

HOUSE BILL REPORT

SSB 5652

As Reported by House Committee On:
Transportation

Title: An act relating to compensation for tow truck operators for keeping the public roadways clear.

Brief Description: Providing compensation for tow truck operators for keeping the public roadways clear.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Lovick, Dozier, Hawkins, Hunt, Saldaña, Short and Stanford).

Brief History:

Committee Activity:

Transportation: 3/20/23, 3/29/23 [DPA].

**Brief Summary of Substitute Bill
(As Amended By Committee)**

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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- States that an RTTO must release the vehicle upon the completion of the form by the RTTO.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 29 members: Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry, Bronoske, Chapman, Cortes, Dent, Doglio, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Mena, Orcutt, Ramel, Ramos, Schmidt, Taylor, Volz, Walsh and Wylie.

Staff: Michael Hirsch (786-7195).

Background:

Damages to the Highway or Public Property.

A person operating a vehicle or moving an object or conveyance on a public highway in an illegal or negligent manner is liable for any damage to a public highway, bridge, elevated structure, or public property that results from the illegal operation of the vehicle. When the operator of the vehicle is not the owner of the vehicle, object, or conveyance, the owner and operator are jointly and severally liable for any such damage. The Washington State Department of Transportation or other affected state agencies may recover the damages to the public highway, bridge, elevated structure, or public property in a civil action. Damages may include incident response costs including traffic control.

Towing and Impounds.

Registered tow truck operators (RTTOs) who impound vehicles from private or public property, or tow for law enforcement agencies, are regulated by the Department of Licensing (DOL). Impoundment is defined as the taking and holding of a vehicle in legal custody without the consent of the owner, and may only be performed by RTTOs. Registered tow truck operators may impound, transport, and store unauthorized vehicles and dispose of abandoned vehicles.

Fee Schedules.

RTTOs must register a fee schedule with the DOL. All filed fees must be adequate to cover the costs of service provided and no fees may exceed those filed with the DOL.

Public Impounds.

A law enforcement officer or other governmental official requesting a public impound must provide a signed authorization for the impound at the time and place of the impound to the RTTO before the RTTO may proceed with the impound. Unless the removal of a vehicle is

determined to be invalid, the costs of removal and storage costs must be paid by the registered owner of the vehicle, with the exception that if the removal of the vehicle is directed by the Washington State Patrol the costs of removal and storage must be paid by the owner or driver of the vehicle. In both circumstances, a lien is placed upon the vehicle until paid and the RTTO has a deficiency claim against the registered owner of the vehicle.

Notice of Impound and Redemption.

When an unauthorized vehicle is impounded, within 24 hours the RTTO must send an impound notice to the legal owner, based on information received from law enforcement. After being held for 120 consecutive hours, a vehicle is considered abandoned and the RTTO must file an abandoned vehicle report with the DOL. In response to the abandoned vehicle report, the DOL provides information to the RTTO regarding the owner of the vehicle. Within 24 hours of receipt of this information, the RTTO must send, by certified mail, a notice of custody and sale to the owner. The RTTO must give written notice of their right of redemption and opportunity for a hearing as well as the form for requesting a hearing, information on the person or agency that authorized the impound, and the towing and storage costs to any person who seeks to redeem an impounded vehicle. A vehicle may be redeemed by the legal owners any time before the start of the auction upon payment of towing and storage charges.

Abandoned Vehicle Auction.

If a vehicle remains unclaimed, the RTTO must conduct a sale of the vehicle at public auction. The RTTO may not hold a vehicle for longer than 90 days without holding an auction on the vehicle, except in the case of a law enforcement or judicial order. If the monies from the sale of a vehicle at auction is more than the RTTO's lien on the vehicle, any monies in excess of the lien must be remitted to the DOL. The remitted monies from the sale of a vehicle may be claimed by the registered owner of record for up to one year from the date of the auction. If the amount bid at auction is less than the RTTO's lien on the vehicle, the RTTO is allowed a deficiency claim against the registered owner of an impounded vehicle of up to \$500 for vehicles less than or equal to 10,000 pounds gross vehicle weight. For vehicles over 10,000 pounds gross vehicle weight, an RTTO is allowed a deficiency claim of up to \$1,000. If an RTTO receives no bid at auction, or if the RTTO is the successful bidder at auction, the RTTO must either sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor, or apply for title to the vehicle within 45 days.

Summary of Amended Bill:

A person who operates a vehicle on a public highway in an illegal or negligent manner is, along with the owner of the vehicle and in addition to other damages, also liable for vehicle recovery, impound, and storage charges of an RTTO dispatched by law enforcement or other governmental agency. Towing-related costs are recoverable by the RTTO and those costs are not to exceed the fee schedule filed with the DOL.

The DOL is required to create a program to compensate the RTTOs for the cost of towing, storage, and other services incurred by an RTTO for the towing of the vehicles of indigent persons in some circumstances. The DOL must provide a form to RTTOs on which an individual seeking the release of the vehicle self-certifies that they are eligible under the program and the RTTO self-certifies that the impound is eligible under the program.

Vehicle Owner Eligibility.

The individual must fill out the first part of the form on which they must self-certify under penalty of perjury that they:

- are the legal or registered owner of the vehicle;
- are indigent;
- do not have the ability to pay for the towing service or that making such payment would be a severe hardship; and
- have not applied for the release of a vehicle under this program more than once in the preceding year.

The individual submits the form to the RTTO.

Impound Eligibility.

The RTTO fills out the second part of the form. Registered tow truck operators must self-certify under penalty of perjury that they have verified that:

- the impound was ordered by law enforcement or other governmental agency;
- the impound was not ordered following an arrest; and
- the individual seeking the release of a vehicle is the owner of the vehicle registered or titled with the DOL.

Process.

Once the form is completed by the RTTO, the RTTO must release the vehicle to the applicant and no longer has a lien or deficiency claim on the vehicle.

Following submission of the form by the RTTO and subject to the availability of funds, the DOL is required to disburse funds to the eligible RTTO in an amount equal to the cost of the tow, storage, or other services incurred by the RTTO during the course of the impound directed by law enforcement or other governmental agency. Available funds are the remitted monies that all RTTOs send to the DOL following a vehicle auction where a vehicle was sold for a price greater than the RTTO's lien on the vehicle and which the DOL has had for more than a year. Any request for payment is not an entitlement. If, at any time, funds do not exist to reimburse claims that have been submitted under this new provision, the DOL must create a waitlist for claims. The DOL is not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement. The DOL must provide an annual report to the appropriate committees of the Legislature each year on the activities of the program.

Notice of Impound and Redemption.

If a vehicle may be eligible under this program, the RTTO must:

- include information about this program in the initial impound notice, and
- provide to individuals seeking to redeem an impounded vehicle written notice of this program along with the form for the release of the vehicle under this program.

Amended Bill Compared to Substitute Bill:

Compared to the substitute bill, the amended bill removes the language allowing the RTTO to bring a civil action. The amended bill also: (1) 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; (2) 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; and (3) states that an RTTO must release the vehicle upon the completion of the form by the RTTO.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) It takes a whole team to respond to an accident and tow truck drivers are not always paid for the work they do as part of that team. Major wrecks require time and resources, but RTTOs do not have assurance that they will be paid.

(Opposed) None.

(Other) Insurers worked with RTTOs to create the language in the bill. This language does not try to create a new liability to insurers or create a new type of coverage.

Persons Testifying: (In support) Senator John Lovick, prime sponsor; Peter Lukevich, Towing Recovery Association of Washington; Paul Bressi, Nisqually Towing; and Kris Zachary, Burns Towing.

(Other) Kenton Brine, Northwest Insurance Council.

Persons Signed In To Testify But Not Testifying: None.