

# HOUSE BILL REPORT

## SHB 2058

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### As Passed Legislature

**Title:** An act relating to procedures for the redemption of certain vehicles that are towed from accident scenes by registered tow truck companies when the vehicle owner is admitted as a patient in a hospital due to the accident.

**Brief Description:** Creating procedures for the redemption of certain vehicles that are towed from accident scenes by registered tow truck companies when the vehicle owner is admitted as a patient in a hospital due to the accident.

**Sponsors:** House Committee on Transportation (originally sponsored by Representative Harmsworth).

#### **Brief History:**

##### **Committee Activity:**

Transportation: 2/20/17, 2/21/17 [DPS].

##### **Floor Activity:**

Passed House: 3/7/17, 97-0.

Passed Senate: 4/5/17, 48-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Authorizes a person known to the registered or legal owner of a motorcycle or moped towed from the scene of an accident to redeem the vehicle on behalf of the owner who is admitted as a patient in a hospital due to the accident, so long as the eligible person provides a valid government-issued photo identification and signs a declaration under penalty of perjury.
- Authorizes a registered tow truck operator that is notified through the use of a department of licensing declaration form that the registered or legal owner of a motorcycle or moped is an admitted patient in a hospital to delay the vehicle's sale at auction for a reasonable time.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice

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*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.*

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, Shea, Stambaugh, Tarleton, Van Werven and Young.

**Staff:** Jennifer Harris (786-7143).

## **Background:**

### Vehicles Subject to Impoundment.

A vehicle 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, nonresidential property without the properly posted notice. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

A vehicle is subject to summary impoundment when: (1) the driver of the vehicle is arrested for driving with an invalidated, suspended, or revoked driver's license; (2) the vehicle is found standing on the roadway by a law enforcement officer; (3) the vehicle is found unattended on a highway by a law enforcement officer and it constitutes an obstruction to traffic or jeopardizes public safety; (4) the vehicle is found unattended at the scene of an accident by a law enforcement officer; (5) the driver of the vehicle involved in an accident is physically or mentally incapable of deciding on steps to protect the vehicle; (6) the driver of the vehicle is arrested and taken into custody by a law enforcement officer; (7) a police officer determines a vehicle is stolen; (8) a vehicle is illegally occupying a parking space for individuals with disabilities; (9) a vehicle is illegally occupying a truck, commercial loading, restricted parking, bus, loading, hooded-meter, taxi, street construction, street maintenance, or other similar zone with the proper signage in place; or (10) a vehicle with a registration that expired more than 45 days earlier is parked on a public street.

### Redemption of Towed Vehicles.

When an unauthorized vehicle is impounded, the impounding towing operator must notify the legal and registered owners of the impoundment of the unauthorized vehicle 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 registered or titled with the DOL, provided the vehicle 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.

Vehicles titled with the DOL that are lawfully impounded by registered tow truck operators may be redeemed by the following persons or entities: (1) the legal owner; (2) the registered

owner; (3) a person authorized in writing by the registered owner; (4) the vehicle's insurer or a vendor working on behalf of that insurer; (5) a third-party insurer who has a duty to repair or replace the vehicle, with consent from the registered owner or the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner's permission, or an adult member of the registered owner's family (or a vendor working on the insurer's behalf with the specified consent); (6) a person verified by the operator to have the permission of the registered owner; or (7) a person who has purchased a vehicle registered or titled with the DOL from the registered owner and who produces proof of ownership or written authorization and signs a receipt.

Motorcycles and mopeds are exempt from any automobile insurance or equivalent requirements under state law, limiting the applicability of (4) and (5) above to these vehicles.

To redeem a vehicle, a person or entity eligible to do so must pay the costs of towing, storage, or other services provided during the course of towing, removing, impounding, or storing the vehicle using cash, a major bank credit card issued by a financial institution, or a personal check drawn on a state branch of a financial institution (subject to specified verification) if accompanied by two pieces of valid identification, one of which may be required by the operator to include a photograph.

#### Vehicle Sale at Auction.

Once an unauthorized vehicle that has been impounded by a registered tow truck operator has been held in the operator's possession for five days, 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 of the 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. A vehicle may be redeemed at any time before the start of the auction by an eligible person or entity upon payment of the applicable towing and storage fees. A vehicle may not be held by an operator for longer than 90 days without an auction on the vehicle being held, except for vehicles that are under a police or judicial hold.

#### Vehicle Lien.

A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle. Any storage charges incurred after 15 days from the date of the operator's receipt of information from the DOL in response to the filing of an abandoned vehicle report may not be applied to the lien at auction.

### Transaction File.

The registered tow truck operator must keep a transaction file on each vehicle for a minimum of three years.

### **Summary of Substitute Bill:**

#### Redemption of Towed Vehicles.

A person known to the registered or legal owner of a motorcycle or moped that was towed from the scene of an accident may be eligible to redeem the motorcycle or moped as a bailment on behalf of the registered or legal owner, if the owner is admitted as a patient in a hospital due to the accident, and if the eligible person provides a valid government-issued photo identification and signs a declaration on a DOL form under penalty of perjury.

The DOL must develop a declaration form and post it to its website in a downloadable format. The DOL form must include: (1) the person's name, telephone number, and physical address; (2) the relationship between the person and the registered or legal owner; (3) the name and location of the hospital where the registered or legal owner is admitted; (4) the address of the physical location where the motorcycle or moped will be stored for the registered or legal owner at no additional cost to the owner; (5) a statement that the person agrees to protect the motorcycle or moped and return it to the registered or legal owner in the same form as it was received; and (6) a statement that the person knowingly agrees to become the bailee for the motorcycle or moped.

A bailment is the temporary placement of control over or possession of personal property by one person, the bailor, into the hands of another, the bailee, for a designated purpose upon which the parties have agreed.

The registered tow truck operator may refuse an offer to redeem a motorcycle or moped to a bailee for good cause, including competing applications for redemptions or if the person applying to the bailee has been convicted of a crime of dishonesty or theft. A tow truck operator is not required to investigate or otherwise determine the criminal history or honesty of the bailee.

A registered tow truck operator who acts in good faith and in compliance with the law in this area is immune from any civil liability that may arise out of the bailment unless the operator's act or omission constitutes gross negligence or willful or wanton misconduct. A person who becomes the bailee of a motorcycle or moped and fails to return the motorcycle or moped to the registered or legal owner may be charged with possession of a stolen vehicle.

#### Vehicle Sale at Auction.

If the registered tow truck operator is notified that the registered or legal owner of the motorcycle or moped is an admitted patient of a hospital by providing a declaration on a DOL form, the operator may delay the auction for a reasonable time in a good faith effort to provide additional time for the redemption of the vehicle.

Transaction File.

The registered tow truck operator must include documentation of a bailment in a motorcycle's or moped's transaction file when the vehicle has been redeemed by a person known to the registered or legal owner of the vehicle.

Act's Name.

The bill is named the Denise Chew Scooter Recovery Act.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) If someone is in an accident and winds up in the hospital temporarily incapacitated, a friend cannot retrieve a vehicle towed from the scene of that accident. When Denise Chew, who had a scooter that was towed from the scene of the accident, wound up hospitalized and unconscious, her friend was not permitted to redeem her scooter. The tow truck operator had no choice but to sell the scooter at auction.

This bill expands eligibility to redeem a towed moped or scooter to a friend of a person in the hospital, who could become the bailee for that vehicle. The bill would provide tow truck operators with another means by which certain towed vehicles could be redeemed that otherwise would be auctioned, so that operators can help in a situation like the one faced by Denise Chew. Tow truck operators contributed to the bill's development.

(Opposed) None.

**Persons Testifying:** Representative Harmsworth, prime sponsor; and Chester Baldwin, Towing and Recovery Association of Washington.

**Persons Signed In To Testify But Not Testifying:** None.