

# SENATE BILL REPORT

## SB 5463

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As of February 24, 2019

**Title:** An act relating to notice for active duty military owners of impounded vehicles.

**Brief Description:** Concerning notice to active duty military owners of impounded vehicles.

**Sponsors:** Senators Warnick, Takko, Fortunato, Hasegawa and Wagoner.

**Brief History:**

**Committee Activity:** Transportation: 2/07/19.

**Brief Summary of Bill**

- Requires the Department of Licensing, upon receiving an abandoned vehicle report to check whether the registered owner is an active duty servicemember and report that information to a registered tow truck operator (RTTO).
- Prohibits an RTTO from selling an abandoned vehicle owned by an active duty servicemember until all the requirements of the Servicemembers Civil Relief Act (SCRA) have been satisfied.
- Allows an RTTO to store an abandoned vehicle for longer than 90 days if it is subject to the SCRA.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Kim Johnson (786-7472)

**Background:** Impounds, meaning taking and holding a vehicle in legal custody without the consent of the owner, may only be performed by RTTOs. If on public property, the impound is at the direction of a law enforcement officer; if the vehicle is on private property, the impound is at the direction of the property owner or the property owner's agent.

When a vehicle is impounded, an RTTO must send an impound notice to the legal owner via first class mail, based on information received from law enforcement.

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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.*

After a vehicle is held in impound for more than 120 hours it is considered abandoned, and an RTTO must file an abandoned vehicle report (AVR) with the Department of Licensing (DOL). In response to the AVR, DOL provides information to the RTTO regarding the owner of the vehicle, and the RTTO must send, by first class mail, a notice of custody and sale to the owner. If the vehicle remains unclaimed for 15 days, the RTTO must conduct a sale at public auction. The RTTO may not hold the vehicle for longer than 90 days, except in the case of a law enforcement or judicial order.

Vehicles may be redeemed by their legal owners any time before the start of the auction after paying towing and storage charges.

The federal Servicemembers Civil Relief Act and the state analogue, the Washington State Service Member Civil Relief Act, provide certain protections to servicemembers who are called to active duty. One of the protections is the requirement that a person or entity holding a lien on the property or effects of an active duty servicemember, including towing company towing and storage liens against a motor vehicle, must obtain a court order prior to enforcing the lien and selling a motor vehicle at auction.

The Department of Defense operates an online database where, using an individual's date of birth or social security number or both, any person or business can verify military status at no cost.

**Summary of Bill:** Upon receipt of the AVR, DOL must provide information back to the RTTO whether the legal or registered owner of the vehicle is active duty military.

If the legal or registered owner is active duty military, the RTTO may not sell the vehicle until the requirements of the Servicemembers Civil Relief Act have been satisfied. An RTTO may hold the vehicle for longer than 90 days if the vehicle is subject to the Servicemembers Civil Relief Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill was brought forward to me by RTTOs. I also support the military. I think certainty would be very helpful to the RTTO so that they know who the car belongs to and hope we can move this forward. As an RTTO owner, we want to be sure that this does not become a frequent problem. Without being provided these details we can't know if the vehicle is owned by a service member. For us to do the searches it would be \$35 to \$75 per vehicle. This is not a fee that I can pass forward. Without being provided the date of birth or social security number we don't have the authority to obtain this information. We only get provided the name and address of the registered owner. We would like to know that we are in compliance. I am being sued by the attorney general. We did our due diligence. We had no way of knowing that this was an

active duty service member's vehicle. If we know a vehicle is a military owned vehicle we won't sell it.

OTHER: There are some administrative challenges to implementing this bill. DOL processes 4,200 abandoned vehicle reports per month. We don't collect the date of birth or social security number of the registered vehicle owner currently. There are over six million vehicles in Washington, and to change the system to collect this type of personal information will be challenging. Another issue is that over 30 percent of the abandoned vehicle reports are for out of state vehicles. We can't get this information from out of state and cannot compel other states to provide it. It is possible to pay for the information. Whether the cost should be born by DOL or the industry is something to consider. If we also have to verify out of state it will be a high cost. We want to be a good partner. The Attorney General's Office strongly supports the intent behind the bill. Especially, the section allowing for a longer storage period for vehicles that are owned by an active duty military member that is subject to the Service Member Civil Relief Act.

**Persons Testifying:** PRO: Senator Judy Warnick, Prime Sponsor; Jerry Fugich, Veterans Legislative Coalition; Kris Zachary, Burns Towing; Paul Bressi, Nisqually Towing; Emily Wade, Jim's Northgate Towing, Day and Nite Towing, Big D Towing.

OTHER: Beau Perschbacher, Department of Licensing; Emilia Jones, Attorney General's Office.

**Persons Signed In To Testify But Not Testifying:** No one.