

## CHAPTER 167

[Substitute House Bill No. 228]

## MOTOR VEHICLES—REMOVAL FROM HIGHWAY—TOWING OPERATORS

AN ACT Relating to motor vehicles; amending section 65, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.565; adding new sections to chapter 46.61 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 46.61 RCW a new section to read as follows:

The business of operating tow trucks for the public in the transportation of disabled or damaged motor vehicles and vehicles incapable of self-propulsion due to mechanical defects or incapacity, by towing or hauling upon the highways of this state, is declared to be a business affecting the public interest. The large volume of motor vehicle traffic, vehicle accidents, congestion, and the need to keep the highways clear requires rapid and efficient service by adequately equipped and capably operated tow trucks. The fact that those persons now operating these businesses are not effectively regulated under existing law makes it necessary that more complete regulation is instituted and administered to make the highways safer for the use of the general public and to assure that adequate, economical, and efficient service, at reasonable charges without unjust discrimination, undue preferences or advantages, and unfair or destructive competitive practices, prevails in the public interest.

NEW SECTION. Sec. 2. There is added to chapter 46.61 RCW a new section to read as follows:

As used in this chapter, the following terms shall have the following meanings unless the context clearly requires otherwise:

(1) "Commission" means the state commission on equipment as defined in RCW 46.37.005;

(2) "Person" means an individual, firm, partnership, corporation, company, association, or their lessees, trustees, or receivers;

(3) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(4) "Towing operator" means every person who engages in the towing of vehicles and motor vehicles on a highway by means of equipment affixed to a specially constructed tow truck complying with the equipment specifications and standards promulgated by the commission; and

(5) "Tow truck" means a specially constructed and equipped motor vehicle for towing vehicles and not otherwise used in transporting goods for compensation.

NEW SECTION. Sec. 3. There is added to chapter 46.61 RCW a new section to read as follows:

It shall be unlawful for any person to operate as a towing operator on a highway of this state contrary to the provisions of this chapter or the regulations promulgated pursuant thereto.

Sec. 4. Section 65, chapter 155, Laws of 1965 ex. sess. and RCW 46.61.565 are each amended to read as follows:

(1) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of RCW 46.61.560, such officer is hereby authorized to ~~((move))~~ provide for the removal of such vehicle(;;) to a place of safety or require the driver or other person in charge of the vehicle to move the same, to a position off the main-traveled part of such highway. For the purpose of this section, a place of safety may include the business location of a towing service.

(2) Whenever any police officer finds a vehicle unattended upon any ~~((bridge or causeway or in any tunnel))~~ highway where such vehicle constitutes an obstruction to traffic or jeopardizes public safety, such officer is hereby authorized to provide for the removal of such vehicle to ~~((the nearest garage or other))~~ a place of safety.

~~(3) ((The charge for removal of a vehicle as authorized in subsections (1) and (2) above shall be fixed by the governmental agency having traffic law enforcement jurisdiction over the portion of highway where such vehicle was found. Such governmental agency may perform the removal service directly or through a private firm. A private firm providing such removal services shall post the authorized charges therefor prominently at its place of business. The costs incurred in the removal of such a vehicle shall be paid by the vehicle's owner and shall be a lien upon the vehicle until paid))~~ Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of any vehicle involved in an accident is physically or mentally incapable, or too intoxicated, to decide upon steps to be taken to protect his or her property, the officer may provide for the removal of the vehicle to a place of safety.

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer, and the driver, because of intoxication or otherwise, is mentally incapable of deciding upon steps to be taken to safeguard his or her property, a police officer may provide for the removal of the vehicle to a place of safety.

(5) Nothing in this section shall derogate from the powers of police officers under the common law.

NEW SECTION. Sec. 5. There is added to chapter 46.61 RCW a new section to read as follows:

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

An appointment may be rescinded by the commission at the request of the Washington state patrol upon evidence that the appointed towing operator is not complying with the laws or rules relating to the removal and storage of vehicles from the highway. The costs of removal and storage of vehicles under this section

shall be paid by the owner or driver of the vehicle and shall be a lien upon the vehicle until paid.

Rules promulgated under this section shall be binding only upon those towing operators appointed by the commission for the purpose of performing towing services at the request of the Washington state patrol. Any person aggrieved by a decision of the commission made under this section may appeal the decision under chapter 34.04 RCW.

NEW SECTION. Sec. 6. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 29, 1977.

Passed the Senate May 26, 1977.

Approved by the Governor June 6, 1977.

Filed in Office of Secretary of State June 6, 1977.

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## CHAPTER 168

[House Bill No. 389]

### RAILROAD CROSSING OR OVERPASS CONSTRUCTION—TRAFFIC CONTROL

AN ACT Relating to railroads; adding new sections to chapter 81.53 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. Whenever any railroad company engages in the construction, maintenance, or repair of a crossing or overpass, the company shall install and maintain traffic control devices adequate to protect the public and railroad employees, subject to the requirements of sections 2 and 3 of this act.

NEW SECTION. Sec. 2. All traffic control devices used under section 1 of this act shall be subject to the following conditions:

(1) Any traffic control devices shall be used at a repair or construction site only so long as the devices are needed or applicable. Any devices that are no longer needed or applicable shall be removed or inactivated so as to prevent confusion;

(2) All barricades, signs, and similar devices shall be constructed and installed in a workmanlike manner;

(3) Bushes, weeds, or any other material or object shall not be allowed to obscure any traffic control devices;

(4) All signs, barricades, and other control devices intended for use during hours of darkness shall be adequately illuminated or reflectorized, with precautions taken to protect motorists from glare; and

(5) Flagpersons shall be provided where necessary to adequately protect the public and railroad employees. The flagpersons shall be responsible and competent and possess at least average intelligence, vision, and hearing. They shall be neat in appearance and courteous to the public.

NEW SECTION. Sec. 3. The utilities and transportation commission shall adopt rules to implement the provisions of sections 1 and 2 of this act pursuant to chapter 34.04 RCW. The commission shall invite the participation of all interested