

SENATE BILL REPORT

SB 5737

As of February 15, 2023

Title: An act relating to impounds of vehicles used as residences.

Brief Description: Concerning impounds of vehicles used as residences.

Sponsors: Senators Kuderer, Lovelett, Valdez and Wilson, C..

Brief History:

Committee Activity: Housing: 2/15/23.

Brief Summary of Bill

- Authorizes a court to release a vehicle after an impound hearing or postpone hearings if certain criteria are met.
- Allows courts to consider the person's ability to pay if a vehicle is used as a residence, and reduce towing and storage fees if the court finds the person to be indigent.
- Requires the impounding authority who authorized the impound to pay the difference between any reduced fees and the tow operator's actual costs for the towing and storage.

SENATE COMMITTEE ON HOUSING

Staff: Melissa Van Gorkom (786-7491)

Background: Towing and Impounds. Tow truck operators who impound vehicles are regulated by the Department of Licensing (DOL). Impoundment is defined as taking and holding a vehicle in legal custody without the consent of the owner, and may only be performed by registered tow truck operators (RTTOs). RTTOs may impound, transport, and store unauthorized vehicles and dispose of abandoned vehicles. There are two types of impounds:

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- public impounds are at the discretion of a law enforcement officer or public official having jurisdiction over the public property on which the vehicle was located; and
- private impounds are at the discretion of a person having control or possession of the private property on which the vehicle was located.

Redemption of Towed Vehicles. Vehicles titled with DOL that are lawfully impounded by RTTOs may be redeemed by the following persons or entities:

- the legal owner;
- the registered owner;
- a person authorized in writing by the registered owner;
- the vehicle's insurer or a vendor working on behalf of that insurer;
- a third-party insurer who has a duty to repair or replace the vehicle, with consent from either 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;
- a person verified by the operator to have the permission of the registered owner;
- a person who has purchased a vehicle registered or titled with DOL from the registered owner and who produces proof of ownership or written authorization and signs a receipt; or
- a person, known to the registered or legal owner of a motorcycle or moped, that was towed from the scene of an accident, may redeem the motorcycle or moped as a bailment while the registered or legal owner is admitted as a patient in a hospital due to the accident.

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. Any person seeking to redeem an impounded vehicle has the right to a hearing to contest the validity of the impoundment or the amount of towing and storage charges. The RTTO must give each person seeking to redeem a vehicle written notice of their right to a hearing, accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. Hearing requests must be received by the court within ten days of the date the RTTO provided written notice of the right to a hearing, and more than five days before the date of the auction.

At the conclusion of the impound hearing the court will determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of fees. If the court finds the impoundment to be proper, the court may not adjust fees or charges that are in compliance with the posted or contracted rates. If the court finds the impoundment to be improper, the vehicle owner does not have to pay the cost for impoundment, towing, or storage fees. Instead, the person or agency who authorized the impoundment is liable for these fees.

Fee Schedules. An RTTO must register a fee schedule with DOL. All filed fees must be adequate to cover the costs of service provided and no fees may exceed those filed with DOL. At least ten days before the effective date of any changes in the fee schedule, the RTTOs must file the revised fee schedule with DOL. The fees charged by Class A, Class D, or Class E tow trucks are subject to a cap. For private impounds, a tow truck operator may not file a fee schedule with an hourly rate that exceeds 135 percent of the maximum rate for a Class A tow truck as negotiated with Washington State Patrol (WSP). The filed fee schedule may not have a storage rate exceeding 135 percent of the maximum daily storage rate as negotiated with WSP. A filed schedule's afterhours release fee may not exceed 100 percent of the maximum after-hours release fee as negotiated with WSP. These limits do not apply to other classes of tow trucks; private voluntary towing; towing a vehicle that is not parked or not upright, does not have all of its wheels or tires, or has a broken axle; or if the vehicle is being towed from a location at which it was involved in an accident.

Work Group Report. In the 2021-23 Transportation Budget, the Legislature directed Washington State University (WSU) to convene a work group to examine the implications of the Washington Supreme Court's findings in *City of Seattle v. Long*, which emphasized the need for courts to assess the individuals ability to pay when determining whether the fines and fees are excessive, and make recommendations for amending provisions concerning the towing and impound of vehicle. WSU completed the report in December 2022, providing a number of recommendations, including allowing courts to authorize release of vehicle residences and to determine an individuals' ability to pay impound fines or fees during impound hearings.

Ownership in Doubt. If a person is unable to obtain satisfactory evidence of ownership or release of interest in a vehicle, they may apply for ownership in doubt and receive a three-year registration without title or a bonded title. Ownership in doubt does not apply to unauthorized vehicles, abandoned vehicles, snowmobiles or Washington vehicle dealer sales.

Abandoned Recreational Vehicle Disposal Account. The applicant for a registration for a camper, motor home or travel trailer must pay a \$6 fee that is deposited into the Abandoned Recreational Vehicle Disposal Account that may be used by DOL to reimburse tow truck operators and licensed dismantlers for the cost for transport, dismantling, and disposal of abandoned recreational vehicles when the last registered owner is unknown.

Summary of Bill: A person authorized by a court after an impound hearing or other procedure may redeem a vehicle impounded by an RTTO. A court or administrative hearings officer may review additional information and evidence at a hearing if ownership of the vehicle or authorization from the legal or registered owner to use, reside in, or retrieve the vehicle is disputed. If a person is unable to present sufficient evidence to show they are an authorized person or entity, the court may, with good cause, set aside the hearing for up to 15 business days to allow the person the opportunity to file appropriate

ownership paperwork with DOL or obtain written authorization from the legal or registered owner to redeem the vehicle. A court may grant additional time for extenuating circumstances or until the legal proceeding has ended when the person files for ownership in doubt.

The court may consider a late request for an impound hearing for good cause when the vehicle is used as a residence and the request is made more than days before the date of the auction.

At the conclusion of the impound hearing, if the court finds that a vehicle is used as a residence, the court may consider the person's ability to pay the towing and storage fees and may reduce the fees if the court finds the person to be indigent. The impounding authority must pay the difference between the reduced fees and the tow operator's actual costs for towing and storage.

The impounding authority for vehicles impounded at the direction of a law enforcement officer, or by a public official having jurisdiction over the public property upon which the vehicle was located may apply to DOL for costs reimbursement to pay the difference between any reduced towing and storage fees and the tow operator's actual costs for towing and storage. DOL may only use funds authorized from the Abandoned Recreational Vehicle Disposal Account for costs reimbursement of a public impound of a vehicle used as residence.

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: Seeing an increase in people using their vehicle as a residence and some people are being fined or having their vehicles towed away. In 2021, our Supreme Court ruled fines incurred while towing a vehicle residence were unlawful. The bill is a combination of some of the recommendations that came out of a work group with the goal to protect people who have to use their vehicles as homes so that they can continue to work and move in to more stable housing.

OTHER: We support these efforts to protect vehicle residence. It goes a long way to codify the city of Seattle v. Long decision but don't think the bill goes far enough because the decision made was not limited to people who live in their cars and calls for an excessive fines analysis for impound costs more generally. Other low-income people should also be included and allowed to get extensions hearings for good cause. The bill should also incorporate homestead protections for vehicle residences and exempt the vehicle from sale

if someone lives in it.

Cannot support any role in the tower determining whether the vehicle is or is not a residence and think there should be an exemption from litigation under the homestead act if the tower complies with towing requirement. Jurisdictions have different rules regarding impounding of vehicles and we need assurance that the way business is done in different areas is the same and ask that you consider preemption language for this issue.

Urge you to include coverage for the difference of fees and fines by the courts that relate to private impounds as well as public impounds. Worked with DOL for 4 years on the RV program and we were conservative with what we asked for to pay for RVs. There is currently a surplus but this funding needs to remain available for the abandoned RVs. DOL or the local impounding authority should pay the difference and it needs to be tied to the jurisdiction that authorizes the tow.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor.

OTHER: Sarah Nagy, Columbia Legal Services; Peter Lukevich, Towing Recovery Association of Washington (TRAW); Paul Bressi, Towing & Recovery Assn of WA.

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