

HOUSE BILL REPORT

HB 1037

As Reported by House Committee On: Transportation

Title: An act relating to notice sent by and certain release of information affecting registered tow truck operators.

Brief Description: Concerning notice sent by and certain release of information affecting registered tow truck operators.

Sponsors: Representatives Stanford, Vick and Short.

Brief History:

Committee Activity:

Transportation: 1/12/17, 2/1/17 [DPS].

Brief Summary of Substitute Bill

- Substitutes the requirement that notice of custody and sale of an abandoned vehicle be sent by certified mail and a return receipt requested with the requirement that it be sent by first-class mail and a Certificate of Mailing obtained.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Wylie, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Rodne, Shea, Stambaugh, Tarleton, Van Werven and Young.

Staff: Jennifer Harris (786-7143).

Background:

When an unauthorized vehicle is impounded, the impounding towing operator must notify the legal and registered owners of the impoundment of the unauthorized vehicle and the

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owners of any other items of personal property registered or titled with the Department of Licensing (DOL). The notification must be sent by first-class mail within 24 hours after the impoundment to the last known registered and legal owners of the vehicle and the owners of any other items of personal property registered or titled with the DOL, provided the vehicle or item of personal property has not yet been redeemed. The notice must include the location, time of impoundment, and by whose authority the vehicle was impounded. The notice must also include the written notice of the right of redemption and the opportunity for a hearing to contest the validity of the impoundment.

An "unauthorized vehicle" is a vehicle that is subject to impoundment after being left unattended: (1) for any length of time (a) in a public location where it is an accident or traffic hazard, (b) in a publicly owned or controlled parking facility with the properly posted notice, (c) on residential property, or (d) on private, nonresidential property with the properly posted notice; or (2) after 24 hours (a) on a highway, once the vehicle has been tagged with a readily visible notification sticker, or (b) on private, non-residential property without the properly posted notice.

Once an unauthorized vehicle that has been impounded by a registered tow truck operator has been held in the operator's possession for 120 consecutive hours, it is considered an "abandoned vehicle." Within 24 hours after receiving information on the owners of an abandoned vehicle from the DOL through the abandoned vehicle report, the tow truck operator must send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners (as well as a notice of the penalties for the traffic infraction "Littering—Abandoned Vehicle"). If the date notice is required to be sent falls on a weekend or postal holiday, the notice may be mailed on the next weekday that is not a postal holiday.

If, after 15 days from the date of mailing of the notice of custody and sale, the abandoned vehicle remains unclaimed and has not been listed as a stolen vehicle, then the registered tow truck operator with custody of the vehicle must conduct a sale of the vehicle at public auction after publishing a notice of the date, place, and time of the auction, and a method by which to contact the tow truck operator conducting the auction.

Summary of Substitute Bill:

A notice of custody and sale and a notice of the penalties for the traffic infraction "Littering—Abandoned Vehicle" must be sent to the registered owner of an abandoned vehicle or personal property by first-class mail and a Certificate of Mailing must be obtained.

Substitute Bill Compared to Original Bill:

The substitute bill requires that tow truck operators obtain a Certificate of Mailing from the United States Postal Service when mailing notice of custody and sale and of the penalties for the traffic infraction "Littering—Abandoned Vehicle" to the legal and registered owners of an abandoned vehicle, and eliminates the prohibition against an abstract of a person's driving

record provided to an insurance company including information related to actions committed by a registered tow truck operator in the performance of his or her duties.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Increasingly in the tow truck industry, certified letters are being sent and returned to tow truck companies because the address comes back as unknown. Within 24 hours of towing, tow truck companies are required to send a letter by first-class mail, and after 120 hours, they are required to send a certified letter to the same address as the first-class letter, even if the first letter sent was returned. It would reduce costs if tow truck companies could use a declaration of mailing to prove that a letter was sent. A company can spend \$700 to \$800 per month on certified letters, and typically 90 percent of them come back to the company. By the time a vehicle is abandoned, the DOL address used for mailings is often no longer valid. When vehicles are wrecked or stripped, owners do not want anything to do with tow truck companies and do not respond to letters.

Insurance companies claim that if the driver is not at fault, then an incident on his or her record will not impact his or her insurance rates, but this is not true. If there is a collision and a tow truck is hit at the scene of an accident, this impacts insurance rates. The notification requirement is broader in the bill than was intended. This is adding to already rising insurance rates for tow truck companies. The exemption should only apply to accidents that occur at the scene of the incident. It is not uncommon for a tow truck to be hit when at the scene of a Driving Under the Influence. Law enforcement professionals and fire department personnel receive an exemption so that, if they are struck at a scene, the accident is not included in their driving record abstract. Tow truck drivers would like the same exemption to apply to them.

(Opposed) It is very easy to have a car impounded and not realize it has been towed. If you park your car on a private street or on your own driveway, it can be impounded. If you sell a car to someone who does not register it and abandons it, you will be liable. There are many ways an innocent person can have his or her car towed. Car owners have not had any input in this process and should have been included in the dialogue when these bills were being developed. If certified mail is not used, people will not be given adequate notice before a valuable asset is seized. A small minority of tow truck operators do not follow rules and they will try to cut corners and deny people notice. Requiring a certified letter fulfills the due process requirement of the United States Constitution.

If insurance companies are using this information incorrectly, then the Insurance Commissioner can correct the issue. Insurance reports should be accurate so that insurance

rates are fair. Insurers rely on driver record abstracts for the objective information they include concerning risk, including information related to moving traffic violations and accidents. Prohibiting the inclusion of tow truck driver information from the driver's record abstract as specified in the bill is too sweeping an exemption and would prevent insurance companies from using this information for the routine evaluation of risk for underwriting and rating purposes. Speeding violations, including those in school zones, would not be able to be included in a driving record abstract.

Even if the bill were amended to limit withholding information on incidents that occur at an accident scene, this still would not be appropriate. Tow truck operators do not operate in the same way as first responders. Tow truck drivers are not required to be on a scene immediately for public safety reasons and to move vehicles out of the way of traffic. The duties of tow truck drivers are different from the duties of first responders, who are appropriately granted this exemption. Withholding information that determines who high-risk drivers are could cause lower-risk drivers to pay more.

(Other) It is important to make sure that people have proper notification of a mailing. First-class mail would not provide documentation to confirm a mailing by the tow truck company. Having some method of documentation is important.

Persons Testifying: (In support) Peter Lukovich, Towing and Recovery Association of Washington; Paul Brossi, Nisqually Towing; and Kris Zachary, Burns Towing.

(Opposed) Mel Sorenson, Property Casualty Insurers Association of America; Cliff Webster, American Insurance Association; and Arthur West.

(Other) Monica Alexander, Washington State Patrol.

Persons Signed In To Testify But Not Testifying: None.