
HOUSE BILL 1869

State of Washington 64th Legislature 2015 Regular Session

By Representatives Pollet, Harris, Hayes, and Moscoso

Read first time 01/30/15. Referred to Committee on Transportation.

1 AN ACT Relating to nonimpound tow truck operator licensing;
2 amending RCW 18.235.020, 46.63.020, and 46.76.020; adding a new
3 chapter to Title 46 RCW; repealing RCW 46.55.025; prescribing
4 penalties; and providing an effective date.

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

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

9 (1) "Daily operations" means any activity commonly associated
10 with the routine operation of a tow truck business including, but not
11 limited to, communicating with customers and dispatching tow trucks.

12 (2) "Nonimpound tow truck operator" or "operator" means any
13 person or firm engaging in the business of towing disabled vehicles
14 for direct or indirect monetary compensation on a public highway and
15 not registered under chapter 46.55 RCW.

16 (3) "Tow truck" means a motor vehicle that is equipped for and
17 used in the business of towing vehicles with equipment that meets
18 standards established by the state patrol.

19 (4) "Tow truck number" means the number issued by the department
20 to tow trucks used by a nonimpound tow truck operator in the state of
21 Washington.

1 (5) "Tow truck permit" means the permit issued annually by the
2 department that has the classification of service the tow truck may
3 provide placed upon it.

4 (6) "Tow truck service" or "service" means the transporting upon
5 the public streets and highways of this state of a disabled vehicle,
6 together with any personal effects and cargo, by a tow truck of a
7 nonimpound tow truck operator.

8 NEW SECTION. **Sec. 2.** (1) A person may not engage in or offer to
9 engage in the activities of a nonimpound tow truck operator without a
10 current license from the department authorizing the person to engage
11 in such activities.

12 (2) Any person engaging in or offering to engage in the
13 activities of a nonimpound tow truck operator without the license
14 required under this chapter is guilty of a gross misdemeanor and is
15 subject to disciplinary action that may be imposed by the department
16 under this chapter.

17 (3) Except as otherwise provided under this chapter, a nonimpound
18 tow truck operator who engages in any act or practice that is
19 prohibited under this chapter may be: (a) Prosecuted for a traffic
20 infraction under chapter 46.63 RCW, or (b) subject to the civil
21 penalties or disciplinary actions that may be imposed by the
22 department under this chapter.

23 (4) A person found to have committed a traffic infraction under
24 this chapter is subject to a monetary penalty of at least two hundred
25 fifty dollars.

26 (5) Chapter 18.235 RCW governs unlicensed practice as a
27 nonimpound tow truck operator, the issuance and denial of licenses
28 and permits, and the discipline of nonimpound tow truck operators and
29 persons required to be licensed as a nonimpound tow truck operator
30 under this chapter.

31 (6) A nonimpound tow truck operator licensed under this chapter
32 must not be registered under chapter 46.55 RCW.

33 NEW SECTION. **Sec. 3.** (1) Application for licensing as a
34 nonimpound tow truck operator must be made on a form for this
35 purpose, furnished by the department, and signed by the applicant or
36 his or her authorized agent and include the following information:

1 (a) Name and address of the person, firm, partnership,
2 association, or corporation under which name the business is to be
3 conducted;

4 (b) Names and residence addresses of all persons having an
5 interest in the business, or if the owner is a corporation, the names
6 and addresses of the officers of the corporation;

7 (c) Names and addresses of all employees who serve as tow truck
8 drivers for tow truck service;

9 (d) The vehicle registration and vehicle identification numbers
10 of all tow trucks used by the nonimpound tow truck operator; and

11 (e) Any other information the department may require to ensure
12 compliance with this chapter.

13 (2) Before the department may issue an initial or renewal license
14 to an applicant, the applicant must provide proof of inspection under
15 section 7 of this act.

16 (3)(a) Before the department may issue an initial or renewal
17 license to an applicant, the applicant must provide proof of minimum
18 insurance requirements of:

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

21 (ii) Fifty thousand dollars of legal liability per occurrence, to
22 protect against vehicle damage including, but not limited to, fire
23 and theft during tow truck service.

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

27 (4) The fee for each original license and annual renewal is one
28 hundred dollars per operator. The department must forward the license
29 fee to the state treasurer for deposit into the motor vehicle fund.

30 (5) Before the department may issue a license to an applicant,
31 background checks under section 6 of this act must be completed.

32 (6) Upon approval of the application, the department must issue a
33 license to the nonimpound tow truck operator to be displayed
34 prominently at the operator's place of business and as otherwise
35 required by the department.

36 NEW SECTION. **Sec. 4.** (1) A nonimpound tow truck operator must
37 apply for and keep current a tow truck permit for each tow truck of
38 which the operator is the registered owner.

1 (2) Upon completion of a form furnished by the department for
2 this purpose, receipt of the fee provided in this section, and
3 submission of a satisfactory inspection report from a qualified
4 mechanic conducted under section 7 of this act, the department must
5 issue each tow truck a tow truck permit, a corresponding decal, and a
6 unique tow truck number. The class of the tow truck, determined
7 according to standards adopted under section 7 of this act, and the
8 expiration date must be included on the permit and decal.

9 (3) The fee for each original tow truck permit and annual renewal
10 is fifty dollars. The department must forward the fee to the state
11 treasurer for deposit into the motor vehicle fund.

12 NEW SECTION. **Sec. 5.** If an application for a nonimpound tow
13 truck operator license is filed by any person whose license has
14 previously been canceled for cause by the department, or if the
15 department is of the opinion that the application is not filed in
16 good faith or that the application is filed by some person as a
17 subterfuge for the real person in interest whose license has
18 previously been canceled for cause, the department, after a hearing
19 as provided for under RCW 18.235.050, may refuse to issue a
20 nonimpound tow truck operator license.

21 NEW SECTION. **Sec. 6.** (1) All nonimpound tow truck operator
22 applicants, owners, partners, and corporate officers involved in
23 daily operations must be screened through state and federal
24 background checks. The investigation must consist of a background
25 check as allowed through the Washington state criminal records
26 privacy act under RCW 10.97.050, the Washington state patrol criminal
27 identification system under RCW 43.43.832 through 43.43.834, and the
28 federal bureau of investigation. The background checks must be done
29 through the Washington state patrol criminal identification section
30 and may include a national check from the federal bureau of
31 investigation, which must be through the submission of fingerprints.
32 Periodic records checks must be conducted pursuant to RCW 43.43.700.
33 The department may not share background check information with any
34 other governmental entity or business and is responsible for making
35 suitability determinations. The department may pass on the cost of
36 these criminal background checks and any subsequent checks to the tow
37 truck operators and applicants.

1 (2) The department may not issue and may revoke a nonimpound tow
2 truck operator license if an applicant, owner, partner, or corporate
3 officer involved in daily operations:

4 (a) Has been convicted of any of the following:

5 (i) Any class A felony or any sex offense as defined in RCW
6 9.94A.030, regardless of the date of conviction;

7 (ii) Any class B felony within the last ten years;

8 (iii) Any class C felony within the last five years;

9 (iv) A drug or alcohol-related traffic violation two or more
10 times within the last five years; or

11 (v) Any gross misdemeanor within the last three years.

12 (b) Must register as a sex offender or kidnapping offender; or

13 (c) Has been granted deferred prosecution under chapter 10.05 RCW
14 for any gross misdemeanor within the last three years.

15 (3) The department must establish procedures by which nonimpound
16 tow truck operators notify the department of new owners, partners, or
17 corporate officers, and carry out background checks under this
18 section.

19 (4) Nonimpound tow truck operators must conduct preemployment
20 national criminal history background checks in a manner established
21 by the department for all prospective employees that operate a tow
22 truck for tow truck service. The department may revoke a nonimpound
23 tow truck operator license for failing to:

24 (a) Conduct required criminal history background checks under
25 this section;

26 (b) Consider the criminal history of a prospective employee as it
27 relates to public safety in its hiring decisions; or

28 (c) Comply with the requirements of the fair credit reporting act
29 under 15 U.S.C. Sec. 1681 et seq. for any criminal history background
30 check conducted under this subsection.

31 NEW SECTION. **Sec. 7.** (1) Tow trucks used by nonimpound tow
32 truck operators must be classified by towing capabilities and meet or
33 exceed all equipment standards set by the state patrol for the type
34 of tow trucks to be used by an operator.

35 (2) All tow trucks used by nonimpound tow truck operators must
36 display the firm's name, city of address, telephone number, and tow
37 truck number issued by the department. This information must be
38 painted on or permanently affixed to both sides of the vehicle in
39 accordance with rules adopted by the department.

1 (3) A valid, unexpired tow truck permit and decal issued by the
2 department under section 4 of this act must be displayed in
3 accordance with rules adopted by the department.

4 (4) A tow truck used by a nonimpound tow truck operator must be
5 inspected by a qualified mechanic in a manner established by the
6 department before it is put into service and annually thereafter.

7 (5) A tow truck that fails to meet the minimum standards
8 established under subsection (1) of this section must not be used to
9 provide tow truck service.

10 (6) The department may cancel, suspend, or revoke a tow truck
11 permit issued under section 4 of this act for failure to comply with
12 any requirement of this section or rules adopted under it.

13 NEW SECTION. **Sec. 8.** (1) A nonimpound tow truck operator must
14 prepare an itemized billing invoice or receipt for tow truck service
15 that includes a list of all costs, including state and local taxes,
16 and the firm name, address, and telephone number.

17 (2) The nonimpound tow truck operator must provide a copy of this
18 itemized billing invoice or receipt to the customer.

19 NEW SECTION. **Sec. 9.** (1) A nonimpound tow truck operator must
20 retain the following records:

21 (a) Tow truck inspection and maintenance records for at least
22 three years;

23 (b) Itemized invoices or receipts for tow services for at least
24 three years;

25 (c) Prospective employee criminal history background check
26 records for at least three years; and

27 (d) Other records required by the department to ensure compliance
28 with this chapter.

29 (2) This section does not supersede other recordkeeping required
30 by law.

31 NEW SECTION. **Sec. 10.** Records, equipment, and facilities of a
32 nonimpound tow truck operator must be made available for audit or
33 inspection in a manner established by the department.

34 NEW SECTION. **Sec. 11.** The department, in cooperation with the
35 state patrol, may adopt rules to carry out the provisions and intent
36 of this chapter.

1 **Sec. 12.** RCW 18.235.020 and 2013 c 322 s 29 are each amended to
2 read as follows:

3 (1) This chapter applies only to the director and the boards and
4 commissions having jurisdiction in relation to the businesses and
5 professions licensed under the chapters specified in this section.
6 This chapter does not apply to any business or profession not
7 licensed under the chapters specified in this section.

8 (2)(a) The director has authority under this chapter in relation
9 to the following businesses and professions:

10 (i) Auctioneers under chapter 18.11 RCW;

11 (ii) Bail bond agents and bail bond recovery agents under chapter
12 18.185 RCW;

13 (iii) Camping resorts' operators and salespersons under chapter
14 19.105 RCW;

15 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

16 (v) Cosmetologists, barbers, manicurists, and estheticians under
17 chapter 18.16 RCW;

18 (vi) Court reporters under chapter 18.145 RCW;

19 (vii) Driver training schools and instructors under chapter 46.82
20 RCW;

21 (viii) Employment agencies under chapter 19.31 RCW;

22 (ix) For hire vehicle operators under chapter 46.72 RCW;

23 (x) Limousines under chapter 46.72A RCW;

24 (xi) Notaries public under chapter 42.44 RCW;

25 (xii) Private investigators under chapter 18.165 RCW;

26 (xiii) Professional boxing, martial arts, and wrestling under
27 chapter 67.08 RCW;

28 (xiv) Real estate appraisers under chapter 18.140 RCW;

29 (xv) Real estate brokers and salespersons under chapters 18.85
30 and 18.86 RCW;

31 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
32 metal suppliers under chapter 19.290 RCW;

33 (xvii) Security guards under chapter 18.170 RCW;

34 (xviii) Sellers of travel under chapter 19.138 RCW;

35 (xix) Timeshares and timeshare salespersons under chapter 64.36
36 RCW;

37 (xx) Whitewater river outfitters under chapter 79A.60 RCW;

38 (xxi) Home inspectors under chapter 18.280 RCW;

1 (xxii) Body artists, body piercers, and tattoo artists, and body
2 art, body piercing, and tattooing shops and businesses, under chapter
3 18.300 RCW; (~~and~~)

4 (xxiii) Appraisal management companies under chapter 18.310 RCW;
5 and

6 (xxiv) Nonimpound tow truck operators under chapter 46.-- RCW
7 (the new chapter created in section 17 of this act).

8 (b) The boards and commissions having authority under this
9 chapter are as follows:

10 (i) The state board for architects established in chapter 18.08
11 RCW;

12 (ii) The Washington state collection agency board established in
13 chapter 19.16 RCW;

14 (iii) The state board of registration for professional engineers
15 and land surveyors established in chapter 18.43 RCW governing
16 licenses issued under chapters 18.43 and 18.210 RCW;

17 (iv) The funeral and cemetery board established in chapter 18.39
18 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

19 (v) The state board of licensure for landscape architects
20 established in chapter 18.96 RCW; and

21 (vi) The state geologist licensing board established in chapter
22 18.220 RCW.

23 (3) In addition to the authority to discipline license holders,
24 the disciplinary authority may grant or deny licenses based on the
25 conditions and criteria established in this chapter and the chapters
26 specified in subsection (2) of this section. This chapter also
27 governs any investigation, hearing, or proceeding relating to denial
28 of licensure or issuance of a license conditioned on the applicant's
29 compliance with an order entered under RCW 18.235.110 by the
30 disciplinary authority.

31 **Sec. 13.** RCW 46.63.020 and 2014 c 124 s 9 are each amended to
32 read as follows:

33 Failure to perform any act required or the performance of any act
34 prohibited by this title or an equivalent administrative regulation
35 or local law, ordinance, regulation, or resolution relating to
36 traffic including parking, standing, stopping, and pedestrian
37 offenses, is designated as a traffic infraction and may not be
38 classified as a criminal offense, except for an offense contained in
39 the following provisions of this title or a violation of an

1 equivalent administrative regulation or local law, ordinance,
2 regulation, or resolution:

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

6 (2) RCW 46.09.470(2) relating to the operation of a nonhighway
7 vehicle while under the influence of intoxicating liquor or a
8 controlled substance;

9 (3) RCW 46.09.480 relating to operation of nonhighway vehicles;

10 (4) RCW 46.10.490(2) relating to the operation of a snowmobile
11 while under the influence of intoxicating liquor or narcotics or
12 habit-forming drugs or in a manner endangering the person of another;

13 (5) RCW 46.10.495 relating to the operation of snowmobiles;

14 (6) Chapter 46.12 RCW relating to certificates of title,
15 registration certificates, and markings indicating that a vehicle has
16 been destroyed or declared a total loss;

17 (7) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment
18 of taxes and fees by failure to register a vehicle and falsifying
19 residency when registering a motor vehicle;

20 (8) RCW 46.16A.520 relating to permitting unauthorized persons to
21 drive;

22 (9) RCW 46.16A.320 relating to vehicle trip permits;

23 (10) RCW 46.19.050(1) relating to knowingly providing false
24 information in conjunction with an application for a special placard
25 or license plate for disabled persons' parking;

26 (11) RCW 46.19.050(8) relating to illegally obtaining a parking
27 placard, special license plate, special year tab, or identification
28 card;

29 (12) RCW 46.19.050(9) relating to sale of a parking placard,
30 special license plate, special year tab, or identification card;

31 (13) RCW 46.20.005 relating to driving without a valid driver's
32 license;

33 (14) RCW 46.20.091 relating to false statements regarding a
34 driver's license or instruction permit;

35 (15) RCW 46.20.0921 relating to the unlawful possession and use
36 of a driver's license;

37 (16) RCW 46.20.342 relating to driving with a suspended or
38 revoked license or status;

39 (17) RCW 46.20.345 relating to the operation of a motor vehicle
40 with a suspended or revoked license;

1 (18) RCW 46.20.410 relating to the violation of restrictions of
2 an occupational driver's license, temporary restricted driver's
3 license, or ignition interlock driver's license;
4 (19) RCW 46.20.740 relating to operation of a motor vehicle
5 without an ignition interlock device in violation of a license
6 notation that the device is required;
7 (20) RCW 46.20.750 relating to circumventing an ignition
8 interlock device;
9 (21) RCW 46.25.170 relating to commercial driver's licenses;
10 (22) Chapter 46.29 RCW relating to financial responsibility;
11 (23) RCW 46.30.040 relating to providing false evidence of
12 financial responsibility;
13 (24) RCW 46.35.030 relating to recording device information;
14 (25) RCW 46.37.435 relating to wrongful installation of
15 sunscreening material;
16 (26) RCW 46.37.650 relating to the sale, resale, distribution, or
17 installation of a previously deployed air bag;
18 (27) RCW 46.37.671 through 46.37.675 relating to signal
19 preemption devices;
20 (28) RCW 46.37.685 relating to switching or flipping license
21 plates, utilizing technology to flip or change the appearance of a
22 license plate, selling a license plate flipping device or technology
23 used to change the appearance of a license plate, or falsifying a
24 vehicle registration;
25 (29) RCW 46.44.180 relating to operation of mobile home pilot
26 vehicles;
27 (30) RCW 46.48.175 relating to the transportation of dangerous
28 articles;
29 (31) RCW 46.52.010 relating to duty on striking an unattended car
30 or other property;
31 (32) RCW 46.52.020 relating to duty in case of injury to or death
32 of a person or damage to an attended vehicle;
33 (33) RCW 46.52.090 relating to reports by repairers, storage
34 persons, and appraisers;
35 (34) RCW 46.52.130 relating to confidentiality of the driving
36 record to be furnished to an insurance company, an employer, and an
37 alcohol/drug assessment or treatment agency;
38 (35) RCW 46.55.020 relating to engaging in the activities of a
39 registered tow truck operator without a registration certificate;

1 (36) RCW 46.55.035 relating to prohibited practices by registered
2 tow truck operators;
3 (37) RCW 46.55.300 relating to vehicle immobilization;
4 (38) Section 2 of this act relating to engaging in the activities
5 of a nonimpound tow truck operator without a license;
6 (39) RCW 46.61.015 relating to obedience to police officers,
7 flaggers, or firefighters;
8 ((+39+)) (40) RCW 46.61.020 relating to refusal to give
9 information to or cooperate with an officer;
10 ((+40+)) (41) RCW 46.61.022 relating to failure to stop and give
11 identification to an officer;
12 ((+41+)) (42) RCW 46.61.024 relating to attempting to elude
13 pursuing police vehicles;
14 ((+42+)) (43) RCW 46.61.212(4) relating to reckless endangerment
15 of emergency zone workers;
16 ((+43+)) (44) RCW 46.61.500 relating to reckless driving;
17 ((+44+)) (45) RCW 46.61.502 and 46.61.504 relating to persons
18 under the influence of intoxicating liquor or drugs;
19 ((+45+)) (46) RCW 46.61.503 relating to a person under age
20 twenty-one driving a motor vehicle after consuming alcohol;
21 ((+46+)) (47) RCW 46.61.520 relating to vehicular homicide by
22 motor vehicle;
23 ((+47+)) (48) RCW 46.61.522 relating to vehicular assault;
24 ((+48+)) (49) RCW 46.61.5249 relating to first degree negligent
25 driving;
26 ((+49+)) (50) RCW 46.61.527(4) relating to reckless endangerment
27 of roadway workers;
28 ((+50+)) (51) RCW 46.61.530 relating to racing of vehicles on
29 highways;
30 ((+51+)) (52) RCW 46.61.655(7) (a) and (b) relating to failure to
31 secure a load;
32 ((+52+)) (53) RCW 46.61.685 relating to leaving children in an
33 unattended vehicle with the motor running;
34 ((+53+)) (54) RCW 46.61.740 relating to theft of motor vehicle
35 fuel;
36 ((+54+)) (55) RCW 46.64.010 relating to unlawful cancellation of
37 or attempt to cancel a traffic citation;
38 ((+55+)) (56) RCW 46.64.048 relating to attempting, aiding,
39 abetting, coercing, and committing crimes;

1 ~~((56))~~ (57) Chapter 46.65 RCW relating to habitual traffic
2 offenders;
3 ~~((57))~~ (58) RCW 46.68.010 relating to false statements made to
4 obtain a refund;
5 ~~((58))~~ (59) Chapter 46.70 RCW relating to unfair motor vehicle
6 business practices, except where that chapter provides for the
7 assessment of monetary penalties of a civil nature;
8 ~~((59))~~ (60) Chapter 46.72 RCW relating to the transportation of
9 passengers in for hire vehicles;
10 ~~((60))~~ (61) RCW 46.72A.060 relating to limousine carrier
11 insurance;
12 ~~((61))~~ (62) RCW 46.72A.070 relating to operation of a limousine
13 without a vehicle certificate;
14 ~~((62))~~ (63) RCW 46.72A.080 relating to false advertising by a
15 limousine carrier;
16 ~~((63))~~ (64) Chapter 46.80 RCW relating to motor vehicle
17 wreckers;
18 ~~((64))~~ (65) Chapter 46.82 RCW relating to driver's training
19 schools;
20 ~~((65))~~ (66) RCW 46.87.260 relating to alteration or forgery of
21 a cab card, letter of authority, or other temporary authority issued
22 under chapter 46.87 RCW;
23 ~~((66))~~ (67) RCW 46.87.290 relating to operation of an
24 unregistered or unlicensed vehicle under chapter 46.87 RCW.

25 **Sec. 14.** RCW 46.76.020 and 2008 c 19 s 1 are each amended to
26 read as follows:

27 Application for a transporter's license shall be made on a form
28 provided for that purpose by the director of licensing and when
29 executed shall be forwarded to the director together with the proper
30 fee. The application shall contain the name and address of the
31 applicant, state whether or not the license will be used to provide
32 towing services for monetary compensation ~~((as described in RCW~~
33 ~~46.55.025))~~ and, if so, whether or not the applicant is a registered
34 tow truck operator under chapter 46.55 RCW or licensed under section
35 2 of this act, and contain other information as the director may
36 require.

37 NEW SECTION. **Sec. 15.** RCW 46.55.025 (Registration or insurance
38 required—Penalty) and 1995 c 360 s 2 are each repealed.

1 NEW SECTION. **Sec. 16.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 17.** Sections 1 through 11 of this act
6 constitute a new chapter in Title 46 RCW.

7 NEW SECTION. **Sec. 18.** This act takes effect July 1, 2016.

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