

SSB 5652 - H COMM AMD

By Committee on Transportation

NOT CONSIDERED 01/02/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 46.44.110 and 2009 c 393 s 1 are each amended to
4 read as follows:

5 (1) Any person operating any vehicle or moving any object or
6 conveyance upon any public highway in this state or upon any bridge
7 or elevated structure that is a part of any such public highway is
8 liable for all damages that the public highway, bridge, elevated
9 structure, or other state property may sustain, as well as payment
10 for vehicle recovery, impound, and storage charges to any registered
11 tow truck operator dispatched by law enforcement or other
12 governmental agency, as a result of any illegal operation of the
13 vehicle or the moving of any such object or conveyance or as a result
14 of the operation or moving of any vehicle, object, or conveyance
15 weighing in excess of the legal weight limits allowed by law.

16 (2) This section applies to any person operating any vehicle or
17 moving any object or contrivance in any illegal or negligent manner
18 or without a special permit as provided by law for vehicles, objects,
19 or contrivances that are overweight, overwidth, overheight, or
20 overlength. Any person operating any vehicle is liable for any damage
21 to any public highway, bridge, elevated structure, or other state
22 property sustained, as well as payment for vehicle recovery, impound,
23 and storage charges to any registered tow truck operator dispatched
24 by law enforcement or other governmental agency, as the result of any
25 negligent operation thereof. When the operator is not the owner of
26 the vehicle, object, or contrivance but is operating or moving it
27 with the express or implied permission of the owner, the owner and
28 the operator are jointly and severally liable for any such damage.

29 (3)(a) Such damage to any state highway, structure, or other
30 state property may be recovered in a civil action instituted in the
31 name of the state of Washington by the department of transportation

1 or other affected state agency. Any measure of damage determined by
2 the department of transportation to its highway, bridge, elevated
3 structure, or other property under this section is prima facie the
4 amount of damage caused thereby and is presumed to be the amount
5 recoverable in any civil action therefor. The damages available under
6 this section include the incident response costs, including traffic
7 control, incurred by the department of transportation.

8 (b) Costs attributable to vehicle recovery, impound, and storage
9 charges for any registered tow truck operator dispatched by law
10 enforcement or other governmental agency under this section is
11 presumed to be the amounts recoverable and must not exceed the
12 amounts established under the fee schedule adopted pursuant to RCW
13 46.55.063.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.55
15 RCW to read as follows:

16 (1) The department shall create a program to compensate
17 registered tow truck operators for impounds performed at the
18 direction of law enforcement or other agencies to apply when the
19 owner of the vehicle is indigent, except when the vehicle has been
20 impounded after the vehicle owner has been arrested by a law
21 enforcement officer.

22 (2) An individual seeking the release of a vehicle under this
23 program must:

24 (a) Be the legal or registered owner of the vehicle;

25 (b) Be indigent;

26 (c) Either not have the ability to pay for the towing service or
27 be unable to make such payment without incurring severe hardship;

28 (d) Not have applied for the release of a vehicle under this
29 program more than once in the preceding year; and

30 (e) Fill out and certify the first part of the form described in
31 subsection (4)(a) of this section and submit it to the registered tow
32 truck operator.

33 (3) A registered tow truck operator may seek payment for impounds
34 ordered by a law enforcement or other governmental agency for
35 vehicles owned by individuals meeting the requirements of subsection
36 (2) of this section when the impound was not ordered following an
37 arrest. The registered tow truck operator applying for payment must
38 fill out the second part of the form described in subsection (4)(b)
39 of this section and must submit the completed form to the department.

1 (4) The department shall provide a form to registered tow truck
2 operators that consists of two parts.

3 (a) The first part of the form is to be completed by individuals
4 seeking the release of a vehicle and must include a requirement that
5 individuals self-certify under penalty of perjury that they meet the
6 requirements of the program and acknowledge that they understand that
7 the department may verify or audit the information and that perjury
8 is a criminal offense.

9 (b) (i) The second part of the form is to be completed by
10 registered tow truck operators and must include a requirement that
11 registered tow truck operators self-certify under penalty of perjury
12 that they have verified that:

13 (A) The impound was ordered by a law enforcement or other
14 governmental agency;

15 (B) The impound was not ordered following an arrest;

16 (C) The individual seeking the release of a vehicle is the owner
17 of the vehicle registered or titled with the department; and

18 (ii) The registered tow truck operators must acknowledge that
19 they understand that the department may verify or audit the
20 information and that perjury is a criminal offense.

21 (5) Subject to availability of funds, the department shall
22 disburse surplus funds deposited under RCW 46.55.130(2)(h) that are
23 no longer subject to payment for a valid claim under RCW
24 46.55.130(2)(h) in an amount equal to the cost of the towing,
25 storage, or other services incurred by the registered tow truck
26 operators during the course of the law enforcement or other
27 governmental agency directed impound to the eligible registered tow
28 truck operators following submission of the form by the registered
29 tow truck operator. Eligibility for payment under this section does
30 not constitute an entitlement for payment. If eligible applications
31 for payment exceed the funds available, the department must create
32 and maintain a waitlist in the order the forms are received pursuant
33 to this section. The department is not civilly or criminally liable
34 and no penalty or cause of action may be brought against it regarding
35 the provision or lack of provision of funds.

36 (6) The department shall provide an annual report to the
37 appropriate committees of the legislature by October 1st of each
38 year. The annual report must include the total number of law
39 enforcement or other governmental agency directed tows not following
40 an arrest, the number of vehicles released under this program, the

1 number of applicants who received payment under this program, the
2 total funds provided to applicants, the number of applicants on the
3 waitlist who did not receive grants, the total amount of grants
4 unpaid due to lack of funds, and the number of ineligible applicants
5 and the reasons for ineligibility.

6 (7) A registered tow truck operator who releases the vehicle
7 under this section does not have a lien or deficiency claim on the
8 released vehicle.

9 (8) When an impounding tow truck operator sends notification to
10 the legal and registered owners of a vehicle regarding the
11 impoundment of it as required under RCW 46.55.110 and the vehicle may
12 be eligible under this program, the impounding tow truck operator
13 must include information in the notification about the program
14 established in this section for the release of vehicles to indigent
15 persons.

16 (9) The registered tow truck operator shall provide to each
17 person who seeks to redeem an impounded vehicle that may be eligible
18 under this program written notice, in a form and manner specified by
19 the department, of the release of vehicles to indigent individuals.
20 The notice must be accompanied by the form described in subsection
21 (4) of this section.

22 **Sec. 3.** RCW 46.55.115 and 1993 c 121 s 2 are each amended to
23 read as follows:

24 The Washington state patrol, under its authority to remove
25 vehicles from the highway, may remove the vehicles directly, through
26 towing operators appointed by the state patrol and called on a
27 rotational or other basis, through contracts with towing operators,
28 or by a combination of these methods. When removal is to be
29 accomplished through a towing operator on a noncontractual basis, the
30 state patrol may appoint any towing operator for this purpose upon
31 the application of the operator. Each appointment shall be contingent
32 upon the submission of an application to the state patrol and the
33 making of subsequent reports in such form and frequency and
34 compliance with such standards of equipment, performance, pricing,
35 and practices as may be required by rule of the state patrol.

36 An appointment may be rescinded by the state patrol upon evidence
37 that the appointed towing operator is not complying with the laws or
38 rules relating to the removal and storage of vehicles from the
39 highway. The state patrol may not rescind an appointment merely

1 because a registered tow truck operator negotiates a different rate
2 for voluntary, owner-requested towing than for involuntary towing
3 under this chapter. The costs of removal and storage of vehicles
4 under this section shall be paid by the owner or driver of the
5 vehicle and shall be a lien upon the vehicle until paid, unless the
6 removal is determined to be invalid or the registered tow truck
7 operator releases the vehicle under the program established in
8 section 2 of this act.

9 Rules promulgated under this section shall be binding only upon
10 those towing operators appointed by the state patrol for the purpose
11 of performing towing services at the request of the Washington state
12 patrol. Any person aggrieved by a decision of the state patrol made
13 under this section may appeal the decision under chapter 34.05 RCW.

14 **Sec. 4.** RCW 46.55.120 and 2017 c 152 s 1 are each amended to
15 read as follows:

16 (1)(a) Vehicles or other items of personal property registered or
17 titled with the department that are impounded by registered tow truck
18 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or
19 9A.88.140 may be redeemed only by the following persons or entities:

20 (i) The legal owner;

21 (ii) The registered owner;

22 (iii) A person authorized in writing by the registered owner;

23 (iv) The vehicle's insurer or a vendor working on behalf of the
24 vehicle's insurer;

25 (v) A third-party insurer that has a duty to repair or replace
26 the vehicle, has obtained consent from the registered owner or the
27 owner's agent to move the vehicle, and has documented that consent in
28 the insurer's claim file, or a vendor working on behalf of a third-
29 party insurer that has received such consent; provided, however, that
30 at all times the registered owner must be granted access to and may
31 reclaim possession of the vehicle. For the purposes of this
32 subsection, "owner's agent" means the legal owner of the vehicle, a
33 driver in possession of the vehicle with the registered owner's
34 permission, or an adult member of the registered owner's family;

35 (vi) A person who is determined and verified by the operator to
36 have the permission of the registered owner of the vehicle or other
37 item of personal property registered or titled with the department;

38 (vii) A person who has purchased a vehicle or item of personal
39 property registered or titled with the department from the registered

1 owner who produces proof of ownership or written authorization and
2 signs a receipt therefor; or

3 (viii) If (a)(i) through (vii) of this subsection do not apply, a
4 person, who is known to the registered or legal owner of a motorcycle
5 or moped, as each are defined in chapter 46.04 RCW, that was towed
6 from the scene of an accident, may redeem the motorcycle or moped as
7 a bailment in accordance with RCW 46.55.125 while the registered or
8 legal owner is admitted as a patient in a hospital due to the
9 accident.

10 (b) In addition, a vehicle impounded because the operator is in
11 violation of RCW 46.20.342(1)(c) shall not be released until a person
12 eligible to redeem it under (a) of this subsection satisfies the
13 requirements of (f) of this subsection, including paying all towing,
14 removal, and storage fees, notwithstanding the fact that the hold was
15 ordered by a government agency. If the department's records show that
16 the operator has been convicted of a violation of RCW 46.20.342 or a
17 similar local ordinance within the past five years, the vehicle may
18 be held for up to (~~thirty~~) 30 days at the written direction of the
19 agency ordering the vehicle impounded. A vehicle impounded because
20 the operator is arrested for a violation of RCW 46.20.342 may be
21 released only pursuant to a written order from the agency that
22 ordered the vehicle impounded or from the court having jurisdiction.
23 An agency shall issue a written order to release pursuant to a
24 provision of an applicable state agency rule or local ordinance
25 authorizing release on the basis of the following:

26 (i) Economic or personal hardship to the spouse of the operator,
27 taking into consideration public safety factors, including the
28 operator's criminal history and driving record; or

29 (ii) The owner of the vehicle was not the driver, the owner did
30 not know that the driver's license was suspended or revoked, and the
31 owner has not received a prior release under this subsection or RCW
32 46.55.113(3).

33 In order to avoid discriminatory application, other than for the
34 reasons for release set forth in (b)(i) and (ii) of this subsection,
35 an agency shall, under a provision of an applicable state agency rule
36 or local ordinance, deny release in all other circumstances without
37 discretion.

38 If a vehicle is impounded because the operator is in violation of
39 RCW 46.20.342(1)(a) or (b), the vehicle may be held for up to
40 (~~thirty~~) 30 days at the written direction of the agency ordering

1 the vehicle impounded. However, if the department's records show that
2 the operator has been convicted of a violation of RCW 46.20.342(1)
3 (a) or (b) or a similar local ordinance within the past five years,
4 the vehicle may be held at the written direction of the agency
5 ordering the vehicle impounded for up to (~~sixty~~) 60 days, and for
6 up to (~~ninety~~) 90 days if the operator has two or more such prior
7 offenses. If a vehicle is impounded because the operator is arrested
8 for a violation of RCW 46.20.342, the vehicle may not be released
9 until a person eligible to redeem it under (a) of this subsection
10 satisfies the requirements of (f) of this subsection, including
11 paying all towing, removal, and storage fees, notwithstanding the
12 fact that the hold was ordered by a government agency.

13 (c) If the vehicle is directed to be held for a suspended license
14 impound, a person who desires to redeem the vehicle at the end of the
15 period of impound shall within five days of the impound at the
16 request of the tow truck operator pay a security deposit to the tow
17 truck operator of not more than one-half of the applicable impound
18 storage rate for each day of the proposed suspended license impound.
19 The tow truck operator shall credit this amount against the final
20 bill for removal, towing, and storage upon redemption. The tow truck
21 operator may accept other sufficient security in lieu of the security
22 deposit. If the person desiring to redeem the vehicle does not pay
23 the security deposit or provide other security acceptable to the tow
24 truck operator, the tow truck operator may process and sell at
25 auction the vehicle as an abandoned vehicle within the normal time
26 limits set out in RCW 46.55.130(1). The security deposit required by
27 this section may be paid and must be accepted at any time up to
28 (~~twenty-four~~) 24 hours before the beginning of the auction to sell
29 the vehicle as abandoned. The registered owner is not eligible to
30 purchase the vehicle at the auction, and the tow truck operator shall
31 sell the vehicle to the highest bidder who is not the registered
32 owner.

33 (d) Notwithstanding (c) of this subsection, a rental car business
34 may immediately redeem a rental vehicle it owns by payment of the
35 costs of removal, towing, and storage, whereupon the vehicle will not
36 be held for a suspended license impound.

37 (e) Notwithstanding (c) of this subsection, a motor vehicle
38 dealer or lender with a perfected security interest in the vehicle
39 may redeem or lawfully repossess a vehicle immediately by payment of
40 the costs of removal, towing, and storage, whereupon the vehicle will

1 not be held for a suspended license impound. A motor vehicle dealer
2 or lender with a perfected security interest in the vehicle may not
3 knowingly and intentionally engage in collusion with a registered
4 owner to repossess and then return or resell a vehicle to the
5 registered owner in an attempt to avoid a suspended license impound.
6 However, this provision does not preclude a vehicle dealer or a
7 lender with a perfected security interest in the vehicle from
8 repossessing the vehicle and then selling, leasing, or otherwise
9 disposing of it in accordance with chapter 62A.9A RCW, including
10 providing redemption rights to the debtor under RCW 62A.9A-623. If
11 the debtor is the registered owner of the vehicle, the debtor's right
12 to redeem the vehicle under chapter 62A.9A RCW is conditioned upon
13 the debtor obtaining and providing proof from the impounding
14 authority or court having jurisdiction that any fines, penalties, and
15 forfeitures owed by the registered owner, as a result of the
16 suspended license impound, have been paid, and proof of the payment
17 must be tendered to the vehicle dealer or lender at the time the
18 debtor tenders all other obligations required to redeem the vehicle.
19 Vehicle dealers or lenders are not liable for damages if they rely in
20 good faith on an order from the impounding agency or a court in
21 releasing a vehicle held under a suspended license impound.

22 (f) The vehicle or other item of personal property registered or
23 titled with the department shall be released upon the presentation to
24 any person having custody of the vehicle of commercially reasonable
25 tender sufficient to cover the costs of towing, storage, or other
26 services rendered during the course of towing, removing, impounding,
27 or storing any such vehicle, with credit being given for the amount
28 of any security deposit paid under (c) of this subsection.
29 Alternatively, a vehicle must be released when the registered tow
30 truck operator completes the form described in section 2(4)(a) of
31 this act provided that the first part is completed by an individual
32 seeking the release of a vehicle. In addition, if a vehicle is
33 impounded because the operator was arrested for a violation of RCW
34 46.20.342 or 46.20.345 and was being operated by the registered owner
35 when it was impounded under local ordinance or agency rule, it must
36 not be released to any person until the registered owner establishes
37 with the agency that ordered the vehicle impounded or the court
38 having jurisdiction that any penalties, fines, or forfeitures owed by
39 him or her have been satisfied. Registered tow truck operators are
40 not liable for damages if they rely in good faith on an order from

1 the impounding agency or a court in releasing a vehicle held under a
2 suspended license impound. Commercially reasonable tender shall
3 include, without limitation, cash, major bank credit cards issued by
4 financial institutions, or personal checks drawn on Washington state
5 branches of financial institutions if accompanied by two pieces of
6 valid identification, one of which may be required by the operator to
7 have a photograph. If the towing firm cannot determine through the
8 customer's bank or a check verification service that the presented
9 check would be paid by the bank or guaranteed by the service, the
10 towing firm may refuse to accept the check. Any person who stops
11 payment on a personal check or credit card, or does not make
12 restitution within ten days from the date a check becomes
13 insufficient due to lack of funds, to a towing firm that has provided
14 a service pursuant to this section or in any other manner defrauds
15 the towing firm in connection with services rendered pursuant to this
16 section shall be liable for damages in the amount of twice the towing
17 and storage fees, plus costs and reasonable attorney's fees.

18 (2) (a) The registered tow truck operator shall give to each
19 person who seeks to redeem an impounded vehicle, or item of personal
20 property registered or titled with the department, written notice of
21 the right of redemption and opportunity for a hearing, which notice
22 shall be accompanied by a form to be used for requesting a hearing,
23 the name of the person or agency authorizing the impound, and a copy
24 of the towing and storage invoice. The registered tow truck operator
25 shall maintain a record evidenced by the redeeming person's signature
26 that such notification was provided.

27 (b) Any person seeking to redeem an impounded vehicle under this
28 section has a right to a hearing in the district or municipal court
29 for the jurisdiction in which the vehicle was impounded to contest
30 the validity of the impoundment or the amount of towing and storage
31 charges. The district court has jurisdiction to determine the issues
32 involving all impoundments including those authorized by the state or
33 its agents. The municipal court has jurisdiction to determine the
34 issues involving impoundments authorized by agents of the
35 municipality. Any request for a hearing shall be made in writing on
36 the form provided for that purpose and must be received by the
37 appropriate court within (~~ten~~) 10 days of the date the opportunity
38 was provided for in (a) of this subsection and more than five days
39 before the date of the auction. At the time of the filing of the
40 hearing request, the petitioner shall pay to the court clerk a filing

1 fee in the same amount required for the filing of a suit in district
2 court. If the hearing request is not received by the court within the
3 (~~ten-day~~) 10-day period, the right to a hearing is waived and the
4 registered owner is liable for any towing, storage, or other
5 impoundment charges permitted under this chapter. Upon receipt of a
6 timely hearing request, the court shall proceed to hear and determine
7 the validity of the impoundment.

8 (3) (a) The court, within five days after the request for a
9 hearing, shall notify the registered tow truck operator, the person
10 requesting the hearing if not the owner, the registered and legal
11 owners of the vehicle or other item of personal property registered
12 or titled with the department, and the person or agency authorizing
13 the impound in writing of the hearing date and time.

14 (b) At the hearing, the person or persons requesting the hearing
15 may produce any relevant evidence to show that the impoundment,
16 towing, or storage fees charged were not proper. The court may
17 consider a written report made under oath by the officer who
18 authorized the impoundment in lieu of the officer's personal
19 appearance at the hearing.

20 (c) At the conclusion of the hearing, the court shall determine
21 whether the impoundment was proper, whether the towing or storage
22 fees charged were in compliance with the posted rates, and who is
23 responsible for payment of the fees. The court may not adjust fees or
24 charges that are in compliance with the posted or contracted rates.

25 (d) If the impoundment is found proper, the impoundment, towing,
26 and storage fees as permitted under this chapter together with court
27 costs shall be assessed against the person or persons requesting the
28 hearing, unless the operator did not have a signed and valid
29 impoundment authorization from a private property owner or an
30 authorized agent.

31 (e) If the impoundment is determined to be in violation of this
32 chapter, then the registered and legal owners of the vehicle or other
33 item of personal property registered or titled with the department
34 shall bear no impoundment, towing, or storage fees, and any security
35 shall be returned or discharged as appropriate, and the person or
36 agency who authorized the impoundment shall be liable for any towing,
37 storage, or other impoundment fees permitted under this chapter. The
38 court shall enter judgment in favor of the registered tow truck
39 operator against the person or agency authorizing the impound for the
40 impoundment, towing, and storage fees paid. In addition, the court

1 shall enter judgment in favor of the registered and legal owners of
2 the vehicle, or other item of personal property registered or titled
3 with the department, for the amount of the filing fee required by law
4 for the impound hearing petition as well as reasonable damages for
5 loss of the use of the vehicle during the time the same was impounded
6 against the person or agency authorizing the impound. However, if an
7 impoundment arising from an alleged violation of RCW 46.20.342 or
8 46.20.345 is determined to be in violation of this chapter, then the
9 law enforcement officer directing the impoundment and the government
10 employing the officer are not liable for damages if the officer
11 relied in good faith and without gross negligence on the records of
12 the department in ascertaining that the operator of the vehicle had a
13 suspended or revoked driver's license. If any judgment entered is not
14 paid within (~~fifteen~~) 15 days of notice in writing of its entry,
15 the court shall award reasonable attorneys' fees and costs against
16 the defendant in any action to enforce the judgment. Notice of entry
17 of judgment may be made by registered or certified mail, and proof of
18 mailing may be made by affidavit of the party mailing the notice.
19 Notice of the entry of the judgment shall read essentially as
20 follows:

21 TO:
22 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in
23 the Court located at in the sum of
24 \$., in an action entitled, Case
25 No. YOU ARE FURTHER NOTIFIED that attorneys fees and
26 costs will be awarded against you under RCW . . . if the
27 judgment is not paid within 15 days of the date of this
28 notice.
29 DATED this day of, (year) . . .
30 Signature
31 Typed name and address
32 of party mailing notice

33 (4) Any impounded abandoned vehicle or item of personal property
34 registered or titled with the department that is not redeemed within
35 (~~fifteen~~) 15 days of mailing of the notice of custody and sale as
36 required by RCW 46.55.110(3) shall be sold at public auction in
37 accordance with all the provisions and subject to all the conditions
38 of RCW 46.55.130. A vehicle or item of personal property registered

1 or titled with the department may be redeemed at any time before the
2 start of the auction either upon ~~((payment))~~:

3 (a) Payment of the applicable towing and storage fees; or

4 (b) The completion of the form specified in section 2 of this
5 act.

6 NEW SECTION. Sec. 5. Sections 2 through 4 of this act take
7 effect January 1, 2024."

8 Correct the title.

EFFECT: (1) Specifies that a person who operates a vehicle on a public highway in an illegal manner is liable for vehicle recovery, impound, and storage charges of a registered tow truck operator (RTTO) dispatched by law enforcement or other governmental agency.

(2) Specifies that certain towing-related costs are recoverable by the registered tow truck operator and those costs are not to exceed the fee schedule filed with the Department of Licensing (DOL).

(3) Directs the DOL to create a program to compensate RTTOs for the cost of towing, storage, and other services incurred during the towing of an indigent person's vehicle when the tow was done at the direction of law enforcement or other governmental agency not following an arrest.

(4) Requires the eligibility of the program to be based on self-certification of eligibility by both the individual seeking the release of a vehicle from impound and the RTTO on a form to be provided by the DOL.

(5) States that a RTTO must release the vehicle upon the completion of the form by the RTTO.

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