
ENGROSSED SENATE BILL 5121

State of Washington

63rd Legislature

2013 Regular Session

By Senators Carrell, Benton, Becker, Bailey, Litzow, Roach, and Honeyford

Read first time 01/18/13. Referred to Committee on Governmental Operations.

1 AN ACT Relating to restoration of collector vehicles; amending RCW
2 46.55.010; and reenacting and amending RCW 46.55.240.

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

4 **Sec. 1.** RCW 46.55.010 and 2005 c 88 s 2 are each amended to read
5 as follows:

6 The definitions (~~(set forth)~~) in this section apply throughout this
7 chapter unless the context clearly requires otherwise:

8 (1) "Abandoned vehicle" means a vehicle that a registered tow truck
9 operator has impounded and held in the operator's possession for one
10 hundred twenty consecutive hours.

11 (2) "Immobilize" means the use of a locking wheel boot that, when
12 attached to the wheel of a vehicle, prevents the vehicle from moving
13 without damage to the tire to which the locking wheel boot is attached.

14 (3) "Abandoned vehicle report" means the document prescribed by the
15 state that the towing operator forwards to the department after a
16 vehicle has become abandoned.

17 (4) "Impound" means to take and hold a vehicle in legal custody.
18 There are two types of impounds--public and private.

- 1 (a) "Public impound" means that the vehicle has been impounded at
2 the direction of a law enforcement officer or by a public official
3 having jurisdiction over the public property upon which the vehicle was
4 located.
- 5 (b) "Private impound" means that the vehicle has been impounded at
6 the direction of a person having control or possession of the private
7 property upon which the vehicle was located.
- 8 (5) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as
9 meeting at least three of the following requirements:
- 10 (a) Is three years old or older;
- 11 (b) Is extensively damaged, such damage including but not limited
12 to any of the following: A broken window or windshield, or missing
13 wheels, tires, motor, or transmission;
- 14 (c) Is apparently inoperable;
- 15 (d) Has an approximate fair market value equal only to the
16 approximate value of the scrap in it.
- 17 (6) "Master log" means the document or an electronic facsimile
18 prescribed by the department and the Washington state patrol in which
19 an operator records transactions involving impounded vehicles.
- 20 (7) "Registered tow truck operator" or "operator" means any person
21 who engages in the impounding, transporting, or storage of unauthorized
22 vehicles or the disposal of abandoned vehicles.
- 23 (8) "Residential property" means property that has no more than
24 four living units located on it.
- 25 (9) "Suspended license impound" means an impound ordered under RCW
26 46.55.113 because the operator was arrested for a violation of RCW
27 46.20.342 or 46.20.345.
- 28 (10) "Tow truck" means a motor vehicle that is equipped for and
29 used in the business of towing vehicles with equipment as approved by
30 the state patrol.
- 31 (11) "Tow truck number" means the number issued by the department
32 to tow trucks used by a registered tow truck operator in the state of
33 Washington.
- 34 (12) "Tow truck permit" means the permit issued annually by the
35 department that has the classification of service the tow truck may
36 provide stamped upon it.
- 37 (13) "Tow truck service" means the transporting upon the public

1 streets and highways of this state of vehicles, together with personal
2 effects and cargo, by a tow truck of a registered operator.

3 (14) "Unauthorized vehicle" means a vehicle that is subject to
4 impoundment after being left unattended in one of the following public
5 or private locations for the indicated period of time:

6 Subject to removal after:

- 7 (a) Public locations:
 - 8 (i) Constituting an accident or a traffic hazard as
9 defined in RCW 46.55.113 Immediately
 - 10 (ii) On a highway and tagged as described in RCW
11 46.55.085 24 hours
 - 12 (iii) In a publicly owned or controlled parking
13 facility, properly posted under RCW
14 46.55.070 Immediately
- 15 (b) Private locations:
 - 16 (i) On residential property Immediately
 - 17 (ii) On private, nonresidential property,
18 properly posted under RCW
19 46.55.070 Immediately
 - 20 (iii) On private, nonresidential property,
21 not posted 24 hours

22 (15) "Collector vehicle" has the same meaning as provided in RCW
23 46.04.126.

24 **Sec. 2.** RCW 46.55.240 and 2010 c 161 s 1122 and 2010 c 8 s 9064
25 are each reenacted and amended to read as follows:

26 (1) A city, town, or county that adopts an ordinance or resolution
27 concerning unauthorized, abandoned, or impounded vehicles shall include
28 the applicable provisions of this chapter.

29 (a) A city, town, or county may, by ordinance, authorize other
30 impound situations that may arise locally upon the public right-of-way
31 or other publicly owned or controlled property.

32 (b) A city, town, or county ordinance shall contain language that
33 establishes a written form of authorization to impound, which may
34 include a law enforcement notice of infraction or citation, clearly
35 denoting the agency's authorization to impound.

1 (c) A city, town, or county may, by ordinance, provide for release
2 of an impounded vehicle by means of a promissory note in lieu of
3 immediate payment, if at the time of redemption the legal or registered
4 owner requests a hearing on the validity of the impoundment. If the
5 municipal ordinance directs the release of an impounded vehicle before
6 the payment of the impoundment charges, the municipality is responsible
7 for the payment of those charges to the registered tow truck operator
8 within thirty days of the hearing date.

9 (d) The hearing specified in RCW 46.55.120(2) and in this section
10 may be conducted by an administrative hearings officer instead of in
11 the district court. A decision made by an administrative hearing
12 officer may be appealed to the district court for final judgment.

13 (2)(a) A city, town, or county may adopt an ordinance, consistent
14 with this subsection (2), establishing procedures for the abatement and
15 removal as public nuisances of junk vehicles or parts thereof from
16 private property. Costs of removal may be assessed against the
17 registered owner of the vehicle if the identity of the owner can be
18 determined, unless the owner in the transfer of ownership of the
19 vehicle has complied with RCW 46.12.650, or the costs may be assessed
20 against the owner of the property on which the vehicle is stored. A
21 city, town, or county may also provide for the payment to the tow truck
22 operator or wrecker as a part of a neighborhood revitalization program.

23 (b) Prior to removing a junk vehicle, a city, town, or county must
24 provide the property owner at least thirty days to produce evidence
25 establishing that the vehicle:

26 (i) Is one of three or fewer collector vehicles that are being
27 actively restored or are being used to supply parts for a collector
28 vehicle that is being actively restored; and

29 (ii) Is not visible from the street or other public or private
30 property.

31 (c) If the property owner establishes the elements in (b) of this
32 subsection by a preponderance of the evidence, the vehicle may not be
33 removed as a junk vehicle under this section. To establish the
34 elements in (b) of this subsection, the property owner may, without
35 limitation, present:

36 (i) Evidence of active, recent restoration work on the vehicle,
37 including receipts or other pertinent evidence;

1 (ii) Evidence that the property owner has a valid current
2 registration or certificate of title for the vehicle; or

3 (iii) Evidence that the vehicle has a collector vehicle license
4 plate under RCW 46.18.220 or a horseless carriage license plate under
5 RCW 46.18.255.

6 (d) This subsection (2) does not prohibit a city, town, or county
7 from enacting, enforcing, or maintaining an ordinance, development
8 regulation, zoning regulation, or official control, policy, or
9 administrative practice to otherwise regulate restoration of collector
10 vehicles.

11 (3) Ordinances pertaining to public nuisances shall contain:

12 (a) A provision requiring notice to the last registered owner of
13 record and the property owner of record that a hearing may be requested
14 and that if no hearing is requested, the vehicle will be removed;

15 (b) A provision requiring that if a request for a hearing is
16 received, a notice giving the time, location, and date of the hearing
17 on the question of abatement and removal of the vehicle or part thereof
18 as a public nuisance shall be mailed, by certified mail, with a five-
19 day return receipt requested, to the owner of the land as shown on the
20 last equalized assessment roll and to the last registered and legal
21 owner of record unless the vehicle is in such condition that
22 identification numbers are not available to determine ownership;

23 (c) A provision that the ordinance shall not apply to:

24 (i) A vehicle or part thereof that is completely enclosed within a
25 building in a lawful manner where it is not visible from the street or
26 other public or private property (~~(or)~~);

27 (ii) A collector vehicle that is one of three or fewer collector
28 vehicles that are being actively restored or are being used to supply
29 parts for a collector vehicle that is being actively restored, and is
30 not visible from the street or other public or private property; or

31 (iii) A vehicle or part thereof that is stored or parked in a
32 lawful manner on private property in connection with the business of a
33 licensed dismantler or licensed vehicle dealer and is fenced according
34 to RCW 46.80.130;

35 (d) A provision that the owner of the land on which the vehicle is
36 located may appear in person at the hearing or present a written
37 statement in time for consideration at the hearing, and (i) deny
38 responsibility for the presence of the vehicle on the land, with his or

1 her reasons for the denial(~~(-)~~), or (ii) provide evidence that the
2 vehicle is a collector vehicle that is one of three or fewer collector
3 vehicles that are being actively restored or are being used to supply
4 parts for a collector vehicle that is being actively restored, and is
5 not visible from the street or other public or private property;

6 (e) A provision that if it is determined at the hearing under (d)
7 of this subsection that the vehicle was placed on the land without the
8 consent of the landowner and that he or she has not subsequently
9 acquiesced in its presence, then the local agency shall not assess
10 costs of administration or removal of the vehicle against the property
11 upon which the vehicle is located or otherwise attempt to collect the
12 cost from the owner;

13 ~~((e))~~ (f) A provision that after notice has been given of the
14 intent of the city, town, or county to dispose of the vehicle and after
15 a hearing, if requested, has been held, the vehicle or part thereof
16 shall be removed at the request of a law enforcement officer with
17 notice to the Washington state patrol and the department of licensing
18 that the vehicle has been wrecked. The city, town, or county may
19 operate such a disposal site when its governing body determines that
20 commercial channels of disposition are not available or are inadequate,
21 and it may make final disposition of such vehicles or parts, or may
22 transfer such vehicle or parts to another governmental body provided
23 such disposal shall be only as scrap.

24 (4) A registered disposer under contract to a city or county for
25 the impounding of vehicles shall comply with any administrative
26 regulations adopted by the city or county on the handling and disposing
27 of vehicles.

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