

(4) Nothing in this section may be construed to affect the provisions contained in RCW 47.42.102 requiring the payment of compensation upon the removal of any signs compensable under state law.

(5) Any sign erected or maintained on state highway right of way contrary to this chapter or rules adopted under it is a public nuisance, and the department is authorized to remove any such sign without notice.

NEW SECTION. Sec. 7. A new section is added to chapter 47.42 RCW to read as follows:

Directional signs for state parks within fifteen miles of an interstate highway shall be erected and maintained on the interstate highway by the department despite the existence of additional directional signs on primary or scenic system highways in closer proximity to such state parks.

NEW SECTION. Sec. 8. A new section is added to chapter 47.42 RCW to read as follows:

To be eligible for placement of a business sign on a specific information panel a lodging activity shall:

- (1) Be licensed or approved by the department of social and health services or county health authority;
- (2) Provide adequate sleeping and bathroom accommodations available for rental on a daily basis; and
- (3) Provide public telephone facilities.

Passed the Senate April 27, 1985.

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CHAPTER 377

[Substitute Senate Bill No. 3553]

ABANDONED, UNAUTHORIZED, AND JUNK VEHICLES—TOW TRUCK OPERATORS

AN ACT Relating to abandoned, unauthorized, and junk vehicles; amending RCW 46.63.020; adding a new chapter to Title 46 RCW; creating a new section; repealing RCW 46.52.102, 46.52.104, 46.52.106, 46.52.108, 46.52.110, 46.52.111, 46.52.112, 46.52.113, 46.52.114, 46.52.115, 46.52.116, 46.52.117, 46.52.118, 46.52.119, 46.52.1192, 46.52.1194, 46.52.1195, 46.52.1196, 46.52.1198, 46.52.145, 46.52.150, 46.52.160, and 46.52.210; prescribing penalties; making an appropriation; and providing an effective date.

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

DEFINITIONS

NEW SECTION. Sec. 1. The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in his possession for ninety-six consecutive hours.

(2) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(3) "Commission" means the state commission on equipment established under RCW 46.37.005.

(4) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or other public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(5) "Junk vehicle" means a motor vehicle certified under section 23 of this act as meeting all the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Is without a valid, current registration plate;

(e) Has a fair market value equal only to the value of the scrap in it.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

(7) "Residential property" means property that has no more than four living units located on it.

(8) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the commission.

(9) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(10) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(11) "Tow truck service" means the transporting upon the public streets and highways of this state of unauthorized vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

(12) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a) Public locations:

- (i) Constituting a traffic hazard as defined in RCW 46.61.565 Immediately
- (ii) On a highway and tagged as described in RCW 46.52.170 24 hours
- (iii) In a publicly owned or controlled parking facility, properly posted under section 7 of this act Immediately
- (b) Private locations:
 - (i) On residential property Immediately
 - (ii) On private, nonresidential property, properly posted under section 7 of this act Immediately
 - (iii) On private, nonresidential property, not posted 24 hours

REGISTRATION REQUIREMENTS

NEW SECTION. Sec. 2. A person who engages in or offers to engage in the activities of a registered tow truck operator shall not do so without first obtaining a registration certificate from the department of licensing authorizing him to engage in such activities. Any person engaging in or offering to engage in the activities of a registered tow truck operator without the registration certificate required by this chapter is guilty of a gross misdemeanor.

NEW SECTION. Sec. 3. (1) Application for licensing as a registered tow truck operator shall be made on forms furnished by the department, shall be accompanied by an inspection certification from the Washington state patrol, shall be signed by the applicant or his agent, and shall include the following information:

- (a) The name and address of the person, firm, partnership, association, or corporation under whose name the business is to be conducted;
- (b) The names and addresses of all persons having an interest in the business, or if the owner is a corporation, the names and addresses of the officers of the corporation;
- (c) The names and addresses of all employees who serve as tow truck drivers;
- (d) Proof of minimum insurance required by subsection (3) of this section;
- (e) Any other information the department may require; and
- (f) A certificate of approval from the chief of police if the applicant's principal place of business is located in a city or town having a population over five thousand persons or, in all other instances, from a member of the Washington state patrol, certifying that:
 - (i) The applicant has an established place of business at the address shown on the application;
 - (ii) The place of business has an office area that is accessible to the public without entering the storage area; and

(iii) The place of business has adequate and secure storage facilities, as defined in this chapter and the rules of the department, where vehicles and their contents can be properly stored and protected.

(2) Before issuing a registration certificate to an applicant the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars running to the state and executed by a surety company authorized to do business in this state. The bond shall be approved as to form by the attorney general and conditioned that the operator shall conduct his business in conformity with the provisions of this chapter pertaining to abandoned or unauthorized vehicles, and to compensate any person, company, or the state for failure to comply with this chapter or the rules adopted hereunder, or for fraud, negligence, or misrepresentation in the handling of these vehicles. Any person injured by the tow truck operator's failure to fully perform duties imposed by this chapter and the rules adopted hereunder, or an ordinance or resolution adopted by a city, town, or county is entitled to recover actual damages, including reasonable attorney's fees against the surety and the tow truck operator. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. As a condition of authority to do business, the operator shall keep the bond in full force and effect. Failure to maintain the penalty value of the bond or cancellation of the bond by the surety automatically cancels the operator's registration.

(3) Before the department may issue a registration certificate to an applicant, the applicant shall provide proof of minimum insurance requirements of:

(a) Two hundred fifty thousand dollars for liability for bodily injury or property damage per occurrence; and

(b) One hundred thousand dollars of legal liability per occurrence, to protect against vehicle damage, including but not limited to fire and theft, from the time a vehicle comes into the custody of an operator until it is redeemed or sold.

(4) The fee for each original registration and annual renewal is one hundred dollars per company, plus fifty dollars per truck. The department shall forward the registration fee to the state treasurer for deposit in the motor vehicle fund.

(5) Upon approval of the application, the department shall issue a registration certificate to the registered operator to be displayed prominently at the operator's place of business.

NEW SECTION. Sec. 4. (1) Application for a tow truck permit shall be accompanied by a report from the Washington state patrol covering a physical inspection of each tow truck to be used by the applicant.

(2) Upon receipt of the fee provided in section 3(4) of this act and a satisfactory inspection report from the state patrol, the department shall issue each tow truck an annual tow truck permit. The class of the tow truck, determined according to section 5 of this act, shall be stamped on the permit. The permit shall be displayed on the passenger side of the truck's front windshield.

(3) A tow truck number from the department shall be affixed in a permanent manner to each tow truck.

(4) The Washington state patrol shall conduct annual inspections of tow truck operators' equipment and facilities. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of a tow truck or facilities.

(5) If at the time of the annual or subsequent inspections the equipment does not meet the requirements of this chapter, and the deficiency is a safety related deficiency, or the equipment is necessary to the truck's performance, the inspector shall cause the registered tow truck operator to remove that equipment from service as a tow truck until such time as the equipment has been satisfactorily repaired. A red tag shall be placed on the windshield of a tow truck taken out of service, and the tow truck shall not provide tow truck service until the Washington state patrol recertifies the truck and removes the tag.

NEW SECTION. Sec. 5. (1) Tow trucks shall be classified by towing capabilities, and shall meet or exceed all equipment standards set by the commission on equipment for the type of tow trucks to be used by an operator.

(2) All tow trucks shall display the firm's name, city of address, and telephone number. This information shall be painted on or permanently affixed to both sides of the vehicle in accordance with rules adopted by the department.

(3) Before a tow truck is put into tow truck service, or when the reinspection of a tow truck is necessary, the district commander of the state patrol shall designate a location and time for the inspection to be conducted. When practicable, the inspection or reinspection shall be made within three business days following the request by the operator.

(4) Failure to comply with any requirement of this section or rules adopted under it is a traffic infraction.

NEW SECTION. Sec. 6. (1) The address that the tow truck operator lists on his or her application shall be the business location of the firm where its files are kept. The application shall also list all locations of secure areas for vehicle storage and redemption.

(2) At the business locations listed where vehicles may be redeemed, the registered operator shall post in a conspicuous and accessible location:

(a) All pertinent licenses and permits to operate as a registered tow truck operator;

(b) The current towing and storage charges itemized on a form approved by the department;

(c) The vehicle redemption procedure and rights;

(d) Information supplied by the department as to where complaints regarding either equipment or service are to be directed;

(e) Information concerning the acceptance of commercially reasonable tender as defined in section 12(1)(b) of this act.

(3) Ten days before the effective date of any change in an operator's fee schedule, the registered tow truck operator shall file the revised fee schedule with the department.

(4) The department shall adopt rules concerning fencing and security requirements of storage areas, which may provide for modifications or exemptions where needed to achieve compliance with local zoning laws.

(5) On any day when the registered tow truck operator holds the towing services open for business, the business office shall remain open with personnel present who are able to release impounded vehicles in accordance with this chapter and the rules adopted under it.

(6) A registered tow truck operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a reasonable time.

(7) Towing contracts with private property owners shall be in written form and state the hours of authorization to impound, the persons empowered to authorize such impounds, and the present charge of a private impound for the classes of tow trucks to be used in such impound, and shall be retained in the files of the registered tow truck operator for three years.

(8) Any fee that is charged for the storage of a vehicle shall be calculated on a twenty-four hour basis, and shall be charged to the nearest half day from the time the vehicle arrived at the secure storage area.

(9) All billing invoices that are provided to the redeemer of the vehicle shall be itemized so that the individual fees are clearly discernable.

IMPOUNDING UNAUTHORIZED VEHICLES

NEW SECTION. Sec. 7. (1) No person may impound, tow, or otherwise disturb any motor vehicle standing on nonresidential private property or in a public parking facility for less than twenty-four hours unless a sign is posted near each entrance and on the property in a clearly conspicuous and visible location to all who park on such property that clearly indicates:

(a) The times a vehicle may be impounded as an unauthorized vehicle; and

(b) The name, telephone number, and address of the towing firm where the vehicle may be redeemed.

(2) The requirements of subsection (1) of this section do not apply to residential property. Any person having charge of such property may have an unauthorized vehicle impounded immediately upon giving written authorization.

(3) The department shall adopt rules relating to the size of the sign required by subsection (1) of this section, its lettering, placement, and the number required.

(4) This section applies to all new signs erected after July 1, 1986. All other signs must meet these requirements by July 1, 1989.

NEW SECTION. Sec. 8. If a vehicle is in violation of the time restrictions of section 1(12) of this act, it may be impounded by a registered tow truck operator at the direction of a law enforcement officer or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or his agent if it is on private property.

The person requesting a private impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound.

NEW SECTION. Sec. 9. (1) All vehicles impounded shall be taken to the nearest storage location that has been inspected and is listed on the application filed with the department.

(2) All vehicles shall be handled and returned in substantially the same condition as they existed before being towed.

(3) All personal belongings and contents in the vehicle shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. Personal belongings shall not be sold at auction to fulfill a lien against the vehicle.

(4) All personal belongings not claimed before the auction shall be turned over to the local law enforcement agency to which the initial notification of impoundment was given. Such personal belongings shall be disposed of pursuant to chapter 63.29 RCW.

(5) After January 1, 1986, all employees who serve as tow truck drivers shall have a Washington state driver's license endorsed for vehicle combinations under RCW 46.20.440.

(6) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner may view the vehicle without charge during normal business hours.

NEW SECTION. Sec. 10. (1) At the time of impoundment the registered tow truck operator providing the towing service shall give immediate notification, by telephone or radio, to a law enforcement agency having jurisdiction who shall maintain a log of such reports, unless the impoundment was requested by that law enforcement agency. The initial notice of impoundment shall be followed by a written notice within twenty-four hours.

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle in the operator's possession after the ninety-six hour abandonment period.

(3) Within fifteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle to the crime information center of the Washington state patrol.

NEW SECTION. Sec. 11. (1) In the case of an unauthorized vehicle impounded from public property, the law enforcement agency or other public official directing the impoundment, or in the case of a vehicle impounded from private property, the impounding towing operator, shall notify the legal and registered owners of the impoundment of the unauthorized vehicle. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, as provided by the law enforcement agency. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded.

(2) In the case of an abandoned vehicle, within twenty-four hours after receiving information on the vehicle owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, a notice of custody and sale to the legal and registered owners.

REDEMPTION RIGHTS AND HEARING PROCEDURES

NEW SECTION. Sec. 12. (1) Vehicles impounded by registered tow truck operators pursuant to RCW 46.52.170, 46.61.565, or section 8 of this act may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized by the registered owner, or one who has purchased a vehicle from the registered owner, who produces proof of ownership or written authorization and signs a receipt therefor may redeem an impounded vehicle.

(b) The vehicle shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such motor vehicle. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards, or personal checks drawn on in-state banks if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. Any person who stops payment on a personal check or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2) (a) The towing company shall give to each person who seeks to redeem an impounded vehicle written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to

be used for requesting a hearing, and a copy of the tow and storage receipt. The towing company shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the district court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. If the hearing request is not received by the district court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the district court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The district court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, and the registered and legal owners of the motor vehicle in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper.

(c) At the conclusion of the hearing, the district court shall 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 the charges.

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

(e) If the impoundment is determined to be invalid, then the registered and legal owners of the vehicle shall bear no impoundment, towing, or storage costs, and any bond or other security shall be returned or discharged as appropriate, and the person who authorized the impoundment shall be liable for any towing, storage, or other impoundment charges permitted under this chapter.

(4) Any impounded vehicle not redeemed within fifteen days of mailing of the notice of custody and sale as required by section 11(2) of this act shall be sold at public auction in accordance with all the provisions and subject to all the conditions of section 13 of this act. A vehicle may be redeemed any time before the start of the auction upon payment of towing and storage costs.

NEW SECTION. Sec. 13. (1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in section 11(2) of this act to the registered and legal owners, the vehicle or hulk remains unclaimed and has not been listed as a stolen vehicle, then the registered disposer having custody of the vehicle or hulk shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days before the date of the auction. The advertisement shall contain a description of the vehicle including the make, model, year, and license number and a notification that a three-hour public viewing period will be available before the auction. The auction shall be held during daylight hours of a normal business day.

(2) The following procedures are required in any public auction of abandoned vehicles:

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

(c) The open bid process, including all written bids, shall be used so that everyone knows the dollar value that must be exceeded;

(d) The highest two bids received shall be recorded in written form;

(e) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;

(f) The registered tow truck operator shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location the operator shall post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted;

(g) All surplus moneys derived from the auction after satisfaction of the tow truck operator's lien shall be remitted within thirty days to the department for deposit in the state motor vehicle fund. A report identifying the vehicles resulting in any surplus shall accompany the remitted funds. If the director subsequently receives a valid claim from the registered vehicle owner of record within one year from the date of the auction, the surplus moneys shall be remitted to the registered owner;

(h) If an operator receives no bid, or if the operator is the successful bidder at auction, the operator shall, within thirty days sell the unclaimed

abandoned vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor by use of the abandoned vehicle report--affidavit of sale, or the operator shall apply for title to the vehicle.

(3) (a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by section 11(2) of this act.

(b) The failure of the registered disposer to comply with the time limits provided in this chapter limits the accumulation of storage charges to five days except where delay is unavoidable. Providing incorrect or incomplete identifying information to the department in the abandoned vehicle report shall be considered a failure to comply with these time limits if correct information is available.

NEW SECTION. Sec. 14. (1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. However, the lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle. The registered operator also has a deficiency claim against the last registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of three hundred dollars less the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars less the amount bid at auction, unless the impound is determined to be invalid. A registered owner who has completed the seller's report as provided for by RCW 46.12.101 is relieved of liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any motor vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner, operator, or driver of a motor vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the motor vehicle which does not comply with the requirements of this chapter.

RECORDS, INSPECTIONS, AND ENFORCEMENT

NEW SECTION. Sec. 15. The registered tow truck operator shall keep a transaction file on each vehicle. The transaction file shall contain as a minimum those of the following items that are required at the time the vehicle is redeemed or becomes abandoned and is sold at a public auction:

(1) A signed impoundment authorization as required by section 8 of this act;

(2) A record of the twenty-four hour written impound notice to a law enforcement agency;

(3) A copy of the impoundment notification to registered and legal owners, sent within twenty-four hours of impoundment, that advises the

owners of the address of the impounding firm, a twenty-four hour telephone number, and the person under whose authority the vehicle was impounded;

(4) A copy of the abandoned vehicle report that was sent to and returned by the department;

(5) A copy and proof of mailing of the notice of custody and sale sent by the registered operator to the owners advising them they have fifteen days to redeem the vehicle before it is sold at public auction;

(6) A copy of the advertisement of public auction;

(7) A copy of the affidavit of sale showing the sales date, purchaser, amount of the lien, and sale price;

(8) A record of the two highest bid offers on the vehicle;

(9) A copy of the notice of opportunity for hearing given to those who redeem vehicles.

The transaction file shall be kept for a minimum of three years.

NEW SECTION. Sec. 16. Records, equipment, and facilities of a registered tow truck operator shall be available during normal business hours for audit or inspection by the department of licensing, the Washington state patrol, or any law enforcement agency having jurisdiction.

NEW SECTION. Sec. 17. (1) All law enforcement agencies or local licensing agencies that receive complaints involving registered tow truck operators shall forward the complaints, along with any supporting documents including all results from local investigations, to the department.

(2) Complaints involving deficiencies of equipment shall be forwarded by the department to the state commission on equipment.

NEW SECTION. Sec. 18. The director or the commission may use a hearing officer or administrative law judge for presiding over a hearing regarding infractions by registered tow truck operators of this chapter, chapter 46.37 RCW, or rules adopted thereunder.

NEW SECTION. Sec. 19. The director, in cooperation with the chief of the Washington state patrol, shall adopt rules that carry out the provisions and intent of this chapter.

NEW SECTION. Sec. 20. A registered tow truck operator's license may be denied, suspended, or revoked, or the licensee may be ordered to pay a monetary penalty of a civil nature, not to exceed one thousand dollars per violation, whenever the director has reason to believe the licensee has committed, or is at the time committing, a violation of this chapter or rules adopted under it or any other statute or rule relating to the title or disposition of vehicles or vehicle hulks, including but not limited to:

(1) Towing any abandoned vehicle without first obtaining and having in his possession at all times while transporting it, appropriate evidence of ownership or an impound authorization properly executed by the private person having control over the property on which the unauthorized vehicle was found;

(2) Forging the signature of the registered or legal owner on a certificate of title, or forging the signature of any authorized person on documents pertaining to unauthorized or abandoned vehicles or automobile hulks;

(3) Failing to comply with the statutes and rules relating to the processing and sale of abandoned vehicles;

(4) Failing to accept bids on any abandoned vehicle offered at public sale;

(5) Failing to transmit to the state surplus funds derived from the sale of an abandoned vehicle;

(6) Selling, disposing of, or having in his possession, without notifying law enforcement officials, a vehicle that he knows or has reason to know has been stolen or illegally appropriated without the consent of the owner;

(7) Failing to comply with the statutes and rules relating to the transfer of ownership of vehicles or other procedures after public sale; or

(8) Failing to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after the assessment becomes final.

All orders by the director made under this chapter are subject to the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION. Sec. 21. Whenever it appears to the director that any registered operator or a person offering towing services has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule adopted hereunder, the director may issue an order directing the operator to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing, the temporary order shall remain in effect until ten days after the hearing is held and shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice.

NEW SECTION. Sec. 22. If an application for a license to conduct business as a tow truck operator is filed by any person whose license has previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department, after a hearing, of which the applicant has been given twenty days' notice in writing and at which the applicant may appear in person or by counsel and present testimony, may refuse to issue such a person a license to conduct business as a tow truck operator.

JUNK VEHICLE DISPOSITION

NEW SECTION. Sec. 23. (1) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction or any person authorized by the director may inspect and certify that a vehicle meets the requirements of a junk vehicle. The person making the certification shall

record the make and vehicle identification number or license number of the vehicle if available, and shall also describe in detail the damage or missing equipment to verify that the value of the junk vehicle is equivalent only to the value of the scrap in it.

(2) The law enforcement officer or department representative shall provide information on the vehicle's owner to the landowner.

(3) Upon receiving information on the vehicle's owner, the landowner shall obtain a junk vehicle notification form from the department. The landowner shall send by certified mail, notification to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to contest the sale of a junk vehicle in a district court hearing.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the owner, the landowner may sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's owner is found in the records of the department, the landowner shall place a legal notice of custody and sale in a newspaper of general circulation in the county. The newspaper notice shall include (a) the description of the vehicle; (b) the address of the location of the junk vehicle; (c) the date by which the owner must redeem the vehicle; and (d) a telephone number where the landowner can be reached. If the vehicle remains unclaimed more than twenty days after publication of the notice, the landowner may sign an affidavit of sale to be used as a title document.

(6) The landowner of the property upon which the junk vehicle is located is entitled to recover from the vehicle owner any costs incurred in the removal of the junk vehicle.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

LOCAL REGULATION

NEW SECTION. Sec. 24. (1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those

charges to the registered tow truck operator within thirty days of the hearing date.

(c) The hearing specified in section 12(2) of this act and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of unauthorized junk motor vehicles or parts thereof from private property. Costs of removal may be assessed against the last registered owner of the vehicle or automobile hulk if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle or automobile hulk has complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle or automobile hulk will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the

request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

MISCELLANEOUS

NEW SECTION. Sec. 25. Sections 1 through 24 of this act shall constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 27. Headings and captions used in this act are not any part of the law.

Sec. 28. Section 12, chapter 10, Laws of 1982 as amended by section 6, chapter 164, Laws of 1983 and RCW 46.63.020 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

- (1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;
- (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- (3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;
- (4) RCW 46.10.130 relating to the operation of snowmobiles;
- (5) Chapter 46.12 RCW relating to certificates of ownership and registration;
- (6) RCW 46.16.160 relating to vehicle trip permits;
- (7) RCW 46.20.021 relating to driving without a valid driver's license;

- (8) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (9) RCW 46.20.342 relating to driving with a suspended or revoked license;
- (10) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (11) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (12) Chapter 46.29 RCW relating to financial responsibility;
- (13) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (14) RCW 46.48.175 relating to the transportation of dangerous articles;
- (15) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (16) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (17) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (18) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (19) ~~((RCW 46.52.108 relating to disposal of abandoned vehicles or hulks;~~
- ~~((20)))~~ RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;
- ~~((21))~~ ~~RCW 46.52.210 relating to abandoned vehicles or hulks;~~
- ~~((22)))~~ (20) Section 2 of this act relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (21) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- ~~((23)))~~ (22) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- ~~((24)))~~ (23) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- ~~((25)))~~ (24) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- ~~((26)))~~ (25) RCW 46.61.500 relating to reckless driving;
- ~~((27)))~~ (26) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- ~~((28)))~~ (27) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- ~~((29)))~~ (28) RCW 46.61.522 relating to vehicular assault;
- ~~((30)))~~ (29) RCW 46.61.525 relating to negligent driving;

~~((31))~~ (30) RCW 46.61.530 relating to racing of vehicles on highways;

~~((32))~~ (31) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((33))~~ (32) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((34))~~ (33) RCW 46.64.020 relating to nonappearance after a written promise;

~~((35))~~ (34) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((36))~~ (35) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((37))~~ (36) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((38))~~ (37) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((39))~~ (38) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((40))~~ (39) Chapter 46.82 RCW relating to driver's training schools.

NEW SECTION. Sec. 29. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 42, Laws of 1969 ex. sess., section 7, chapter 178, Laws of 1979 ex. sess., section 2, chapter 185, Laws of 1981 and RCW 46.52.102;

(2) Section 39, chapter 281, Laws of 1969 ex. sess., section 164, chapter 158, Laws of 1979, section 8, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.104;

(3) Section 4, chapter 42, Laws of 1969 ex. sess., section 40, chapter 281, Laws of 1969 ex. sess., section 9, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.106;

(4) Section 5, chapter 42, Laws of 1969 ex. sess., section 44, chapter 281, Laws of 1969 ex. sess., section 165, chapter 158, Laws of 1979, section 10, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.108;

(5) Section 4, chapter 148, Laws of 1980 and RCW 46.52.110;

(6) Section 7, chapter 42, Laws of 1969 ex. sess., section 41, chapter 281, Laws of 1969 ex. sess., section 167, chapter 158, Laws of 1979, section 12, chapter 178, Laws of 1979 ex. sess., section 1, chapter 274, Laws of 1983 and RCW 46.52.111;

(7) Section 8, chapter 42, Laws of 1969 ex. sess., section 42, chapter 281, Laws of 1969 ex. sess., section 168, chapter 158, Laws of 1979, section 13, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.112;

(8) Section 9, chapter 42, Laws of 1969 ex. sess., section 169, chapter 158, Laws of 1979, section 14, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.113;

(9) Section 10, chapter 42, Laws of 1969 ex. sess., section 15, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.114;

(10) Section 2, chapter 42, Laws of 1969 ex. sess., section 45, chapter 281, Laws of 1969 ex. sess., section 170, chapter 158, Laws of 1979, section 16, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.115;

(11) Section 11, chapter 42, Laws of 1969 ex. sess., section 171, chapter 158, Laws of 1979, section 17, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.116;

(12) Section 12, chapter 42, Laws of 1969 ex. sess., section 43, chapter 281, Laws of 1969 ex. sess., section 172, chapter 158, Laws of 1979 and RCW 46.52.117;

(13) Section 1, chapter 281, Laws of 1975 1st ex. sess., section 2, chapter 274, Laws of 1983 and RCW 46.52.118;

(14) Section 1, chapter 208, Laws of 1969 ex. sess., section 2, chapter 281, Laws of 1975 1st ex. sess. and RCW 46.52.119;

(15) Section 3, chapter 281, Laws of 1975 1st ex. sess., section 173, chapter 158, Laws of 1979 and RCW 46.52.1192;

(16) Section 4, chapter 281, Laws of 1975 1st ex. sess., section 3, chapter 274, Laws of 1983 and RCW 46.52.1194;

(17) Section 4, chapter 274, Laws of 1983 and RCW 46.52.1195;

(18) Section 5, chapter 281, Laws of 1975 1st ex. sess., section 5, chapter 274, Laws of 1983 and RCW 46.52.1196;

(19) Section 6, chapter 281, Laws of 1975 1st ex. sess. and RCW 46.52.1198;

(20) Section 1, chapter 111, Laws of 1971 ex. sess., section 18, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.145;

(21) Section 2, chapter 111, Laws of 1971 ex. sess., section 174, chapter 158, Laws of 1979, section 19, chapter 178, Laws of 1979 ex. sess., section 6, chapter 274, Laws of 1983 and RCW 46.52.150;

(22) Section 3, chapter 111, Laws of 1971 ex. sess. and RCW 46.52.160; and

(23) Section 6, chapter 178, Laws of 1979 ex. sess. and RCW 46.52.210.

NEW SECTION. Sec. 30. The sum of four hundred twenty thousand dollars is appropriated from the motor vehicle fund for the biennium ending June 30, 1987, to carry out this act. Of this amount, one hundred fifty thousand dollars is for the department of licensing, and two hundred seventy thousand dollars is for the Washington state patrol.

NEW SECTION. Sec. 31. This act shall take effect on January 1, 1986.

Passed the Senate April 16, 1985.

Passed the House April 8, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.