ~~((+57+))~~ (58) Chapter 46.72 RCW relating to the transportation of  
4 passengers in for hire vehicles;  
5 ~~((+58+))~~ (59) RCW 46.72A.060 relating to limousine carrier  
6 insurance;  
7 ~~((+59+))~~ (60) RCW 46.72A.070 relating to operation of a limousine  
8 without a vehicle certificate;  
9 ~~((+60+))~~ (61) RCW 46.72A.080 relating to false advertising by a  
10 limousine carrier;  
11 ~~((+61+))~~ (62) Chapter 46.80 RCW relating to motor vehicle wreckers;  
12 ~~((+62+))~~ (63) Chapter 46.82 RCW relating to driver's training  
13 schools;  
14 ~~((+63+))~~ (64) RCW 46.87.260 relating to alteration or forgery of a  
15 cab card, letter of authority, or other temporary authority issued  
16 under chapter 46.87 RCW;  
17 ~~((+64+))~~ (65) RCW 46.87.290 relating to operation of an  
18 unregistered or unlicensed vehicle under chapter 46.87 RCW.

19 NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act  
20 constitute a new chapter in Title 46 RCW.

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